

MARITIME CABOTAGE



April 16, 2008

The Honorable Linda Lingle
State Capitol
Executive Chambers
Honolulu, HI 96813

Re: Hawaii Coastwise Cruises

Board of Directors

Philip Grill
Matson Navigation Company
Chairman of MCTF Board

Thomas Allegretti
The American Waterways Operators

Charles Crangle
American Maritime Officers

James Henry
Transportation Institute

Robert Magee
American Shipping Group

Frank Pecquex
Maritime Trades Department
AFL-CIO

James Rausch
Dredging Contractors of America

Chuck Raymond
Bob Zuckerman
Horizon Lines

Michael Roberts
Crowley Maritime Corporation
Venable LLP

Eric Smith
Overseas Shipholding Group

Matthew Paxton
Shipbuilders Council of America

Jim Weakley
Lake Carriers' Association

Dear Governor:

We are writing in response to your recent letter to Department of Homeland Security Secretary Michael Chertoff concerning the Customs and Border Protection (CBP) proposal to better enforce the Passenger Vessel Services Act (PVSA), one of our nation's maritime cabotage laws.

The Maritime Cabotage Task Force (MCTF) is the most broad-based coalition representing the U.S. maritime industry. Comprised of more than 400 American companies, associations, shipyards, labor organizations, defense groups, and others interested in maintaining America's strong domestic maritime industry, the MCTF is a leading advocate for the protection of U.S. maritime cabotage laws. We strongly support the efforts of CBP to address the recognized evasion of the PVSA by foreign flag cruise ships making a sham Mexican "service call" often for less than an hour, late at night, for the sole purpose of avoiding U.S. taxation, immigration, employment, labor, payroll and other laws. This blatant disregard of our laws and unfair competition has already forced one vessel to leave the U.S. registry and the Hawaiian Islands, with a second vessel leaving this year, which, according to the State, resulted in \$964 million in lost sales and 8,943 jobs lost. Now it puts the last ship in the fleet at risk.

The U.S.-flag maritime industry is vitally important to the country's economic and national security. The coastwise fleet provides vessels for military sealift, support for the shipyards that build and maintain our naval vessels, and a cadre of qualified American seafarers to crew vessels in time of war or of national emergencies. Congress, recognizing the importance of a U.S.-flag cruise industry to meeting those economic and national security objectives, enacted the Hawaii Cruise Ship Initiative in 2003 to revitalize the then-dormant U.S.-flag oceangoing cruise fleet. That project has created more than 4,000 seagoing jobs and generated hundreds of millions of dollars of positive economic activity in the United States, with Hawaii being one of the most significant beneficiaries.

The positive economic impact of U.S. flag ships in Hawaii is particularly compelling. An analysis prepared by the Hawaii Department of Business, Economic Development, and Tourism, shows that a single U.S. flag ship, operating year-round in the Islands, generates a total economic output impact of \$542 million, a total earnings impact of \$155 million, and some 5,059 jobs. By way of comparison, this is 3.5 times as much economic benefit and 3.5 times as many jobs as the entire foreign flag fleet operating

in the Islands combined. These are benefits that accrue to the State as a direct result of the year-round, coastwise operation of these ships in Hawaii. And while the foreign cruise lines do contribute to the economy of the State, it is clear from a comparison of the State's economic data that the coastwise laws of the United States are working and contributing significantly to the economic and employment base of the Hawaii.

It is also especially important to recognize that even as originally proposed, the CPB rule would not in any way eliminate foreign-flag cruise ships from calling in Hawaii. There are many legitimate foreign voyages that include Hawaii ports of call that would not be impacted by a rule change. In fact, Royal Caribbean Cruises Ltd., the second largest foreign-flag operator in Hawaii, acknowledged in written comments that 57 percent of its Hawaii itineraries would continue to operate even under the proposed rule since it only applied to certain round trip cruises, did not affect itineraries that begin or end in a foreign port, or permitted round trip cruises that include more than nominal foreign port calls. The bottom line is that foreign flag cruise ships will continue to have tremendous flexibility to call in Hawaii, even if the rule as originally proposed were adopted.

Moreover, modifications to the proposed rule are under consideration that would substantially reduce the proposed burden placed on foreign lines calling on Hawaii. The primary proposal now under consideration at Customs is a simplified requirement that would require sufficient foreign content – i.e., foreign ports must constitute 1/3 of the time in all ports – on round trip foreign flag voyages calling at coastwise ports when competing against U.S.-flag cruise ships. This effectively ensures that these are bona fide foreign voyages in order for the foreign ships to qualify for exemption from U.S. taxation, immigration, labor and employment laws. We also understand that it would apply only where large U.S. cruise ships operate; thus, if there were no such ships in the trade, for whatever reason, then foreign ships would be permitted the flexibility that existed prior to the adoption of the new rule. As such, the proposed changes to the rule would address the primary concerns voiced in the public comments on the originally proposed rule.

We believe that such a modified proposal is a significant compromise from the original rule and urge you to support such a proposal as a way to balance the interests of protecting the U.S. flag fleet, its economic contribution to the State of Hawaii and the desire to allow foreign cruise ships to service Hawaii that you sought in your December 21, 2007 comments in the CPB docket.

Sincerely,

Maritime Cabotage Task Force
Board of Directors

cc: The Honorable Daniel K. Inouye, United States Senate
The Honorable Daniel Akaka, United States Senate
The Honorable Neil Abercrombie, United States House of Representatives
The Honorable Mazie Hirono, United States House of Representatives