

# The Cruise Industry



Submitted to the International Commission on Shipping (ICONS)  
by the International Transport Workers' Federation

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This follows on from the previous ITF documents submitted to the Commission and seeks to further illustrate the failure of the current regulatory system through a case study on the cruise ship industry. The study will, in places, make use of newspaper reports into claims of unlawful behaviour by major cruise ship operators. These should be taken as being illustrative and it should be noted that this sector of the maritime industry is known for its lack of transparency. The New York Times in an article published on 19 February 1999 observed:

*"Doing business under a decades old loophole in the Federal tax code, and protected by an increasingly powerful lobbying force, the 17 major cruise ship lines pay practically no income tax even though they are based in this country and 90 percent of their passengers are Americans. The cruise lines, all of them registered in foreign countries, do not observe the nation's labor laws, minimum wage law and many environmental and safety regulations."*

### **The growth of the cruise ship industry**

The cruise market increased by 13.6% to total 10.7 million passengers in 1999, compared with 9.5 million in 1998. This growth has exceeded new tonnage introduced during 1999 (increase in tonnage was 10%), so companies have continued to increase the size of their fleets.

The industry is taking delivery of 18 new ships during 2000, increasing world cruise capacity by 9.6% over the year. Despite a lower than anticipated booking level in early 2000, operators have continued to place orders. Most operators are targeting the European market which has experienced record numbers of customers embarking on their first time cruise. Operators are also examining the South American market as a potential supplement to the Caribbean which is close to saturation.

Growth in Europe markets suggests that cruise ship vacations will not in the future be mainly an American past time. The percentage of American passengers fell from 59% in 1998 to 58% in 1999 but America remains by far the most popular destination for cruises.

The average size of cruise vessels continues to increase, by 7.1% in gross tonnage terms during 1999, and by 3.5% in terms of the average number of berths available. The total number of berths available increased 8.1% during 1999 (*ISL yearbook 1999*). In the first quarter of 1999, the world cruise fleet comprised 360 cruise vessels and new buildings on order totalled 59. In the second-hand market larger vessels, offering 1,000 beds or more, have become more common. In 1999, 18 vessels were sold for a combined USD 510 million, representing 5% of the market. The cost per berth has remained stable due to increased capacities and increased size of the ships. The standard rate is currently USD 175,000/berth for a mega sized cruise vessel. This is forecast to decrease as capacities increase.

Table 1 illustrates trends in the cruise market during 1999 by operator. Carnival Cruise Lines and Royal Caribbean Cruise Lines remain the market leaders, while Star Cruises has increased volumes by 59% to increase its market share from 5.8% in 1998 to 8.1% in 1999. The largest increase has been for Disney Cruises, increasing by 263% on 1998 levels.

Table 1 Cruise market supply and demand by operator - 1999

Operator	1999 Increase	Utilisation	Market Share
Carnival Cruise Lines	22.0%	87.6%	17.1%
Royal Caribbean Cruise Lines	8.1%	81.8%	12.3%
Star Cruises	59.0%	55.2%	8.1%
Princess Cruises	22.6%	84.7%	5.7%
Norwegian Cruise Lines	1.4%	78.1%	4.7%
Premier Cruises	27.5%	88.3%	3.9%
Holland America Lines	10.6%	86.4%	3.8%
Celebrity Cruise Lines	6.6%	91.3%	3.5%
Costa Crociere	1.4%	86.8%	3.4%
Disney Cruises	263.0%	72.6%	3.0%
Birha Line	24.2%	63.8%	2.9%
<b>Total</b>	13.6%		100.0%

Source: Shippax Info Database

### Where are Cruise ships registered ?

Looking at the registration of cruiseships in the major cruise companies in 1999, the majority of capacity operates under the Bahamas flag at 21.5%, followed by Liberia at 21%, and Panama at 19.1%. (Source: Shippax Info Database)

There is a sinister side to the cruise industry which has been given considerable publicity in the last five years. In common with other areas of shipping, cruise companies function with a lack of transparency which is legal in the jurisdictions in which the companies have chosen to incorporate. This has led to the systematic covering up of illegal incidents on board ships, probably with the primary intention of avoiding legal liability and minimising adverse publicity. It is a strategy which relies on the ignorance or indifference of passengers and regulators. However, under international law the ultimate responsibility lies with the flag State.

How many passengers taking a cruise are aware that they put themselves under the jurisdiction of countries like Panama, Liberia or Bahamas when they go to sea on vessels which fly those flags ? Would they willingly take a vacation in the flag state ? If they are raped or assaulted, sustain an injury, suffer from food poisoning, or die in an accident they will then discover that the favourable treatment afforded under their

national law, or the rights of investigation which they would normally expect at home simply do not apply. Moreover, it is most unlikely that they can expect any assistance from the flag State authorities.

### **The lack of transparency and accountability**

In the last few years a considerable amount of information has come to light about sexual misconduct on cruise ships and the ability of the companies to cover it up. It took a lawsuit in a Miami court to bring this to light. Carnival Cruise Lines reported to the court that in a 5 year period between 1993 and 1998 there had been 62 reports of alleged sexual assault. Carnival later amended their disclosure to detail 108 allegations in that 5 year period. This led US Senator John McCain to state in a 14 July 1999 press release:

*"Cruise lines should begin by being forthcoming with evidence of criminal behavior at any time during a cruise, and not waiting five years and 62 incidents later. I am shocked as to why the evidence took so long to emerge. I hope that other cruise ship lines come forth immediately if they have any indication of any criminal activity on their ships wherever it occurs."*

The New York Times (16 November 1998) quotes Charles Harris, a former chief of security for Carnival, as saying:

*"You don't notify the FBI. You don't notify anybody. You start giving the victims bribes, upgrading their cabins, giving them champagne and trying to ease them off the ships until the legal department can take over. Even when I knew there was a crime, I was supposed to go in there and do everything in the world to get Carnival to look innocent."*

The New York Times article further states:

*"The cruise lines say that crimes are uncommon and that they do a good job of investigating when one does occur. But three years ago their lobbyists tried in Congress to win protection from most damages in sexual-assault suits and from all suits by foreign crew members."*

In July 1999 the International Council of Cruise Lines unanimously approved a voluntary policy requiring that the FBI be informed of any crimes occurring if the ship calls in US ports or if a US citizen is involved.

The questionable conduct of some cruise lines extends to their record of pollution in violation of the International Convention for the Prevention of Pollution from Ships (MARPOL). The New York Times in an article (3 January 1999) records how a 4 year inquiry by the US Coast Guard and Justice Department led:

*"to the discovery of a fleet wide conspiracy within Royal Caribbean Cruises Ltd. to save millions of dollars by dumping oily waste into the ocean. Last June the cruise line pleaded guilty to conspiracy and obstruction of justice, admitted that its ships had rigged pipes to bypass anti-pollution equipment, agreed to pay record \$9 million in fines and promised the dumping would never happen again. Astonishingly, the next month it did."*

In a further case which involved the breach of environmental regulations, and subsequent cover up, in Anchorage, Miami, New York, Los Angeles, Virgin Islands and Puerto Rico the company was fined an additional \$18 million. US Attorney General, Janet Reno, stated:

*"Royal Caribbean used our nation's waters as its dumping ground, even as it promoted itself as an environmentally green company."*

She added:

*"To make matters worse, the company routinely falsified the ships' logs – so much so that its own employees referred to the logs with a Norwegian term meaning fairy tale book."*

While the Royal Caribbean cases are the most publicised other cruise lines have of course also been found guilty of illegally dumping oil and garbage. These include Princess Cruises, Palm Beach Cruises, Regency Cruises and Holland American Lines.

The lamentable environmental record of the cruise ship industry is not confined to the illegal dumping of wastes. Cruise ships generate considerable amounts of waste which has historically required the provision of shore based waste facilities. As previously indicated the destination of cruise ships includes small island developing states with fragile ecosystems. It is well documented that the cruise ship industry vehemently opposed the imposition of a new \$1.50 environmental levy by six Caribbean governments belonging to the Organization of Eastern Caribbean States. This was despite the fact that the levy was a legal requirement, as part of the World Bank funding (to the tune of \$54 million), for solid and ship-generated waste management system in the region.

International law provides that the primary obligation of enforcement of international standards lies with the flag state. However, the New York Times in an article published in 3 January 1999 records that :

*"In 1992, the State Department had reviewed 111 cases in which accusations of cruise ships dumping garbage overboard had been referred to flag countries. The study found that the countries acknowledged receipt of the referral in only 35 cases and that the only penalties were small fines in two cases. As a result, the State Department halted referrals on the dumping in United States territorial waters."*

The article continues and notes that:

*"The Nordic Empress had been in international waters when it was discovered discharging oil in 1993, so in July of that year the matter was referred to Liberia because the ship flew a Liberian flag. Liberia accepted the company's claims that no dumping occurred and asked the Coast Guard to expunge the incident from its records, according to Liberian records. Even after Royal Caribbean admitted lying about the Nordic Empress discharge last June, Liberia decided no action was necessary. The investigation was completed and closed in 1994, said David Crede, chief of investigations for Liberian Service Inc., a private company in Reston, VA., that is Liberia's agent for vessels flying its flag."*

## **Sweatshop labour**

In 1998 it was estimated that the average length of employment for a cruise line worker was an astonishingly low 5.8 months (Renard, Seatrade Cruise Shipping Convention 1998).

In 1997/8 interviews carried out by the ITF among cruise ship employees in Miami established that cruise lines were cutting back on staff, but still expecting the same amount of work to be done. For example, wine stewards have gone in many cases, and waiters are expected to fill the role. The galley staff interviewed also felt that there were not enough people to handle the work. Cooks and other galley staff reported that they often had to work even when sick and to eat their meals at their stations. The ratio of passengers to crew is also increasing in the newer ships, so this aspect will continue to get worse.

On the hotel side, new starters with a company from the Philippines are required to pay an advance of up to USD 3,000 which covers their airfare to and from the ship, the cost of their medical examination, the cost of relevant visas and manning agency fees. On top, payment of a security bond of USD 750 is required. When this was introduced, many crew did not even know what this was for. If they come back for a second

contract this is reduced by a portion, but it still represents a sum of money which has to be repaid, probably with interest, and for the lower paid positions the total outlay of finding a job represents one third to one half of their wages for a six month contract. Some cruise companies pay the airfares of all their crew, but this is not universal. Of course, when contracts are shortened, the fixed costs of crew remain and this means that there is even less time to make up the difference. This accounts for the phenomenon that most seafarers want to work the full length of their contracts and even extend them if possible.

So once engaged, what happens? Taking Carnival Cruise Lines as an example, when a crew member reaches the US they will probably become part of a pool waiting for up to several weeks to get onto a ship. Room and board will be paid by the company, but wages start from the time they sign on the ship, and they are then paid every two weeks, in cash. The company does not remit allotments, which saves the company another expense.

Some personnel receive their remuneration mainly in the form of tips and they get paid a very small minimum monthly wage - typically in the range of USD 100 per month - and the balance is made up from the gratuities of the passengers. While this can be lucrative, it does not have to be and obviously means that the majority of their income is dependent upon the generosity of passengers, and their willingness to follow the suggested procedure for tipping staff. However, at times little or nothing may be given by some passengers, due to their nationality or other factors. The crew work long hours and they generally hire utilities, cleaners or other low paid crew members to help them with their workload thereby reducing what appears to be a reasonable income. The station which the tip earner is allocated also has an impact on their income. They may get a busy, full station or they may get one with less than full occupancy, or no passengers at all. In this case they get their standard monthly wage and little more. The same is true if they are sick or injured.

Hours of work for tip earners are among the highest on board. 12 to 14 hour days are the norm, seven days a week, and there may be private parties to cater for on top of this. It is long, hard work for uncertain rewards, with the pitfalls of passengers who will not pay, or who may complain about the service in order to avoid paying.

The International Council of Cruise Lines issued a voluntary workplace code of conduct, which indicated, but avoided any actual commitment to, compliance with ILO 147. Several areas of ILO 147 are completely missed out of their code, these include providing vocational training, the signature of articles of agreement, reasonable hours of work and levels of manning, prevention of occupational accidents, repatriation (which is stipulated to be normally at the employers expense) and of course, trade union rights.

The ICCL code states:

*"ILO governs shipping labor and employment practices, and sets minimum crewing standards. ICCL member lines work hard to provide a good work environment for its on board personnel."*

The introduction to the ICCL Code provides that:

*"It is a comprehensive, industry-wide commitment to safety and fair treatment of crew members in the shipboard work environment."*

It is therefore hard to reconcile a commitment to fair treatment with the fact that cruise ship industry tried to secure an amendment to long established US laws with the aim of preventing foreign crew members from

lodging claims in US courts. This would amount to a denial of the crew members basic human rights. Central to well established and widely ratified international human rights instruments, including the United Nations Declaration on Human Rights, is equality before the law and recognition before the law without discrimination.

The ITF has received complaints from crew on cruiseships concerning: long hours (14-18 hours per day), low pay, individuals being sacked without their pay, lack of payment for medical expenses, wages less than specified in the collective agreement on the ship, demotions due to passengers unfounded allegations about poor service, complaints about safety, complaints about working conditions, attempted rape, salary unpaid for over 2 months, lack of payment of overtime, lack of tips, no provision of copies of employment contracts, recruitment with promises of high salaries and then once on board the ship told to sign a contract for lower wages.

Newspapers have also highlighted the plight of cruiseship workers. The evidence seems to entirely justify the use of the term 'sweatshop labour'. Many crew are effectively indentured labour - having debts to pay off in connection with finding the job, and things have to be really desperate before they will complain openly. Their living conditions - which involve several of them sharing a cabin for many months - are a stark contrast to the luxury which surrounds the passengers. Their food takes little account of the tastes of the fifty or so nationalities which may be represented among the crew on board the ship; recreation, should they have time for it, is not well provided with facilities. This is their home for many months, while for the passengers it is perhaps theirs for one or two weeks, but it is difficult to find areas where attempts have been made to make the cruise ship a pleasant place to live for the crew.

### **Cruise ship safety**

IMO resolution A.792 (19) adopted on 23<sup>rd</sup> Nov 1995, entitled Safety culture in and around passenger ships in its final paragraph:

*"Recommends governments and international organisations concerned to initiate work with the aim of establishing a safety culture in and around passenger ships under their flag addressing all persons working professionally in, or in relation to, such ships, irrespective of whether or not their work is covered by relevant instruments developed by the Organisation."*

If the human element is to be addressed it must be in a holistic manner and not just by addressing a few areas which fall within the competence of the IMO, for example training, ship management and fatigue. It is clear that the human factor and its implications for the safety of life at sea and the protection of the marine environment is multi-faceted and cuts across the competencies of the IMO and other United Nations organisations, for example the ILO. Therefore, if the human element is to be properly dealt with there is a need for co-operation and the establishment of innovative mechanisms to ensure that all aspects are adequately addressed. The authors of the United Nations Convention of the Law of the Sea were after all wise enough to give due regard to the social and labour dimensions and incorporated express references in the sections that relate to the duties and enforcement obligations of flag states. The shipping industry and, most particularly, the cruise ship industry should follow this lead.

Fundamental to the establishment of an effective safety culture is that there are an adequate number of suitably qualified and medically fit seafarers, who are familiar with their duties and the layout of the particular vessel, who share a common working language, are adequately rested and not impaired by fatigue. They should be able to communicate effectively with the passengers and be able to assist them in emergency situations.

There are serious concerns about the safety aspects of cruise ships, particularly regarding evacuation in cases of emergency. This has led to the IMO agreeing the following terms of reference for their on going work:

*1/ conduct an overview of the existing situation relating to large passenger ships in the light of current practices, the existing regulatory regime and safety philosophy / approaches;*

*2/ identify areas of concern, using a holistic approach and, in particular, taking into account the human element, relating to :*

- *the **ship**, including but not limited to : construction and equipment, evacuation (external/ internal), operation and management; and*
- ***people**, including but not limited to : crew, passengers, rescue personnel, training, crisis and crowd management; and*
- ***environment**, including but not limited to : search and rescue services, operation in remote areas, weather conditions.*

*3/ examine efforts already underway at IMO, within the industry or other organisations with a view to identifying any area which may require further attention and make proposals as appropriate;*

*4/ identify, from a proactive point of view, the potential risks future large passenger ships may face in the coming decade, and any long-term considerations to the above; and*

*5/ prioritize, with appropriate reasons thereof, the work undertaken and develop a draft work plan for the Committee and its subsidiary bodies,*

It seems self evident that there is a need to establish a maximum number of persons who can be carried on a ship at any one time and that this number should depend on the operational area and the availability of search and rescue facilities.

The cruise industry has objections to the installation of local smoke detectors in crew and passenger quarters. A significant number of maritime casualties have demonstrated the risk of fire on passenger ships. The fire risk has increased as a result of the increasing use of new novel designs. Vessels are being designed with internal plazas or streets, with open spaces far exceeding the 40 (48) meter limit. The current requirement for a fire zone is evaded through the provision of large fire doors. However, it is essential that such fire doors can be rapidly closed in all circumstances, including when there is a loss of electrical power and when the vessel is subject to considerable degrees of list. Given the importance of the human element, there is also a need to establish, by international regulations, a set of functions, knowledge and competencies for a specially designated person who should be responsible for fire prevention and fire fighting.

The inherent difficulties of evacuating a large cruise ship in case of an emergency should be looked at. An international standard regarding the safe evacuation of passengers and crew from a cruise vessel to the shore should be developed. The rule should require all cruise ships to file an emergency response plan indicating how they will work with local and international authorities to evacuate the ship safely and speedily in an emergency.

Most new cruise ships have lifeboats more than 14 metres above the water and the problems associated with high sided vessels are well known and were graphically demonstrated during the ESTONIA disaster. Experience has cast doubt on the adequacy of existing life saving appliances. The current equipment, especially life boats and life rafts, has proved to be inadequate when confronted with high sea states and attention should be given to investigating how modern technology and new designs could improve the survivability of those forced to abandon ship in all sea states.

For assisting passengers with special needs in an emergency situation, an adequate number of seafarers should be specially trained and provided with suitable documentary evidence to attest to the fact that they have been adequately trained in the evacuation of passengers with special needs. At least two seafarers should be assigned to each cabin where passengers are considered to require, or have themselves informed the ship's management that they would require, special assistance in order to evacuate the vessel safely in an emergency situation. Passengers with special needs should include elderly and disabled persons and families with young children. Passenger ships should carry a certificate stating the number of passengers with special needs which the ship is allowed to carry. Furthermore, an entry should be made in the log book, of the numbers of passengers having declared or being deemed to require special assistance in an emergency situation, and of the number of seafarers who hold the necessary documentary evidence attesting their special training.

The current high turnover of seafarers needs to be addressed. One measure would be the professionalisation of many of the positions and functions through the adoption of formal qualification and certification requirements.

ILO Convention No. 164 (Health Protection and Medical Care for Seafarers) provides that vessels carrying 100 or more seafarers and ordinarily engaged on international voyages of more than three days duration, shall carry a medical doctor (Article 8). However, the large number of persons carried on cruise and ro-ro passenger vessels indicates the crucial role they can play in the evacuation of survivors from other maritime casualties and incidents clearly show the need for the adoption of an international minimum standard on the carriage of medical personnel and the medical facilities which should be available. Technological developments have considerably enhanced communications and have led to significant developments within the area of telemedicine facilities. The carriage of such facilities by cruise vessels should considerably enhance the ability of the ship's medical personnel to deal with medical emergencies.