Cruise ships and border management: Are we all at sea?

A New Zealand Customs perspective
Context: the global cruise industry

- Significant pax growth: 18m (2009) > 27m (2018)...and new markets (China) coming onstream
- Global cruise industry will be $57b industry by 2027
- Cruise line deployment: main regions include 35% Caribbean, 16% Mediterranean, 12% rest of Europe, 6% China, 6% Aus/NZ
- North America is largest pax source market
- Some markets growing exponentially eg Australia cruise industry pax numbers grew six-fold 2004-14
- Dominated by 3 major players (80% global capacity): Carnival, Royal Caribbean, Genting Hong Kong (incl Norwegian Cruise Line)
- Future trends: more pax, bigger ships, diversified itineraries, speciality cruises
Current industry security settings

- Cruise industry sells itself as one of safest holiday options. Crime rate much lower than on land
- Operators claim to adhere to strict security protocols and multi-layered security: pre-boarding and rigorous pax/crew/baggage checks, video surveillance, well-trained security personnel, prohibited items lists, identity checks etc
- The industry is subject to regulation, with ships undergoing frequent checks (based on International Maritime Organisation rules)
- Post 9/11, ships operating in international waters must comply with IMO International Ship and Port Facility Security Code which mandates minimum standards for security
- Ships must also comply with national and local regulations in ports of call eg Coast Guard, Health Ministries etc
Vulnerabilities from a customs perspective

• With global aviation flows also increasing exponentially, border agencies are stretched and can’t always effectively monitor sea ports
• Insufficient advance passenger information is being provided to border agencies – far below what airlines provide
• Industry security protocols and regulations are sometimes applied inconsistently, and the level of background checks of crew and port staff can vary
• Cruise ships in international waters are not easy to reach if a security incident happens
• Cruise ship routes often transit via source countries for contraband or human trafficking
• Ships can stay in port for long periods offering opportunities for illegal activity to take place – whether by pax, crew, third parties or mixtures thereof
Border/Security risks

• **ILLICIT DRUGS**: drug trafficking by organised crime groups (OCGs) is a well-established activity globally – mainly cocaine. Risks are higher depending on routes of travel and transit ports.

• There are concerns that OCGs could infiltrate port workforces to facilitate the smuggling of contraband when ships are in port.

• **CONTRABAND**: firearms, illicit tobacco and laundered money are examples of other contraband that can also be smuggled on cruise liners.

• Contraband and illicit drugs can be body packed and ‘walked off’ the ship, or hidden onboard and retrieved by third parties. Baggage screening processes and access can be more lax at sea ports cf. airports.
Border/Security risks cont’d

- **ILLEGAL MIGRATION**: often possible for pax/crew to disembark with little or no customs/immigration interaction, with less stringent transit visa categories

- Combined with absence of API/PNR data this presents opportunities for illegal migration, asylum seekers, human trafficking etc.

- **TERRORISM**: it has happened before (Achille Lauro). And may happen again (think ISIS along the North African littoral)

- **PIRACY**: less of a threat for cruise liners cf. oil tankers or freighters. But it has also happened...
Jurisdiction issues

- Jurisdiction over illegal activity on cruise ships is subject to a range of different (and sometimes competing) jurisdictions and geographical boundaries which border agencies need to be aware of (see next slide).
- The UN Convention on the Law of the Sea sets out the legal framework for the maritime environment and when jurisdiction can be claimed.
- A flag state has exclusive jurisdiction over events on board a ship flagged to that state.
- If a significant event happens the principle of ‘next port of call’ (ie objective territoriality) applies.
- States are able to exercise jurisdiction over ships in inland and territorial waters by way of their own legislation.
- UNCLOS allows states to exercise controls in the contiguous zone for the purposes of preventing and punishing customs infringements.
- Jurisdiction can also be based on nationality of the accused or victim.
Customs’ current jurisdiction by zone

- **Territorial sea**: Full powers under Customs and Excise Act 1996. Powers to be aligned with UNCLOS.
- **Contiguous zone**: Buffer zone to territorial sea. No explicit powers under domestic legislation.
- **Exclusive economic zone (EEZ)**: NZ has jurisdiction in international waters over serious offences committed on NZ vessels.
- **International waters**: Not to scale – conceptual only
- **High seas**: Nautical miles from coast

Not to scale – conceptual only.
Conclusion: what should the WCO focus on?

• A question of resources: the WCO has a number of security programmes and a cruise ship security initiative will further stretch secretariat resources

• An initial scoping exercise could look at:
  - Mapping exercise: compare/contrast cruise pax border pathway with air pax (visa reqs, processing reqs, search options, risk assessment, profiling techniques/equipment available, availability of API/PNR info)
  - Options for greater customs-industry cooperation
  - Opportunities for a more collective approach to risk assessment and sharing outcomes of interventions on cruise ships
Key points raised

• Industry/stakeholder engagement

• Interagency cooperation (incl. connection with airlines and airports)

• Mapping – Cruise Vs Air environments

• Data on the industry – flows, transits, numbers (pax + ports), trends & forecasts

• Impact on the environment

• Port facilities and infrastructure

• Legislation / legal + regulatory frameworks/MOU’s and other agreements
• Potential fees + levies
• Round trips / coastal cruises / use of vessels in ports
• Baggage management (incl. NII)
• Passenger Controls
  ✓ API / PNR
  ✓ Data sharing / privacy
  ✓ Biometrics
  ✓ Risk management
  ✓ Passenger information units
Conclusions of meeting

- Important to share best practices
- Need to standardise systems and requirements
- Measures of effectiveness need to be identified
- Cruise ship issues are unique and there are major differences compared to other modes eg. Crew numbers and requirements

Next steps

- Draft paper
- Key recommendations
- Next meetings – API/PNR, PTC, Enforcement Committee, Policy Commission