



C O R P O R A T I O N  
**PILOTES**  
SAINT-LAURENT CENTRAL

## Preliminary Report

Submitted to Marc Grégoire  
Within the framework of the  
*Pilotage Act Review*

November 2017

## Table of Contents

Summary .....	1
Governance .....	2
Safety .....	3
Labour Models .....	5
Tariff and Regulatory Amendment Process .....	6
Economy and Public Policy .....	7
Enforcement of the Act and Emerging Issues.....	8
Social Acceptability .....	9
Conclusion.....	9
Notes.....	10

## Summary

The Honourable Marc Garneau, Minister of Transportation, announced in Spring 2017 that the *Pilotage Act* would undergo review following the creation in November 2016 of the Oceans Protection Plan. The Mid St-Lawrence Pilots Corporation (CPSLC), which offers marine pilotage services between the cities of Quebec and Montreal, including the Montreal Harbour, welcomes efforts made by the federal government to protect biodiversity, drinking water supplies and the various advantages related to the responsible use of oceans and of our bodies of water in the best interests of Canadians.

In the context of this review process, we received a reference framework and policy discussions to which we would like to respond, in part, with the present document. Several questions have been raised under the following general themes: *Governance; Safety; Labour models; Tariff setting process; Economic and Public Policy Considerations; Enforcement of the Act and Emerging Issues.*

Following meetings held with Mr. Grégoire as part of this review process, it is clear to us that the majority of the issues raised by users stem from a combination of perceptions related to the costs of pilotage and to its efficiency. In this report, it is CPSLC's opinion that the facts demonstrate beyond any doubt that the Canadian pilotage system is not only of the safest in the world, but it is also among the most cost-efficient within industrialized nations in terms of cost of transported tons per nautical mile, as well as one of the most profitable in terms of economic impact<sup>i</sup>.

Moreover, technological advances have greatly contributed to the modernization of the Canadian pilotage system over the past two decades. More specifically, they have significantly improved the flow, the efficiency and safety with which persons and merchandise are transported on Canadian waterways subject to mandatory pilotage. Canadian pilots are internationally renowned for the leadership in electronic navigation and have played, during this period, a pivotal role in increasing the number of passengers and the volume of merchandise transiting on our waterways. As such, both shipowners and shippers have benefited from invaluable economies of scale.

The **issues** that have been raised by users stem from their **perceptions**.

In **reality**, Canadian pilotage is among the world's **safest** and most **cost-efficient**.

Canadian pilotage is **modern** and **technologically advanced**.

**225 %**

Increase in the number of night-time departures in winter since 2008 thanks to advances in technology.

## Governance

### An Issue of Equal Representation and of Separation of Duties

Certain core principles make up the foundation of the Canadian pilotage system, and we believe it is essential that they be preserved and protected to ensure safe navigation and the protection of our waterways:

- The Pilot's decisional independence;
- To respect local realities;
- To ensure and to maintain pilotage competencies;
- To offer a safe work environment that is not exposed to commercial pressure;
- To exploit and to develop modern technical resources that will enhance both the safety and the mobility of merchandise and of individuals.

We believe that the current system offers the safest possible service in which pilots may do their job without being exposed to commercial pressure, in the best interest of the Canadian public and of the users who benefit from an efficient and state-of-the-art service that is adapted to their local realities.

However, pilotage authorities must face two important challenges: conflicting roles and representativeness within their board of directors.

Indeed, the powers that are currently granted to pilotage authorities put them in a situation of conflict because they must manage operations, establish regulations, issue licenses as well as exercise investigative and disciplinary powers. As such, this situation places administrative, regulatory and disciplinary powers on one and the same body, which is contrary to sound governance principles. Consequently, the Government of Canada would do well to reassert its regulatory role and solely delegate to pilotage authorities the task of managing the pilotage system.

Furthermore, the governing bodies of pilotage authorities should maintain equal representation among users, pilots and the public in order to preserve a balance between economic interests and safety issues.

*Safety depends on competence and decisional independence.*

*It becomes vital that management and regulatory roles be segregated.*

*Balanced representation is essential.*

## Safety

### At the Service of Users to the Benefit of Canadians

The statistics with regards to the safety of Canadian pilotage speak volumes. We believe that they are the result of an effective system that meets the needs of users and of Canadians. In the St. Lawrence axis, users and Canadians benefit from a safe merchandise and passenger transportation system and from a protected source of drinking water that is drawn from by nearly 4 million Quebecers.

Such statistics are remarkable in a context of under-investment in maritime infrastructure and of a delegation of ship inspection roles. Our pilots are often in the best position to manage and mitigate risks related to the latter as they are at the front lines to detect safety issues, to report them to the competent authorities and to propose means to minimize their impact.

Finally, each type of cargo or project that poses a risk must be rigorously evaluated to control the nature and impact of the risk. The Pilotage Risk Management Method<sup>ii</sup> is, in our opinion, a tried and tested methodology in risk evaluation procedures.

### The Certification System

The certification system used by pilotage authorities has existed for several years now on the St. Lawrence River and has allowed Canadian ship captains to obtain a pilotage certificate. The system is transparent, reliable and safe. By law, a certificate holder must display a level of competency and knowledge of the body of water covered by the mandatory pilotage district that is comparable to the one required from a license applicant.

As well, the skills required by law include knowledge of the English and French languages, as communications with the officers of the Communications Service of the Canadian Coast Guard on the St. Lawrence River are mainly carried out in French, as are communications with ferry and tugboat captains, boaters, other pilots and linesmen. Recent history has shown the importance of communicating in the intervener's mother tongue in assistance operations on the frozen waters of the St. Lawrence. These high-risk operations require an advanced level of linguistic comprehension as reaction time is a factor that ensures the safety and success of maneuvers.

The Great Lakes Certification System was modified following the special examination report submitted by the Office of the Auditor General of Canada in 2008. A 2002 audit had raised questions with regards to the exemption

*99,8 %  
Safety rate of marine pilotage.*

*99,8 %  
Success rate of marine pilotage.*

*The holder of a certificate must  
be as competent as a license  
holder.*

*Knowledge of French is essential  
to safety on the St. Lawrence.*

system used by Canadian shipowners. The 2008 report demonstrated this well:

*“We identified a significant deficiency in the current system of exempting Canadian ships from compulsory pilotage. The Authority of the Great Lakes Pilotage does not have an effective mechanism to provide it with reasonable assurance that Canadian masters and deck watch officers have the competencies and the qualifications needed to ensure the safe passage of their ships in compulsory pilotage areas.”<sup>iii</sup>*

A few years later, the GLPA began a process of structured audit and verification of qualifications helped by Canadian officers applying for a certificate, and gradually replaced exemptions by pilotage certification. It should be noted that more than 400 officers have received a certification as a result of vested rights (grand-father clause) without having to demonstrate their knowledge or competencies. Of these, approximately a quarter would have lost their certification within five years.

On the St. Lawrence River, the complexity of issues related to winter navigation, high tides, omnipresent shoals, the narrowness of certain sectors in comparison to the size of the ships, the density of marine traffic, the proximity of waterfront properties and other issues require an unsurpassed knowledgeability that can only be proven with in-depth testing that includes cartography of the pilotage district. This method of testing allows the candidate to demonstrate his or her knowledge to an examination jury within a reasonable delay.

*A thorough examination process ensures that **key skills** have been mastered.*

## Labour Models

### Adapted to local circumstances

Entrepreneurial pilots who are members of a corporation that has existed for nearly 150 years on the St. Lawrence River can guarantee a safe and economically efficient practice of their trade. Specific geographic characteristics are favourable to corporations and justify their relevance and importance.

Indeed, because economic cycles that are difficult to predict influence the fluctuation of traffic, and because of the extensive training undergone by our pilots, who may require up to 10 years to obtain an unlimited license, private corporations must absorb the financial shocks related to fixed costs (payroll, benefits including those related to pension plan, etc.) When marine traffic decreases, private corporation revenues decrease as well, while fixed costs remain the same. The pilots, who are shareholders of a corporation, are therefore the ones who suffer the loss of revenue, as they cannot afford to lay off pilots who may be needed at a later date when traffic once again increases.

Pilotage authorities employing pilots can also experience difficulties related to economic cycles. In fact, they cannot sustain fixed costs in a situation of deficit because they are bound to remain financially self-sufficient. They are then in a situation where they are obliged to lay off pilots (mostly by attrition or early retirement) in order to reduce their fixed costs. However, when traffic increases, pilotage authorities must manage the augmented workload with overtime (as outlined in the collective agreements). Because overtime is not reflected in the tariffs charged to users, a financial shortfall may occur, and when their resources are depleted, delays may be imposed on ships.

Furthermore, the current labour models respect the geographic reality of Canadian pilotage. On one hand, in a zone where marine traffic requires few pilots; and/or where the geographic scope and level of complexity are such that only a limited number of pilots possess the necessary skills and knowledge, the pilot-employee model proves its value. On the other hand, in a zone where maritime traffic requires a sufficient number of pilots who can share common knowledge, the reaching of a critical mass justifies the creation of corporations and allows pilots to absorb economic shocks, which consequently stabilizes the financial situation of the pilotage authorities involved.

The status of pilots working in the Montreal Harbour in 2011, employed by the Laurentian Pilotage Authority (LPA), is a good example to validate the

*Labour models are **adapted** to local geographic realities*

*Entrepreneur pilots **absorb** economic shocks*

*The pilot-entrepreneur model can be justified by the need for a **critical mass** of pilots.*

entrepreneurial model. Difficulties experienced by the LPA in recruiting new pilots for the Montreal Harbour and in signing functional collective agreements have led to conflicting relationships with pilots and resulted in service conditions marred by delayed ships and a financial unpredictability that have been difficult to sustain. The transfer of pilot-employees' to CPSLC has allowed the LPA to reestablish its financial stability and more significantly, has all but eliminated ship delays in the Montreal Harbour waters.

Finally, we believe that over the years, the St. Lawrence pilots' entrepreneurial spirit has contributed beyond a shadow of a doubt to the development of several growth-generating projects for the St. Lawrence's economy. The following are but a few examples: harbour development projects (Contrecoeur, Bécancour); the arrival of post-Panamax ships on the St. Lawrence upriver of Quebec City; Valero-Desgagnés shuttle services between Montreal and Quebec City; and electronic navigation.

## Tariff and Regulatory Amendment Process

### Efficiency and Transparency

The current tariff amendment process, however transparent and structured it may be, is lengthy and rigid. All stakeholders would benefit from an improved process that would allow quicker changes all while maintaining its transparency.

The process for regulatory changes is equally slow and heavy. We believe that the service contracts and the administrative agreements between pilot corporations and pilotage authorities offer operational windows of opportunity that reflect the reality of "local" pilotage. In several cases, letters of understanding or administrative agreements have allowed users to benefit from the flexibility that is essential to their operations on the St. Lawrence, including, for example, the ship compliance system that led to downbound departures during the night in the winter time. In other cases, safety was ensured by contractual agreements. For example, when new types of ships were introduced on the St. Lawrence River, regulatory changes would have required months, even years, to be enacted (Post-Panamax).

*Since 2011, the transition to an entrepreneurial status has improved the service provided to users in the Montreal Harbour.*

*17,8 %  
Increase in LPA **tariffs** for District 1 over the past 10 years*

*15 %  
Increase in the cost of living (CPI) over the past 10 years*

*Regulatory amendments are slow, lengthy and have a broad scope.*

*Service contracts and administrative agreements ensure faster deployment, are more flexible and specific.*

## Economy and Public Policy

### Partners in Safe and Sustainable Development

Statistics published by Transport Canada in the context of the *Pilotage Act* review show that the ratio of pilotage costs in Canada, to total marine tariffs paid by ships, has remained constant over the past 10 years. However, the ratio of pilotage costs in Canada, to revenue generated by Canadian ports over the same period, has decreased by 8% (from 42% to 34%).

These statistics clearly show the economies of scale that stem from the increase in the size of ships transiting through Canada, particularly on the St. Lawrence River, which largely surpass the increase in costs related to the pilotage of these ships. Moreover, pilots play a crucial role in feasibility studies that allow larger ships to sail on the river and significantly contribute to their social acceptability.

Mid St. Lawrence pilots proactively participate in reducing shipping costs and work in synergy with all stakeholders to allow the size of ships transiting on our waters to evolve and contribute to substantial but safe economies of scale for all.

This success has been made possible thanks to the expertise contributed by our pilots to rigorous risk assessments, comparative studies, simulator tests, and several consultations undertaken in collaboration with various government authorities (Transport Canada, Canadian Coast Guard and the Canadian Hydrographic Service). As an example, the transit of post-Panamax ships up to the Montreal Harbour since 2014 alone demonstrates the thoroughness of the approach and the enhanced benefits to users.

Finally, recent technological advances related to electronic navigation, combined with our pilots' technical acuity and their commitment to remain informed of new technical developments in pilotage, are most certainly key to our current system's effectiveness. Of course, we always remain alert to modern tools that will allow us to progress all while offering users a safe service, to the benefit of all Canadians.

**36 %**

*Increase in **tonnage** transiting in the Montreal Harbour between 2010 and 2016.*

**140 %**

*Increase in the number of passengers and crew members in Montreal as a result of the presence of cruise ships.*

*The relative costs of pilotage have been constant over the past 10 years.*

**300 %**

*Increase in the number of post-Panamax ships since 2014.*

*Collaboration between pilots ensures **profitability** without compromising **safety**.*

*CPSLC pilots are **vectors of development and innovation** in electronic navigation.*

## Enforcement of the Act and Emerging Issues

### Geographic Realities are the Reason for Decentralization

Centralizing the enforcement of the Act in such a vast and diverse country with regards to pilotage districts would be difficult as it must respect local geographic realities. Specific enforcement rules that are unique to each pilotage district allow appropriate and targeted measures, such as service contracts and administrative agreements.

Today, social acceptability and the respect of the environment are determining factors in a project's success and in the exploitation of natural resources. The *Pilotage Act* should, in our opinion, enshrine this reality in law and offer Canadians the level of safety and transparency that they have come to expect.

The current conflict resolution system by final offer selection arbitration (FOS) is effective as long as both parties accept the decision. This is a mechanism that exists in numerous fields and that has yielded positive results. All parties must submit fair and reasonable proposals if they want an arbitrator to favour their position, as the arbitrator must evaluate the global merit of all proposals. In the event that an arbitrator would have the possibility of "choosing" elements from both proposals to reach a decision, this would invalidate the very purpose of the FOS, which is to encourage both parties to submit balanced, fair and reasonable proposals.

Moreover, it is important to note that pilotage corporations have accepted the introduction of this mechanism in exchange for their right to strike.

In the FOS process, Canadian tribunals have acknowledged that both parties may present any evidence that is relevant to the dispute, including the authority's financial situation, but must demonstrate the real impact of this evidence on the FOS decision<sup>iv</sup>.

*No conflict between the Laurentian Pilotage Administration and our corporation has had an impact of the flow of marine traffic on the St. Lawrence River.*

## Social Acceptability

### A Must

Canadians deserve a pilotage system that meets the highest international standards. No development project may be undertaken in Canada without the support of the public and of taxpayers. This is especially true of projects that are environmentally sensitive.

The CPSLC and its pilots play a pivotal role in ensuring the safety of transportation and of environmentally hazardous materials on ships, and in so doing contribute to enhancing these projects' social acceptability. As an example, the transportation of Canadian crude oil by ship between Montreal and Quebec City is the result of a collaboration among all stakeholders, with a positive outcome for the entire Canadian community. The presence of two licensed pilots, trained on the most recent pilotage techniques and equipped with state-of-the-art decision-making tools, was crucial to establishing acceptable risk levels for the transportation of these resources and to its acceptability by waterfront property owners along the St. Lawrence.

Furthermore, our pilots offer their expertise to environmental groups and various committees charged with measuring the environmental impact of commercial navigation on Canadian waters. This historical and documented notoriety is the fruit of several years of involvement and of skill development as a corporation of pilot-entrepreneurs.

## Conclusion

The Canadian pilotage system boasts an impressive roadmap characterized by its quality and consistence.

The *Pilotage Act* rests on three fundamental pillars that have ensured its success.

1° **Knowledge of local geographic characteristics** that support safe navigation. This characteristic distinguishes maritime pilotage from other modes of transportation and acknowledges that the pilot is the navigation expert.

2° The current system's **great flexibility**, at the operational and regulatory levels, with regards to contract agreements, labour models, dispute settlements, etc. allows user to quickly meet operational demands and face new economic, human and logistical challenges to which they are confronted at the national and international levels.

*225 %*

*Increase in the number of oil tankers on the St. Lawrence River over the past 10 years.*

*Our pilots are permanently committed to waterfront communities.*

3° The essential role played by the maritime pilot: the pilot's **decision-making independence** and the pilot's professional **judgment** exercised *in situ*, which technology and remote assistance cannot replace.

The unsurpassed levels of safety and efficiency are the direct result of this tripartite relationship. Destroying one of these pillars could weaken the system as a whole and compromise the excellence of the service provided.

Regardless, the pilotage system may be improved by perfecting certain aspects: separating operational and regulatory roles; being less rigid in the determination of tariffs, and facilitating better governance.

Maritime pilots are much more than a simple link in the logistical chain; they partner with user in order to preserve fundamental Canadian values: the protection of human lives and of the environment, and the promotion of Canada's economic interests.

The current basic structure and its proven results give the government of Canada an exceptional license and the social acceptability required to ensure continuity in its use of Canadian waters without concern.

## Notes

---

<sup>i</sup> See study entitled "Maritime Pilotage in Canada: A Cost Benefit Analysis", available online on the Canadian Marine Pilots' Association, available at: <http://www.marinepilots.ca>.

<sup>ii</sup> Pilotage Risk Management System, Transport Canada TP 13471.

<sup>iii</sup> Paragraph 27 of the Special Examination Report of the Office of the Auditor General of Canada, dated April 10, 2008 and available online on the GLPA website.

<sup>iv</sup> *Pilotes du Saint-Laurent Central inc. c. Administration de pilotage des Laurentides*, 2004 CF 1325.