



# THE PILOT



The magazine of the United Kingdom Maritime Pilots' Association

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Pros and cons of the Con

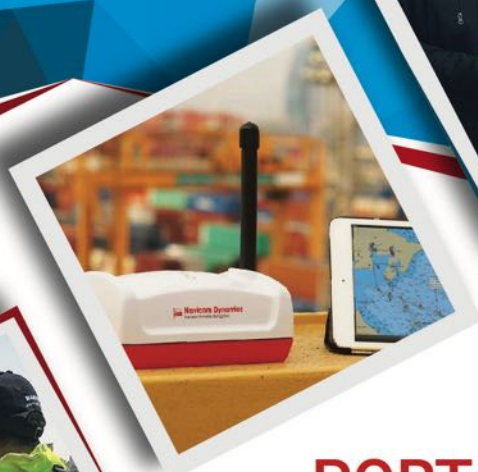
53<sup>rd</sup> General Meeting

Pilot Ladder Accident

Defective  
Passage Plan







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# Chairman's Report Mike Morris



It is an honour and great pleasure to address you as the Chairman of the UKMPA in this issue of the *Pilot* magazine. I wish to praise the stewardship of John Pearn our outgoing Chairman for the dedication and passion he has shown throughout his tenure during the last three years. I am pleased to say that as IMPA Vice President John has agreed to remain on the executive for the immediate future, so with the wisdom and guidance of both John and Don Cockrill as Secretary General, I hope to carry forward the good work begun by them.

A chairman is only as good as his team. I would like to thank all the members of section committee (SC) for entrusting me with this honour to discharge this important duty within our Association and the amount of time, knowledge and professionalism they bring to the executive. Without the assistance of friends and colleagues on SC, the Chairman's position would be a much more difficult job.

We sadly lose Tony Anderton our PNPf pension guru to retirement in September. We wish Tony together with Trudy a long and happy retirement. I would like to welcome Chris Hoyle and Ian McMahon onto SC. I am sure they will enjoy their time on the executive.

Pilots from all over the world attended the recent EMPA conference in the historic city and

port of Liverpool, celebrating the 125<sup>th</sup> anniversary of the opening of the Manchester Ship Canal. This conference had significance for me personally as a Manchester pilot as it was tinged with both sadness and excitement for the future as I was standing down from the Board of EMPA after six years as Vice President in order to take the reins of the UKMPA as Chairman. I thoroughly enjoyed working with our friends from Europe and being closely involved in thwarting the Port Package III, which was intended to introduce competition in Pilotage. Congratulations to my friend Peter Lightfoot (Tees) on being elected as Vice President of EMPA for the next four years. I am sure there will be many challenges in the coming years and it is fitting that we have such an experienced pilot on the Board of EMPA. I hope members of the UKMPA who managed to attend enjoyed the topics and presentations based around pilot safety together with hospitality Liverpool had to offer, culminating in a spectacular gala dinner in the Anglican Cathedral. Special thanks should go to Martin James, his wife Caroline, together with my wife Sue, for all the time, effort and help putting together a packed social programme which was enjoyed by all.

Through SC and T&TC, John Slater (Liverpool) has been working with developers to produce our own UKMPA reporting app which makes it easier for the pilot to report defective pilot ladders to their CHA and the MCA at the same time, and contains all the information to show the vessel the regulations and other things to promote pilot ladder safety. The app is pre-loaded with those ports who previously expressed an interest, and other ports can be added

simply. The app is available on both Android and IOS platforms and can easily be found by searching 'UKMPA' on the play or iTunes store. Hot on its heels is a pilot ladder rigging course, which is well on the way to being finalised so that the UKMPA members can present and promote the correct rigging procedures to nautical colleges and other relevant stakeholders.

At the time of writing Brexit is still looming large within the UK. With Boris Johnson as new Prime Minister committing to leaving the European Union on the 31<sup>st</sup> October this year, a new initiative — to re-instate freeports in Liverpool, Southampton, Tilbury and Sheerness — which expired in 2012 when the statutory instruments lapsed and to create new freeports in Teesport, Tyne, Milford Haven and London Gateway. These ports are set to benefit from becoming freeports under new plans from the Treasury. This is good news for ports and pilots who should see an increase in traffic.

Before I close this first report, I would like to thank my colleagues in the Port of Manchester. Being a small pilotage service of 19 Pilots, I am extremely grateful to them for supporting me over the years whilst I have been on SC, the board of EMPA and now Chairman of the UKMPA. There are frequent occasions when I have had to meet government and other stakeholders at short notice, and my colleagues have covered my watches and done swaps in order for me to do so. I do not take this for granted and am extremely grateful for their time and support.

Fair winds and safe sailing to you all.



# The Pros and Cons of the Con – Time to call a Truce

William Hargreaves

There has over the last few years been considerable discussion about the role of the pilot, not least in the pages of 'Seaways'. Does he or she have conduct of the vessel, or is the pilot merely an adviser? By definition, a debate has two sides: us and them, pilots and bridge teams. But it shouldn't be adversarial at all. Pilots and bridge teams are actually on the same side. What both parties want is a successful act of pilotage with the minimum amount of paperwork, hopefully conducted in a pleasant and supportive environment with a mutual respect for each other's professionalism.



The most familiar definition of a pilot is from the UK Merchant Shipping Act of 1894: 'pilot shall mean any person not belonging to a ship who has the conduct thereof'. But this definition was taken verbatim from the 1854 Merchant Shipping Act. 1854 was the year of the Crimean War and the infamous cavalry Charge of the Light Brigade. In London that year 10,000 people were killed in a cholera epidemic. Life was very different then. It was also the golden age of the clipper sailing ships. No engines, no electronics, open bridges and, one would suggest, a rigid and hierarchical command structure. Would a junior officer on a clipper ship have challenged the actions of a pilot?

The 1854/1894 definition of a pilot is readily understood and accepted by the English-speaking world. The UK

Merchant Shipping Act of 1894 or its interpretation not only applied in the UK but in many other countries of what was then the British Empire. But what of other cultures? How do they interpret the role of the pilot? In Greece, for example, the Code of Public Maritime Law<sup>1</sup> states that the 'suggestions and directions provided by the pilot to the master are of an advisory nature'. Perhaps that explains why, on a Greek-manned bridge, every order from the pilot is repeated by an officer. It's not an order until the master or his deputy has repeated it. While the repetition of the pilot's orders may be considered mildly irritating, the practice must be respected by the pilot.

Under the Russian Merchant Shipping Code<sup>2</sup> the 'master may charge the pilot to give direct orders to the helmsman'. The inference is that the master doesn't have to. Russian law also defines the pilot as a representative of the state. Which is a reminder that, under UK law, the 1894 definition of a pilot is incomplete. Today's pilot is required, under port state control legislation, to report any defects of the vessel. The pilot's legally defined role has and will continue to evolve.

The 1894 definition of the pilot has been challenged in the courts. But the judgments will be influenced by the standards and social norms of the time. For example, two years before the 1854 Merchant Shipping Act, the United States Supreme Court ruled that the pilot was the 'temporary master', the 'master ad hoc'.<sup>3</sup> Today it is highly unlikely that anybody would accept that the pilot retains such an exalted position - not even the American pilots themselves. In a statement released in 1997, the American Pilots Association succinctly summed it all up: 'navigation of a ship (...) is a shared responsibility

between the pilot and the master/bridge crew'.<sup>4</sup>

While it may be legally dubious, the role of the pilot is also subject to individual company interpretations. For example, an Irish shipping company has a sign in the wheelhouse which states that 'the pilot is onboard to provide advice only'. This reflects the entry made by many an officer in the deck log book: TMO & PA (To Master's Orders and Pilot's Advice). While this may be true of some legislations, under UK law it is incorrect. An authorised pilot in the UK is not an adviser. He or she is not allowed to be. The UK pilot gives orders and has conduct of the vessel.

One of the legal challenges was the 1907 case of the *Tactician*. The *Tactician* while under pilotage collided with a vessel at anchor on the Thames. The pilot had incorrectly thought he was looking at the sternlight of a vessel underway. (The bridge crew had correctly identified the light as an anchor light but failed to inform the pilot, an example perhaps of a rigid and hierarchical command structure.) In his judgment Lord Alverstone noted that 'all directions as to speed, course, stopping and reversing and everything of that kind are for the pilot'.<sup>5</sup> Significantly, he went on to say that 'the pilot is entitled to the fullest assistance of a competent crew'.

Despite this interpretation of the law, there are documented examples of the captain or his deputy manoeuvring his or her own vessel. For example, an American accident report stated that 'the master confirmed to investigators that a pilot had never docked the vessel while he served as master'.<sup>6</sup> Similarly, 'by mutual agreement between the Association of Maryland pilots and the passenger vessels



berthing at the cruise terminal, the conn was shifted from the pilot to a ship's officer for the final approach and docking'.<sup>7</sup> All pilots know that the master of the small coaster will often berth or unberth his or her own vessel. A similar situation occurs on large cruise ships, unless tugs are involved. On the coaster the transfer of the controls is generally informal, something along the lines of 'I've got it now, pilot.' On the cruise ship it tends to be much more formalised with multiple repetitions of 'The captain has got the con.' A Southampton pilot stated that, in accordance with the law, he never gave the captain the con; rather he tells the captain that 'If you would like to do the manoeuvre I will monitor you and tell you if I'm not happy.' As he stated, he's still met by a barrage of 'The captain's got the con!' Regardless of whether it is called manoeuvre, control, conduct or similar term, the reality is that the captain or the deputy has control of the speed, course, stopping and reversing of the vessel. But the pilot, by law, cannot voluntarily relinquish the con and therefore the pilot must monitor the captain's actions, and, in accordance with the law, continue to give instructions or orders about the direction and speed of the vessel.



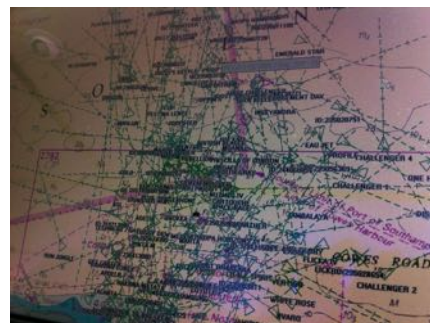
Should the pilot, or harbour master, have a problem when a ship's staff handle their own ships? Bridge Resource Management (BRM) has been defined as 'a team approach, where all available materials and human resources are used to achieve safe operation'.<sup>8</sup> Is not the pilot making best use of the resources available? The pilot doesn't, for example, micromanage the helmsman. A course is given to

steer and as long as the heading is maintained and excessive helm is not used then the helmsman is left to get on with it. Allowing the master to berth his or her own ship is often the best use of resources. While pilots are familiar with azipods, few have had the extensive training or familiarisation that the master will have had.

The UK Merchant Shipping Act definition of a pilot was written over 160 years ago. The judgment from the Tactician is more than one hundred years old. Ship propulsion systems and bridge team management techniques were very different then. Yet the legal advice is that the pilot must never relinquish the con. A pilot had a berthing incident very recently and when he reported the incident to his insurers they asked if the harbour master was aware that the ship's master was performing the unberthing manoeuvre. In such circumstances, the legal advice is that a VHF call should be made to VTS reporting the fact. But pilotage is about building up a sense of trust between the master and the pilot, and consequently the pilot may be reluctant to make such a call. Is it about time the definition of 'conduct' be amended to take into account modern practice?

The act of pilotage can usually be divided into two stages. The passage through the district and the berthing or unberthing. It has been suggested that passenger vessels would prefer to keep the con throughout both stages of the pilotage. Ignoring the legality of such a move, can it be described as sensible? Is it the best use of resources? As one academic has put it, 'Pilots are highly experienced process controllers with highly developed models of the system they are controlling and the areas in which they work'.<sup>9</sup> Before a pilot is licensed for the largest vessels to use the port, he or she will have had many years training and will have built up a wealth of experience not only about courses and distances but also about the other users in the district and what might be expected

of them. At a presentation given in Cork in 2018, attendees were told that on modern cruise ship bridges the 'system focuses on instrument navigation backed up with visual and pilot clues. Walking round the cockpit-style bridge is not encouraged ...'<sup>10</sup> But in a pilotage area where, for example, there can be literally hundreds of pleasure craft the visual clues and the experience of the pilot must take priority.



It is interesting how a term can evolve over time. For the master of the 1854 clipper ship instrument navigation meant a sextant, leadline and compass. For the 21<sup>st</sup> century navigator the term 'instrument navigation', as used in the quotation above, will refer to radar, ECDIS, AIS, Doppler, etc. There is no doubt that without such technologies it would be very difficult, if not impossible, to manoeuvre the largest vessels in ports today. Indeed, many ports require high precision portable pilot units to be used for the pilotage of the largest vessels to access the port. But GPS can be jammed or spoofed. In April 2019, the US government warned against possible errors due to a 'week number rollover event'. Navigators today only occasionally crosscheck the ECDIS with visual or radar fixes. Pilots' familiarity with their district, their positional awareness and their ability to recognise that the vessel is swinging too quickly or too slowly, means they are an invaluable resource which must be an integral part of the planned pilotage.

In the article 'Bridge Team and Pilot Cohesiveness'<sup>11</sup> the author stated that the 'goal, with proper training and the pilot's agreement,

is to be able to drive a ship into port using our track control system, (...) the bridge team are in monitoring mode'. One can't fault the ambition. An autonomous ferry has already travelled from berth to berth in Finland, albeit in strictly controlled conditions. Humans make mistakes so let's take the humans out of the pilotage. Though, since humans have designed the system, planned the passage, and set the parameters, you can never really take the human out of the system. Track pilot is a case in point. In track mode, the machine follows a predetermined track. However, as one pilot mentioned in a private email: 'We have had one very difficult Captain (...) who is very insistent that he would like to use Track Mode with just one track that can be used for every arrival and departure (i.e. making no allowance for tide or wind, inward or outward).' Or other traffic. IMO have been developing the concept of eNavigation over a number of years. The objective is that there will be data links between all commercial vessels. Legislation may in the future allow for shore-based pilotage. Then it will be possible for the VTS to link with and coordinate all such vessels in its district; though it is unlikely that every yacht and jetski will ever be part of such a system. In the meantime, as the UK Department of Transport has stated: 'A pilot's primary duty is to use his skill and knowledge to protect ships from collision and grounding by safely conducting the navigation and manoeuvring whilst in pilotage waters.'<sup>12</sup>

There are roughly 53,000 internationally trading vessels. The vast majority enter and leave port without incident. Not that this is a reason for complacency among pilots. One of the conclusions after the grounding of the CMA CGM *Vasco de Gama* was that 'the master, the assistant pilot and the bridge team became disengaged from the pilotage process and allowed the lead pilot to become an isolated decision maker and a single point of failure'.<sup>13</sup> Whenever there is an incident whilst

under pilotage, the conclusions of any investigation will usually highlight shortcomings between the pilot and the bridge team. In this age of mass surveillance, the pilot's every movement, every decision, and every word is being recorded on at least one piece of electronic equipment: the VDR, ECDIS, PPU, VTS, cameras, possibly even mobile phones. An American pilot stated last year that there had been an incident where the US Coastguard seized a pilot's fitness tracker so they could study his sleep patterns. Possibly the story is apocryphal, but it shouldn't surprise anybody who works on ships.

As a consequence, it is incumbent on all pilots to ensure their conduct onboard is exemplary. The bridge team must be engaged, the master-pilot exchange must be comprehensive, and the pilot must ensure that his intentions are clearly understood. 'Thinking aloud' is a comparatively recent term for what has always been good practice. The VDR, and especially the bridge microphones, should be considered the pilot's best friend and most reliable witness. Pilotage is under the spotlight as never before. Australia and New Zealand have placed marine pilotage on a watchlist, expressing serious transport concerns and highlighting a continuing theme of poor Bridge Resource Management, (BRM). In the UK, both the pilot and master of the City of Rotterdam were prosecuted for conduct endangering the ship. It didn't matter who had the con, both the pilot and master were considered to be responsible to each other for ensuring that the principles of BRM and best navigational practice were adhered to.

It is a cliché, but true nonetheless, that we live in litigious times. Even if the bridge team is totally disinterested, which – as pilots know – still happens all too frequently, pilots must ensure that their conduct is robust enough to withstand the closest scrutiny. If the pilot is that single point of failure then he or she will have a strong defence if, despite

their best efforts, it can be seen on the VDR that the bridge team did not fully engage with the pilot. But should the pilot really be piloting such a vessel? Pilots generally are can-do people who want to get the job done. But perhaps pilots should be more concerned about protecting themselves from possible prosecution. If the ship doesn't have a supportive bridge team then in accordance with international convention and port state control legislation it should be considered substandard and put to anchor. (On the 8<sup>th</sup> March 2019 the English Admiralty Court handed down a judgment that 'defective passage plans render a vessel unseaworthy'.<sup>14</sup>)

As mentioned, there are approximately 53,000 internationally trading vessels. Of these, 314 are cruise ships.<sup>15</sup> Yet the controversy about who has the con was triggered by this small sector of the industry and specifically the new bridge practices developed by Carnival at its training facilities in the Netherlands. While pilots have criticised the practice of repeating every order as a question to be answered with a yes, this is the company culture, and, while it may be considered mildly irritating, the practice must be respected by the pilot.

Carnival's own fleet orders state that 'a pilot strengthens and supports the bridge team with local information, knowledge, risk assessment and expert navigation' (CSAF038).<sup>16</sup> However, while the pilot is there to support the bridge team, 'masters and bridge officers have a duty to support the pilot' (IMO Resolution A.960). The pilot should be integrated with the bridge team, but as an equal partner and not subservient to the rest of the bridge team. The design of some bridges puts the pilot literally to one side of the conning position, meaning it is difficult to integrate with the bridge team. On such vessels, the pilot usually has an allocated radar and VHF but other information such

as the rate of turn indicator is not easily seen. (I tend to stand behind the navigator and co-navigator where I can see all the relevant information.) The pilot and the bridge team must have access to the same navigational information. 'No team can work cohesively unless they share a common understanding of the goal. Within BTM, this principle is often described as the development of a shared mental model.'<sup>17</sup>

Of course, contrary to popular myth, pilots are not superhuman. The pilot who steps onboard may be fatigued, bereaved, depressed or have other personal worries and concerns. Although the pilot needs to be at the centre of things it does not mean that they will have correctly assimilated all the information in front of them. For example, an investigation into a collision between three vessels concluded that 'the pilot's effectiveness was reduced due to his heightened workload, frustration and increasing stress'.<sup>18</sup> And the master was unable to properly monitor the pilot because he 'had not gained sufficient information about the pilot's intentions for him to check progress against the plan or to ensure the safety of his vessel'. Interaction between the master and pilot had been minimal and there was no shared mental model. Good Bridge Team Management relies on both mutual understanding and respect between the pilot and the bridge team.

It is entirely right and proper that the pilot's actions are closely monitored and challenged. In return, the pilot should expect the full help and support of the bridge team. And bridge teams must expect they will also be closely monitored and challenged, and, in return, they should expect the full help and support of the pilot. Pilotage is not about us and them. It is a shared responsibility to achieve the common goal of safely navigating the ship through the pilotage district.

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*William Hargreaves is a Southampton Pilot.*



## 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.

IMPA: [www.impahq.org](http://www.impahq.org) EMPA: [www.empa-pilots.org](http://www.empa-pilots.org)



*Julian Lancaster, Tees Pilot (centre) assisting IMPA at the IMO Session*



# 53<sup>rd</sup> General Meeting and Conference

– Liverpool 22-24 May 2019 James Foster



Jonathan Mills and Ian McMahon and me (James Foster) attended the above conference in Liverpool. It was a three-day conference with over 250 attendees, primarily pilots from all around the world, with 25 presentations, coupled with discussions and Q&A sessions. It was an extremely busy conference programme and apparent that every single minute was going to be filled (which it was!).

It's going to be impossible to detail and write up everything that was said and done, but I'll try my best to condense it into a summary.

John Pearn (Chairman UKMPA), summed up the whole EMPA conference: 'It's a case of all getting together from all over the world, as Maritime Professionals, in order to discuss and digest, in an effort to make us do our job, in all aspects, that little bit better.'

- The first morning consisted mainly of pilot boat operations from all around the world concentrating on lives that had unfortunately been lost in a pilot boat that capsized.

- It was interesting to see that a district in America and one in the Baltic worked with a single pilot boat crew member, and, in contrast, districts in the Netherlands with a mandatory three pilot boat crew members.
- It appears that many Standard Operating Procedures, and Risk Assessments play an important role in many of the districts worldwide.
- Discussions took place on the future of pilot boat manufacture and design. One pilot boat has a Gyro Heeling system and gave a reduction of heel by 80%, whereas another pilot boat with jet propulsion, rudders and buckets, is enabled if necessary to embark/disembark pilots at an operating angle of 45 degrees from the ship's heading. This proved successful when dealing with embarkation and disembarkation in the vicinity of a vessel's stern and 'cut aways' of some vessels.
- One pilot boat in use had a Bow Rotor, which consisted of a fixed bow rudder/rotor configuration,

to be able to control the bow when the cutter is embarking/disembarking pilots.

- SWATH (Small Waterplane Area Twin Hull), Monohull, Twin Hull, and X Bow pilot vessels were all discussed and presented.
- Whole Body Vibration in pilot boats with faster speeds and more powerful engines are beginning to have an effect on pilots and pilot boat crew members. Work and research is being carried out on pilot boats, reducing long-term injuries caused to pilots, and crew, from the surprising g-forces and vibration that are exerted on the body.
- The next presentation rolled onto pilot boat/FRC seat design and safety. It was 100 times more in-depth than just 'suspension seats', and included deck dampening and further isolation of FRC engines from the crew.
- It was actually a shame no one from ESL was present, as I think there would have been a lot of important and interesting



*Don Cockrill - Secretary General*





information shared. Surprisingly, our pilot boat operations appear to be of average standard in terms of efficiency and safety operation.

- Airbus was present and is keen to get into helicopter pilotage operations in the UK. It already covers multiple pilot stations, by one helicopter, in Germany, giving some positive aspects of pilot embarkation/disembarkation.

The afternoon saw a more sombre atmosphere, with investigation reports into the deaths of two pilots, and another person at sea.

- A Portuguese pilot died last year, having fallen into the water when trying to climb a three-metre ladder that was unfortunately non-complaint.
- It was at night and the pilot boat had no trouble locating him, but the problem came when trying to retrieve him from the water, as the recovery equipment had failed and its use had not been regularly exercised.
- The pilot was in the water for 50 mins, consequently trying and then failing to climb the pilot boat ladder, after which he drowned. The president of Portuguese pilots gave the sad presentation, and reported on what they had done to ensure that an accident doesn't occur like this again.
- Unfortunately no support had been given to his wife and young family and they became bankrupt before the port stepped in to offer financial and emotional support.
- It was reported how important our Pilots' Circle Insurance Policy is, which all UK pilots personally pay at considerable expense. The pilots who don't have it, or cannot have it, are seriously disadvantaged, especially in circumstances of pilot injury or death.
- Nick Lee gave the report of the death of pilot G Coates at the PLA, onboard the vessel *Sumni*. From a relatively straightforward

pilot embarkation the accident occurred with sad consequences.

- Nick Lee was the duty DPC at the time and explained just how difficult it was for him to deal with emotionally after the event.
- The embarkation was 'only' a step across; no ladder needed to be climbed, which most of us consider to be the easiest method of transfer, but much underestimated. One element that we all personally remembered for the wrong reasons was that the news about Gordon's death had been circulated widely on social media - well ahead of his wife being able to be informed officially by the Police.

A Tees pilot gave the presentation on a fatality of an unknown person that occurred after he was found in the water at the Pier Heads in Tees. He was located, retrieved, all efficiently, but then the obvious decision was to bring him back onto land at the port's pontoon (similar to the Royal Bridge) for Air Ambulance embarkation. Unfortunately, the result of what was considered to be more logical and safe, resulted in an hour's delay for the casualty, who later died. Mainly due to its down draft the helicopter had problems landing in any area of the port.

Had the unusual and illogical decision been taken, to keep the casualty in the recovery boat at sea, the helicopter would have had no problems recovering him and resulted in a much shorter transfer-to-hospital time (the Golden Hour). After that event, the whole Port, VTS and staff underwent a massive restructure of Emergency Situation Check Cards and Procedures.

- Nick Lee (PLA Pilot/Tech Training), reported that the assessment of pilot embarkation and disembarkation, needs to be rethought, especially in times when pilots wonder, can I/can't I get on the ladder? The question we should be asking ourselves is that, if I fall from the ladder, due to whatever reason, can the pilot



boat crew members retrieve me from the water? If the answer is 'No' then we should really be evaluating our pilot transfers.

- Time was then allowed for a session where pilots could share their experiences of falling off ladders. One event that sprung to mind was of a pilot who at disembarkation fell into the water six years ago. He was a good swimmer and seemed to be only bothered at the time with his new 'I Phone' that was probably 'wrecked'. He was quickly retrieved and 'signed off' after finishing his job. VTS asked if he wanted to 'return back into the roster', to which he replied, having just got wet, 'No'. He promptly went to bed, on his own, in rental accommodation (he was living away).
- It was not until he woke in the morning and realised what a stupid thing he had done, due to the after effects and possible secondary drowning during the incident. No one from port management had enquired after him or even suggested that he went to the local hospital to get checked out. He considers himself lucky that he even woke up after his incident that night.
- Pilot Ladder defects appear to be a 'hit and miss' affair. Australian Pilots have a zero tolerance policy, where they don't board unless the ladder is exactly compliant. Their reputation is so strict that most, if not all, ships rig a brand new ladder when embarking a pilot in Australian waters.

- Other UK districts appear to be a little ahead of us on ladder defects, which are handled more strictly, efficiently and reported more easily.
- The UKMPA along with Jonathan Mills (Technical and Training) are looking at producing an 'Idiot's Guide' to compliant and non-compliant pilot ladders that we can have readily available when embarking/disembarking and be able to report any deficiencies.
- The conclusion of the first day was that pilotage is a very underestimated job that we as pilots do hundreds of times a year. We are all under a 'can do' attitude, which means at times we take calculated risks. Accidents can and do occur very quickly with results that not only effect our lives but the lives of our families. One element that we must not lose sight of is regular Sea Survival training, Rescue Boat craft training and training for emergency circumstances like these.
- The second day was more of an 'electronic' day, covering ECDIS, PPU, and something which seems increasingly common, 'Whole Electronic Port Integration.'
- A presentation by Singapore pilots demonstrated that they use and integrate Port Management, all in one interface. Pilot booking, payment, passage planning, tug allocation, berthing, linesman are all integrated into a PPU. The conclusion is that this technology is present and will be integrated into pilot's work in the future. It was interesting and surprising to learn of the number of ports worldwide already using this technology.
- A female Finnish pilot gave a presentation on Autonomous Vessel Developments. As much as they don't want to 'cost' crew their jobs, they have realised that anything, just like driving, is increasingly autonomous.



- It is considered actually safer and better for pilots' livelihoods to actually assist rather than resist this development, in order to influence certain decisions and actions taken, by people who know very little about marine operations.
- Svitzer talked about tug operations. One element that was very interesting was that very recently one of their tugs has a prototype Automatic Catching Arm on deck. How effective it was was not reported, but they admitted that this one prototype tug in Denmark is operating with no crew-member on deck to make fast to ships.

The third day consisted of 'Blind Trust' and over reliance on Electronic Means. It was clear that although pilots are receiving electronic assistance and port integration software, it is imperative that pilots' skills need to be retained. A pilot cannot question electronic equipment or aids without having the basic skills gained in pilot training and education.

Much discussion took place on whether entry intakes should be lowered below Master's Unlimited Certificate of Competency (CoC), and whether training can be speeded up because of the electronic assistance available on ships. The conclusion was basically 'no': a pilot still needs to study, learn



wind, tides, geographical area, course and distances, etc, as well as experiencing hands-on ship driving skills.

The need for Master's CoC has never been more necessary for UK Pilotage districts in times when ship-crew standards and experiences have dropped over the years to employ cheaper crews. Of all the reputable UK districts, only the Humber is where ABP have lowered entry intakes, although it was reported that they feel the consequences.

### Conclusion

To sum up, the conference was a worthwhile and valuable three days. After talking to other reputable districts, including those in Europe, Medway pilots belong to a well-respected district, one which knows what it is doing.

Some members commented that we appear to have been a little quiet at UKMPA & EMPA conference and meetings over the last couple of years. This probably hasn't been helped by the large number of changes we have had to 'embrace' at Medway during this time.

All UK Pilots are aware of the Medway and our pride as a professional district. It was an invaluable conference that we really needed to be present at. We have lots of contacts within UKMPA, EMPA and IMPA, contacts we need to maintain to ensure that the Medway keeps abreast of pilotage developments.

I knew very little about EMPA and IMPA, but what this conference has shown me is that there are a good number of pilots constantly

working to maintain pilot professional standards at a time when some ports worldwide are trying to demean their marine skills.

Finally, I'll leave you with this: 'When I pay to go to the dentist to have a tooth removed I consequently expect and pay for a qualified, fully trained dentist who possesses the necessary skills to get the job done safely and correctly. I don't ask the dentist's receptionist to remove my tooth, to endure pain and discomfort to save costs. This is exactly what Captains expect when pilots step onboard the bridge of their ship.' I believe all of the presentations and discussion slide shows are on the UKMPA website.

## Pilots' Golf 2019 Malcolm Watts

Fourteen members from five Districts met at Shawhills Golf Course in early May to do battle on the golf course. On Sunday we played for the Peter Ryder Cup, which was won by Steve Swannick of Manchester, and the following day Chris Harding of Milford Haven won the Manchester Salver.

The pin competition on the short 16<sup>th</sup> was won by Steve Watson, one of two who managed to hit the green! We were blessed with good weather and excellent fellowship at the 19<sup>th</sup> hole. A good two days was enjoyed by all and as we said our goodbyes we all looked forward to the match on 15<sup>th</sup> - 17<sup>th</sup> September at Kinross.

Any serving or retired pilot who is interested in joining these twice yearly golf matches should contact Chris Harding on 01437 890961.

Also a big thanks to the Milford Haven Port Authority who has sponsored these competitions.



## 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 Ian Storm 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: 7 of 2016



The All Parliamentary Parties Maritime and Ports Group (APPMPG) meetings give the Association an opportunity to network and speak with MPs, peers in the House of Lords and people involved in shipping and ports. Various topics are covered in these meetings, and there are questions and answers, each meeting lasting about one hour.

Richard Ballantyne of the British Ports Association spoke about port developments and enterprise zones. Numerous challenges face ports when they try to gain consent for developments, a process which can be costly and time consuming. He talked about building a more dynamic marine planning and consent system that recognises the changing and dynamic aspects of the natural environment – a move from 'conservation' towards 'sustainability'. Also (perhaps ironically in view of Brexit) this process takes a more 'European' approach by recognising that ports are critical to the economy as industrial areas that have for centuries co-existed with flora and fauna.

BPA's planning encompasses the following items:

- o Retain and extend permitted development flexibility
- o Introduce more certainty in the

planning process for projects of all sizes

- o Factor-in port connectivity to wider transport planning
- o Explore the 'free ports' free trade concept where it works
- o Review the wider environmental framework and tailor it to port needs

Richard further discussed enterprise zones and a number of new and existing mechanisms available to incentivise business growth and clusters around ports. These could include:

- Possible automatic or simplified planning permissions
- Business Rates
- Employment stimulus
- Skills incentives and promotion
- Free trade areas

His concluding points of discussion concerned the benefits of the Maritime 2050 plan and those for the ports sector:

- Major sector-wide long term strategy
- Many points of interest for ports on issues such as recommendations on port connectivity, innovation, the environment, safety and security
- Creation of better appreciation of maritime and ports sectors across government departments
- Recommendation regarding a new programme of 'Port Economic Partnerships', a concept at present without detail but which might provide something similar to Port Zones
- A pledge to review the viability of free ports and a refresh of DfT's port master planning guidance

Tim Morris, CEO of the UK Major Ports Group (UKMPG), has studied air quality, something coming to the forefront in connection with environmental compliance. The UKMPG Arup study and

assessment raises some interesting facts. He shared the following interesting examples of various initiatives ports have taken to improve air quality:

- Enhanced monitoring and reporting (inc. real time alerts)
- Vehicle Booking Systems (VBS)
- Service vehicle fleet Engine Management Systems (EMS)
- Port Non-Road Mobile Machinery (NRMM) EMS
- Idling monitoring and cut-off installation, inc. tightening timings (10 > 6 > 3 mins)
- Introduction of start / stop vehicles
- Vehicle management measures – wheel washing, sheeting, etc.
- Physical screening of activities
- Retro-fit electrification of NRMM
- Purchase of new electric / hybrid NRMM
- EV trials – testing issues about capability, productivity, etc.
- Electric IMV trials
- Green tariffs
- Shore power feasibility studies
- Employee 'hearts and minds' campaigns
- Contractor and haulier engagement campaigns

The Arup study highlighted where the better initiatives for improving air quality are:

- Increased use of cleaner fuels for vessels (but ports as 'takers' / 'enablers' not drivers)
- Retrofit emissions controls to vessels (e.g. scrubbers) (not a ports driver)
- Emissions Control Areas (Arup insisted there must be a level playing field)
- Shore-side power (but COST and INFRASTRUCTURE)
- Maximise use of rail freight
- Increase freight by water
- Traffic management initiatives (e.g. VBS)
- Alternative traffic routing (Arup acknowledge ports have a limited role only)



# Pilot Ladder Accident

Agha Umar Habib

This is a first hand account by a pilot at the port of Sohar, of what it is like when a pilot ladder being climbed, breaks. The article has been kindly reprinted from a post in LinkedIn. (The Editor).

One never appreciates life unless one encounters death!

My fall in the water on July 23<sup>th</sup>, 2019 was an event which re-affirmed my faith in God. The accident was something I had to encounter due to someone else's negligence. I was gratified to my God for not inflicting any mental or bodily harm to me.

I am a Marine pilot in the Port of Sohar, Oman with more than 13 years experience. During my night shift on 23<sup>th</sup> July 2019 I was on the Pilot boat *Svitzer Al-Kharara*, to board the m.v. *Opal Fortune* at 0130 hours. Like any regular day, I put on my safety equipment as per international safety standards and departed the pilot boat by stepping on the pilot ladder. As soon as I stepped on the third step of the pilot ladder I heard a shout from the ship's crew and had the horrific realisation that I was falling into the sea. The broken ladder started tumbling down and resulted in me falling between the ship and the pilot boat.

The inflation of my life jacket jolted me to the severity of the situation

and my instant reaction was to open both my arms to avoid being crushed between the pilot boat and the ship. This effort caused some scratches on both of my hands. Once I resurfaced, I saw the Ship's propeller behind me. Immediately I started to swim away from it, as it was churning slowly. By my deliberate and conscious swimming, I was able to miss the propeller. During this swimming effort, I realised that my backpack was hindering my efforts and pulling me down so I immediately took off my bag.

Though it was pitch dark, I spotted the broken pilot ladder and a life buoy floating beside me. I swam towards the buoy and held it tightly. In the meantime, I saw the pilot boat had turned around and was searching for me. I started shouting "Ali..Ali", who was one of the crew on the pilot boat. This made it possible for the boat crew to locate my position and update the Captain (Abu Shaker) regarding my position in the water. The Captain tried to bring the pilot boat beside me and he succeeded at the second attempt. They threw a rope to me which I tied to my arm. After that they pulled me toward the aft of the pilot boat. I used the ladder to climb up the pilot boat. I was later taken to the hospital by the officials and was very well taken care of. The

presence of my Harbour master and colleagues at the hospital at that hour of the night, was very humbling. I felt very much relaxed in their presence. My family was also updated by them which made it easy for them to reach me.

Those 15 minutes in the sea were the scariest of my life as I was not sure of what would happen next or even if I would survive! God's special blessing it was!!! Thanks to the bearable temperatures of the water in the Gulf of Oman, its low swell and quick response of the pilot boat captain, who switched off its propeller immediately upon seeing me fall, I was able to survive this accident unharmed, which could have proven fatal.

The accident was over and I was back on duty the next day, but a lot of questions needed to be answered and many concerns need to be addressed for the safety of marine pilots all over the world and for the risk involved in this profession. Pilots are no less than heroes who work day in day out and risk their lives to keep the world's shipping moving. Do the safety standards on ships and facilities for pilots which are covered by international regulations adequately manage the risk? Think about it!

*Reprinted with kind permission*

# Defective Passage Plan

Christian Dwyer & Sophie Henniker-Major

Alize 1954 and CMA CGM SA v. Allianz Elementar Versicherungs AG and others (CMA CGM *Libra*) (2019) EWHC 481 (Admlty)

In this recent judgment, in the context of a claim by Owners for a contribution in General Average ("GA"), the Court considered whether a defective passage plan, prepared prior to the commencement of the voyage, rendered the Vessel unseaworthy. On the facts, it was found that even though the Owners had in place good safety management practices, the Vessel was unseaworthy on the basis that a prudent owner would not have sent the Vessel to sea with such a defective plan, and that due diligence had not been exercised.

## The background facts

On 17 May 2011, the container vessel, CMA CGM *Libra* ("the Vessel"), grounded shortly after leaving the port of Xiamen in China.

At the time, the Vessel was about four cables west of the buoyed fairway, in an area where the charted depth was over 30m. The fairway through which the Vessel was navigating prior to the grounding was bordered by areas marked on the chart as 'Former Mined Areas', the presence of which were noted in the chart notes and Admiralty Sailing Directions as having inhibited hydrographic surveying and, therefore, may contain uncharted wrecks and isolated shoals that posed a danger to deep-drafted vessels. Furthermore, a Notice to Mariners issued just five months prior to the grounding advised mariners that 'numerous depths less than the charted exist within, and in the approaches to Xiamen Gang'. It also noted that the fairway had a depth of at least 14 metres. A further Notice to Mariners issued in April 2011 also gave specific examples of depths of water outside the fairway

being observed to be considerably less than the charted depth.

Prior to departure, as required by the Owners' Safety Management Systems (SMS), a passage plan had been prepared by the Second Officer and approved by the Master. Although some non-causative defects were noted on the plan, the fact that the Notice to Mariners identified the existence of shallower depths than those charted in the vicinity of the fairway which were not included on the plan meant that the Judge held that the passage plan was defective: a source of danger was not clearly marked as it ought to have been. In addition, although the Vessel had on board a memorandum issued by the Owners relating to the difficulties in navigating the waters around Xiamen, the passage plan did not mark or identify any no-go areas outside the buoyed channel. In the event, the Master decided to depart from the passage plan to navigate outside the buoyed channel, a decision which, on the facts, was found to be negligent.

The Owners claimed some USD 13 million in GA. While 92% of the cargo interests paid their contribution in GA, the remaining 8% refused to do so and so the sum claimed in these proceedings amounted to approximately USD 800,000. While the Owners said that the cause of the grounding was an uncharted shoal, the cargo interests claimed that the inadequacy of the Vessel's passage plan rendered the Vessel unseaworthy, due diligence had not been exercised and that, as a result of the unseaworthiness, the Master's navigation was negligent and the grounding caused by the Owners' actionable fault.

## The Admiralty Court decision

### Burden of proof

As a preliminary point, the Judge considered the recent decision of

the Supreme Court in *Volcafe Ltd. v. Cia Sud Americana de Vapores SA* (2018) 3 WLR 2087 in relation to the burden of proof. The Supreme Court held in that case that the carrier had the burden of proving that there had been no breach of their obligations under Article III r.2 of the Hague Rules to properly and carefully load, carry and care for the cargo or that the damage had been caused by one of the exceptions. The cargo interests argued that the Owners had the burden of proving that the Vessel was seaworthy under Art. III r. 1 or, if it was not, that due diligence had been exercised.

However, the *Volcafe* decision was distinguished as being only relevant to the burden under Article III r. 2. The Judge held that the conventional view, that under Article III r. 1 the burden lay on cargo interests to establish that the Vessel was unseaworthy and that the unseaworthiness was causative of the grounding, remained good law.

### Unseaworthiness and causation

The Judge cited the usual test of seaworthiness set out in the *Cape Bonny* (2018) 1 Lloyd's Rep. 356: whether a prudent owner would have required the relevant defect, had he known of it, to be made good before sending his ship to sea. Under Article III r. 1 of the Hague Rules, the obligation of seaworthiness attaches 'before and at the beginning of the voyage'.

Counsel for the Owners submitted that passage planning is not an aspect of seaworthiness and instead is an aspect of navigation that takes place prior to the actual passage. It was argued that a one-off defective passage plan did not amount to unseaworthiness and that a carrier's duty was discharged by putting proper systems in place to ensure that the Master and crew can prepare an adequate passage



plan before the beginning of the voyage. The Judge was unable to accept this, holding that the Vessel was unseaworthy at the commencement of the voyage by virtue of the defective passage plan. He stated that concentrating on the actions of the Owners without considering those of his servants confused the issue of seaworthiness with the non-delegable duty of due diligence.

It was held that the defect in the passage plan was causative of the Master's decision to leave the fairway, which in turn caused the grounding.

### **Obligation of Due Diligence**

The cargo interests argued that the Master and Second Officer's negligence in preparing the passage plan amounted to a failure on the part of the Owners to exercise due diligence to make the Vessel seaworthy. The question then arose whether the Master and Second Officer could reasonably have prepared an appropriate passage plan with the exercise of due diligence. The Judge held that it could have been. The Owners submitted that due diligence had been exercised because the Owners' Safety Management Systems (SMS) contained appropriate guidance for passage planning. The obligation to exercise due diligence only concerned things done by the Owners in their capacity as carrier, and not by the crew in preparing the passage plan, which was a matter of navigation.

The Judge made clear that an Owner's SMS must be adequate to secure a finding that due diligence has been exercised. It was recognised that a well-documented SMS is an important tool for defending claims based on unseaworthiness. However, it is not sufficient for an Owner to demonstrate that it has itself exercised due diligence. The non-delegable nature of due diligence means that it must be shown that the servants and agents relied upon by the Owner to make the Vessel

seaworthy at the beginning of the voyage must also have exercised due diligence.

### **Comment**

The judgment is a further demonstration that the English Court considers the concept of seaworthiness to be an evolving obligation which is intended to develop in line with the developments in the shipping industry. As Teare J acknowledged, before the need for passage planning to be adopted by 'all ships engaged on international voyages was recognised by the IMO 1999 Guidelines for Voyage Planning, it may have been the case that a prudent owner would not have insisted upon the preparation of an adequate passage plan from berth to berth.

However, I am confident that by 2011 the prudent Owner would have insisted on the preparation of an adequate plan from berth to berth.' It remains to be seen whether the Court's finding on this and other issues will be appealed and if so, this will be a case to watch.

Significantly, the case breaks new ground and sets a new bar for seaworthiness in finding that a defective passage plan will, of itself, render a vessel unseaworthy if a prudent Owner would not have sent the vessel to sea with the relevant defect. It also provides a useful reminder of the non-delegable duty of due diligence. In particular, the decision highlights that even if an owner has in place good SMS practices, the non-delegable duty of due diligence will override it and will not absolve the owner of liability if a crew member nevertheless fails to follow it or is negligent in its application prior to commencement of the voyage.

We would also make the following observations:

1. There is no doubt that, following this judgment, the adequacy of a vessel's passage plan will come under greater scrutiny. In light of the apparent elevation of

a passage plan to a document that could render a vessel unseaworthy, some owners may give consideration to ensuring that additional checks are made on the adequacy of passage plans and may wish to consider arranging for the plans to be approved by owners' operations team, as well as by the Master prior to a vessel sailing. This may, however, be a challenge in terms of practicality and resources.

2. That said, a defective passage plan of itself will not lead to liability if the defect is not causative. The burden remains on the cargo interests or charterers to demonstrate that any defects in a passage plan are causative of any loss and a careful analysis of causation will still need to be made on a case by case basis. In this regard, it is noteworthy that it may prove important going forwards that navigational experts have the requisite experience of operating and working with electronic charts.
3. We would suggest that it remains questionable whether the requirement of a berth to berth passage plan is practicable and relevant in every case. The defect in the passage plan in this case concerned the immediate departure from the load port and not arrival at the eventual discharge port. As a matter of practice, it is often the case that a vessel's orders change during the voyage or final orders as to the discharge berth are only provided en route. In those circumstances, an issue will be whether, if a passage plan is completed during the voyage but contains a defect which is causative of a grounding, the negligent navigation defence under Article IV r. 2(a) of the Hague Rules would in fact still be available to an owner (assuming the relevant

documents to complete the passage plan are on board).

4. This particular grounding occurred during a time of transition from paper to electronic charts. While it was found that the Vessel did have the means to prepare a non-defective passage plan, the requirement now to carry electronic charts may aid accurate passage planning.
5. It is noteworthy that the cargo interests argued a number of other points relating to bridge management, incompetence of the Master and fatigue. These were unsuccessful and

this suggests that it remains a challenge for cargo interests to prove such issues, particularly where owners do have adequate systems in place.

6. Finally, this case also highlights the importance of obtaining witness evidence immediately after a casualty and demonstrates that witness evidence given several years after the event has little value in comparison. It also gives an insight into the Admiralty Judge's views on and encouragement of the use of Nautical Assessors for issues of passage planning and

navigation in GA cases arising from groundings.

The judgment is being appealed and it remains to be seen whether the Court of Appeal will change the position.



Christian Dwyer



Sophie Henniker-Major

## Book Review John Clandillon-Baker

'Tug Use In Port' Henk Hensen. The ABR Company Ltd.

Safe pilotage depends on the pilot being aware of all the elements likely to be encountered, and where required tugs will be an integral part of the manoeuvre. It is therefore essential that all pilots are fully aware of the type of tugs that have been allocated to the vessel and the tugs' operational capabilities.

When Henk published his first edition of Tug Use In Port in 1997 it was immediately acclaimed as the definitive reference work on port tugs and their use. In 2003 Henk produced a second edition, updated with new tug designs and expanded content, which was equally well received. Many (hopefully most) pilots will have referred to these books and appreciated the clear and concise detailing of the various tug types.

Since the second edition was published, the world of port towage has undergone a revolution, with many new and innovative designs now in operation. Consequently, in this third edition Henk has re-written the text in order to provide comprehensive details of all tug designs, their operational parameters and the optimum positioning to

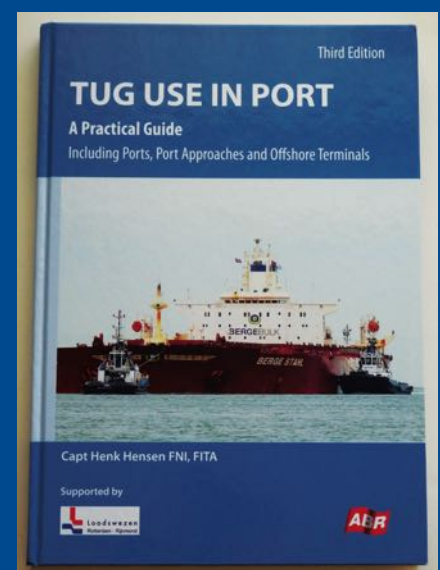
maximise their effectiveness. There is even a section on autonomous tugs. In addition to the tugs the book also includes a comprehensive chapter on towage equipment.

Despite advances in tug design, harbour towage is still a high-risk operation and when things go wrong a routine manoeuvre can rapidly become an accident. Tragically such accidents frequently result in fatalities to tug crews, and the ship can also be endangered. These risks and their causes are covered in detail.

Lavishly illustrated throughout with photos and diagrams, this book is an essential reference work of particular relevance to pilots, and the price of £40 or €45 represents excellent value. It is available directly from Tug & OSV at the following link: <http://www.tugandosv.com/books.php?id=25>

The book can also be ordered from the publisher below or any good bookshop or quoting the ISBN Number: 978-1-904050-34-6

Publisher: The ABR Company Ltd  
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Follow @UKPILOTS on Twitter for pilot safety and other industry information.

## A note from the design department...

Could all those kindly contributing images to the magazine, please ensure, if they are from your own camera/smart phone, it is set to the highest resolution possible. In addition, please don't place them in a word document or compress them when sending via email.

We get a lot of beautiful pictures sent in, which are frustratingly too small to use!

Any queries?

Please email Kerry: [chelsey@madasafish.com](mailto:chelsey@madasafish.com)

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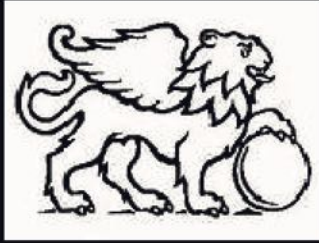
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2	All ports between Crouch and Cromer	Crouch, Harwich Haven, Gt. Yarmouth
3	All ports on the East Coast of England between Cromer and Berwick Upon Tweed	Kings Lynn, Wisbech, Boston, Humber, Seaham, Tees Bay, Tyne
4	Scotland	Forth, Perth, Dundee, Montrose, Aberdeen, Peterhead, Inverness, Cromarty, Sullom Voe, 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	Milford Haven, SW Wales, SE Wales, Gloucester, Bristol, Falmouth, Scilly Isles, Fowey, Plymouth, Dartmouth, Teignmouth, Poole

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