

**Smuggling and its Impact on the
Grand Strategy of the Spanish Empire,
XIV-XVII Centuries**

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Abstract

This thesis studies the impact of contraband on the Spanish Empire at the strategic level where it impacted national policy, as well as its impact at the law enforcement and administrative levels. It includes necessarily applicable definitions of concepts such as smuggling, contraband and grand strategy, the difference between tactics, strategy and grand strategy and their applications within Spanish governmental institutions and private organizations.

The thesis proposes that the Spanish government's preoccupation with its grand strategy of becoming the primary political and religious hegemonic power in Europe hindered the development of adequate policies designed to support it. Thus, Spanish monarchs invested more time in seeking to conquer Europe than in developing a feasible economic policy capable of finance that project of conquest. This concern reduced Spain's ability to advance its primary objectives.

Spanish monarchs developed a grand strategy based on several major elements: *monarchia universalis*, religion, diplomacy, international law, military, naval and maritime policy. The efforts to achieve these objectives were habitually blended into policies designed to achieve a monopoly over the use of national power, both domestically and abroad.

The study concludes that illicit economic activity was carried out to such an extent that it detached enough from the Crown's overall income to significantly hinder Spain's ability to implement its grand strategy. The importance of the study is that it demonstrates, in the context of the XVI and XVII centuries, what the level of contraband implied to the Spanish rule of law. The high level of *fraude* robbed the Spanish Crown of more than half of its potential tax income from the Indies, thus interfering with its grand strategy in Europe.

Summary

This thesis studies contraband during Spain's colonial period. It seeks to analyze the impact of contraband on the Spanish Empire at the strategic level where it impacted national policy, as well as its impact at the law enforcement and administrative levels. It includes necessarily applicable definitions of concepts such as smuggling, contraband and grand strategy, the difference between tactics, strategy and grand strategy and their applications within Spanish governmental institutions and private organizations.

The study concludes that illicit economic activity was carried out to such an extent that it detached enough from the Crown's overall income to significantly hinder Spain's ability to implement its grand strategy. The importance of the study is that it demonstrates, in the context of the XVI and XVII centuries, what the level of contraband implied to the Spanish rule of law.

The analysis seeks to blend various examples, theories, and concepts into a narrative describing how contraband affected the empire. The thesis advocates the proposition that the Spanish government's preoccupation with its grand strategy of becoming the primary political and religious hegemonic power in Europe hindered the development of adequate policies designed to support it. Thus, Spanish monarchs invested more time in seeking to conquer Europe than in developing a feasible economic policy capable of financing that project of conquest. This concern, combined with the inadequate application of economic principles – despite the enormous volume of treasure flowing from the mines of Potosí, Zacatecas, and the Chocó in the Indies – reduced Spain's ability to advance its primary objectives.

Modern era monarchs instinctively understood grand strategy and its use, but seldom put it in writing. As a result, scholars must delve into historic voluminous Spanish

correspondence, deciphering from it policy decisions and objectives. Further evidence can be found in chronicled descriptions of the structure of government, the allocation of resources, and decisions made during moments of crisis.

One of the surprising results of the research was to notice a marked lack of theoretical analysis on the topic of smuggling. It is doubtful that the topic is overly complex for analysis. It is more likely that the issue is considered relatively basic, though it crosses unhindered through various disciplines such as economics, politics, law, and sociology. None of these, however, have devoted significant efforts in developing an underlying theory. Historians have described the phenomena in depth, and theoretical economists have provided some analysis, mostly seeking to identify an independent variable. Neither description or analysis, however, is satisfactory, either lacking in depth or context. This study reviews the available literature that could serve as the basis for further work on the subject.

A second historiographic deficiency is that of strategy, a term much used and abused. The concept of strategy developed over time through the practice of the military arts. The topic has an impressive bibliography, though mostly limited to publications within military institutions. This study reviews the literature, specifically pointing out how usage of the term and concept varies from author to author, and often includes confusing assumptions and conclusions. This is especially so in the case of grand strategy, which this study identifies as being closely linked to national objectives, and the allocation of national assets to meet them.

Spanish monarchs developed a grand strategy based on several major elements: *monarchia universalis*, religion, diplomacy, international law, naval and maritime policy. The efforts to achieve these objectives consistently overlapped, and were habitually blended into policies designed to achieve a monopoly over the use of national power, both domestically and abroad. Spain's grand strategy coalesced shortly after the *Reconquista*, and

the increased resources available from the conquest of the Indies served to strengthen the belief that the national objectives were correct. Spin's power reached its maximum expression under Felipe II. Subsequent monarchs seldom added to the grand strategy, or altered it significantly. They continued to use the same policies with occasional minor changes. No new elements were added to their basic hegemonic philosophy, though the emphasis on the religious or theological issues declined over time, giving way to the more secular objective of power politics. Even the dynastic change in the XVIII century did not change grand strategy significantly. Most of the Bourbon reforms sought to streamline government – specifically the fiscal process – to increase efficiency and maximise income.

The discovery of the Indies expanded Spanish political control and commerce to a global level, but the Crown was more interested in extracting wealth than in fostering economic growth. Thus, policy limitations in the Indies resulted in part from the Crown's grand strategy, geared toward Europe, not the Indies. This led to fiscal policies that limited the Crown's ability to maximize the Indies' potential. Later monarchs did not change these mercantilist intentions, and led to almost incoherent commercial policies.

Spanish monarchs assumed that the divine nature of their mandate meant that might made right, and that their subjects would respect and acquiesce to their wishes. Furthermore, they believed that political and military hegemony would easily translate into economic and commercial hegemony, even regarding foreigners. Grand strategy was founded on such doubtful premises, and all anti-smuggling policy, strategy, and tactics emanated from these. Coercing subjects to respect political and military might is not difficult, but enforcing, commercial laws is more problematic. While such regulation was considered normal at the time, most subjects cheerfully ignored the minute bureaucratic commercial regulations.

A major impediment to confronting smuggling was the lack of a cohesive policy. Spain continuously issued laws with seeking to reduce smuggling through force of arms, though this triggered a different set of problems just as difficult to fix. Policy emphasized process, the development of logical laws to regulate the flow of money, managed by wise and honest rulers. A chronic lack of income commensurate to its objectives forced the crown to seek accommodation with individuals or interest groups, in essence selling permission to violate the various commercial laws they sought to evade anyway. Over time, all royal colonial officials accepted this as the norm. The step to *fraude* was thus a short one. Corruption robbed the Spanish Crown of more than half of its potential Indies tax income, a loss that contributed directly and significantly to the Crown's inability to achieve its grand strategy.

The causality is not singular, of course. A myriad of other forces contributed to the development and demise of the Spanish empire. But the level of fraud argues that the impact of the contraband trade and its attenuating corruption significantly reduced the Crown's ability to achieve its objectives. Other strategic assumptions proved to be accurate: territorial, political and religious hegemony were all achieved successfully.

An estimate of how much of this activity escaped Spain's control is impossible to calculate accurately. Contemporaries alleged that half of all commercial activity was illicit. The control over trade was so low that the crown colluded with its colonial subjects, so long as they remained loyal on the principal issues of grand strategy.

Despite the continued debate on how to stop smuggling, the only anti-smuggling strategy employed never adequately attempted to determine were to legalize foreign participation or satisfactorily supply the colonies with sufficient goods at prices comfortable enough so that no one needed to seek alternatives.

One serious issue to consider is the development of economics as a discipline. Spanish writers such as Vitoria, Suarez, among others, based their analysis of economics on theological principles. Merchants adopted a more utilitarian view. The tradition of seeking to forcefully impose a state definition of price and value proved too attractive to overcome, but at the same time was as elusive as ever in actual practice. The king, however, did not consult with merchants except when requesting a *donativo* to cover over an infringement of the rules. The resulting discrepancy between theory and practice helps explain why the Spanish Crown never developed a political economy useful to all.

The king's continual belief in the basic assumptions of governance grew to such a level that continual failure was habitually attributed to *fraude* or the lack of *un hombre honesto*. The continual search for the latter never succeeded. Corruption permeated the government and siphoned the crown's tax income.

It is the conclusion of this thesis that the high level of *fraude* robbed the Spanish Crown of more than half of its potential tax income from the Indies, primarily because enforcement was always added to the long list of missions assigned to the navies and land forces, neither of which were capable of carrying out such added tasks. This loss of income contributed directly and significantly to the Crown's inability to achieve its grand strategy – the political, territorial, and religious hegemony over Europe. These objectives were achieved in the colonies, which were not the object of that grand strategy. The counterfactual argument is: Had Spain included economic hegemony in its list of grand strategy components, the finances requisite to obtain its objectives might have led to its success.

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INTRODUCTION

This thesis studies the impact of widespread smuggling and contraband during Spain's colonial period. Some historians maintain that as it was an illegal activity, the act of smuggling can be considered an assault on the legitimacy of any society. Thus, this work analyzes the impact of contraband on the Spanish Empire at the strategic level where smuggling impacted national policy, as well as its impact at the law enforcement and administrative levels. It includes necessarily applicable definitions of concepts such as smuggling, contraband and grand strategy, the difference between tactics, strategy and grand strategy and their applications within Spanish governmental institutions and private organizations.

Summary

The study concludes that illicit economic activity was carried out to such an extent that it detached enough from the Crown's overall income to significantly hinder Spain's ability to implement its grand strategy. The importance of the study is that it demonstrates, in the context of the XVI through XVII centuries, what the level of contraband implied to the Spanish rule of law.

The analysis seeks to blend various examples, theories, and concepts into a narrative describing how contraband affected the empire. The thesis advocates the proposition that the Spanish government's preoccupation with its grand strategy of becoming the primary political and religious hegemonic power in Europe hindered the development of adequate policies designed to support it. Thus, Spanish monarchs invested more time in seeking to conquer Europe than in developing a feasible economic policy capable of financing that project of conquest. This concern, combined with the inadequate application of economic

principles – despite the enormous volume of treasure flowing from the mines of Potosí, Zacatecas, and the Chocó in the Indies – reduced Spain’s ability to advance its primary objectives.

Modern era monarchs instinctively understood grand strategy and its use, but seldom put it in writing. As a result, scholars must delve into historic voluminous Spanish correspondence, deciphering from it policy decisions and objectives. Further evidence can be found in chronicled descriptions of the structure of government, the allocation of resources, and decisions made during moments of crisis.

One of the surprising results of the research was to notice a marked lack of theoretical analysis on the topic of smuggling. It is doubtful that the topic is overly complex for analysis. It is more likely that the issue is considered relatively basic, though it crosses unhindered through various disciplines such as economics, politics, law, and sociology. None of these, however, have devoted significant efforts in developing an underlying theory. Historians have described the phenomena in depth, and theoretical economists have provided some analysis, mostly seeking to identify an independent variable. Neither description or analysis, however, is satisfactory, either lacking in depth or context. This study reviews the available literature that could serve as the basis for further work on the subject.

A second historiographic deficiency is that of a term much used and abused: strategy. Strategy as a concept developed over time through the practice of the military arts. The topic has an impressive bibliography, though mostly limited to publications within military institutions. This study reviews the literature, specifically pointing out how usage of the term and concept varies from author to author, and often includes confusing assumptions and conclusions. This is especially so in the case of “grand strategy”, which this study identifies as being closely linked to national objectives, and the allocation of national assets to meet them.

Spanish monarchs developed a grand strategy based on several major elements: *monarchia universalis*, religion, diplomacy, international law, naval and maritime policy. The efforts to achieve these objectives consistently overlapped, and were habitually blended into policies designed to achieve a monopoly over the use of national power, both domestically and abroad. Spain's grand strategy coalesced shortly after the *Reconquista*, and the increased resources available from the conquest of the Indies served to strengthen the belief that the national objectives were correct. Spain's power reached its maximum expression under Felipe II. Subsequent monarchs seldom added to the grand strategy, or altered it significantly. They continued to use the same policies with occasional minor changes. No new elements were added to their basic hegemonic philosophy, though the emphasis on the religious or theological issues declined over time, giving way to the more secular objective of power politics. Even the dynastic change in the XVIII century did not change grand strategy significantly. Most of the Bourbon reforms sought to streamline government – specifically the fiscal process – to increase efficiency and maximize income.

The discovery of the Indies expanded Spanish political control and commerce to a global level, but the Crown was more interested in extracting wealth than in fostering economic growth. Thus, policy limitations in the Indies resulted in part from the Crown's grand strategy, geared toward Europe. This led to fiscal policies that limited the Crown's ability to maximize the Indies' potential. Later monarchs did not change these mercantilist intentions, and led to almost incoherent commercial policies.

Spanish monarchs assumed that the divine nature of their mandate meant that might made right, and that their subjects would respect and acquiesce to their wishes. Furthermore, they believed that political and military hegemony would easily translate into economic and commercial hegemony, even regarding foreigners. Grand strategy was founded on such doubtful premises, and all anti-smuggling policy, strategy, and tactics emanated from these.

Coercing subjects to respect political and military might is not difficult, but enforcing commercial laws is more problematic. While such regulation was considered normal at the time, most subjects cheerfully ignored the minute bureaucratic commercial regulations.

A major impediment to confronting smuggling was the lack of a cohesive policy. Spain continuously issued laws that sought to reduce smuggling through force of arms, though this triggered a different set of problems just as difficult to fix. Policy emphasized process, that is, the development of logical laws to regulate the flow of money managed by wise and honest rulers. A chronic lack of income commensurate to its objectives forced the crown to seek accommodation with individuals or interest groups, in essence selling permission to violate the various commercial laws they sought to evade anyway. Over time, all royal colonial officials accepted this as the norm. The step to *fraude* was thus a short one. Corruption robbed the Spanish Crown of more than half of its potential Indies tax income, a loss that contributed directly and significantly to the Crown's inability to achieve its grand strategy.

The causality is not singular, of course. A myriad of other forces contributed to the development and demise of the Spanish empire. But the level of fraud, however, argues that the impact of the contraband trade and its attenuating corruption significantly reduced the Crown's ability to achieve its objectives. Other strategic assumptions proved to be accurate: territorial, political and religious hegemony were all achieved successfully.

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participation or satisfactorily supply the colonies with sufficient goods at prices comfortable enough so that no one needed to seek alternatives.

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The king's continual belief in the basic assumptions of governance grew to such a level that continual failure was habitually attributed to *fraude* or the lack of *un hombre honesto*. The continual search for the latter never succeeded. Corruption permeated the government and siphoned the crown's tax income.

It is the conclusion of this thesis that the high level of *fraude* robbed the Spanish Crown of more than half of its potential tax income from the Indies, primarily because enforcement was always added to the long list of missions assigned to the navies and land forces, neither of which were capable of carrying out such added tasks. This loss of income contributed directly and significantly to the Crown's inability to achieve its grand strategy – the political, territorial, and religious hegemony over Europe. These objectives were achieved in the colonies, which were not the object of that grand strategy. The counterfactual argument is: Had Spain included economic hegemony in its list of grand strategy components, the finances requisite to obtain its objectives might have led to its success.

Scope

Smuggling has existed as long as have restrictions on commerce. Analysis of smuggling in this study relates to that commerce between Spain and its colonies, and thus the initial date of 1492, when those colonies were first discovered. True, trade had not yet begun at that point, but the restrictions placed on such trade began with Columbus' claim to a portion of the profits from the new colonies. Queen Isabela sought to monopolise all transfer of goods to the Indies, but found she had not the resources to finance such a vast project. Thus, she negotiated with the *Consulado de Sevilla* to take on the task. Foreign interlopers showed up in the Indies shortly thereafter, primarily as pirates or privateers, but these invariably sought to trade goods with any Spaniard they encountered, if only to sell the goods pirated from other Spaniards. The nature and methods of smuggling changed frequently, though longer-lasting cycles can be discerned. One such cycle ebbed in the early 1700s, coinciding with the regime change (the Bourbons and their reforms), shortly thereafter launching the War of Jenkins' Ear, a struggle over commerce in the Indies. This marks an acceptable end to this study, as Spain's commercial power waned, enabling its European rivals to dictate commercial terms much more readily than before, starting a new cycle of regulations and smuggling quite different from the previous eras.

In its essence, smuggling is an effort to circumvent restrictions on trade, regardless of their form or source. Most smuggling attempted to reduce overhead costs by evading taxes, duties, or licenses; some sought to avoid limits on who could legally participate in the trade, by requiring citizenship or membership in a guild; some sought to evade geographical restrictions; occasionally ideological prohibitions were ignored. All these were in play in Spain's commerce, and will be covered by the study, as much as possible.

Geographical limits are difficult to impose on such a study, as the circumvention of Spain's laws included lengthy steps. The *Carrera de Indias* requirement, a tactic developed

to provide security and reduce bureaucratic oversight, limited points of entry to Cartagena de Indias, Portobelo, and Veracruz, basically the Caribbean region, with secondary points at a limited number of ports between, but mostly in the same Caribbean region. The two exceptions were transportation from Portobelo to Lima, and the Acapulco to Manila route, both in the Pacific Ocean. As the empire expanded, new markets and sources were developed, though few new ports were added to the list. But smugglers adapted quickly, seeking profits where available, such as Buenos Aires, Acapulco, Santiago de Chile, Louisiana, or using third-party points of entry such as Brazil en route to Buenos Aires, Alto Peru, or Nueva Granada. The bulk of the trade crossed the Caribbean, and the bulk of evidence available to scholars remains that region. But as necessary for the analysis, geographical restrictions are few.

As part of the analysis smuggling, this study reviews briefly the structure of Spain's government, commercial and fiscal policies. This does not pretend to be an in-depth view of these, but rather a review as a background to the causes and effects of illicit trade. Some attention is given to the judicial system the smugglers encountered upon apprehension. The literature on these aspects of Spain's empire is extensive, often providing conflictive evidence, always examined across the divisions of various academic disciplines. Historians, political scientists, sociologists, economists, anthropologists all seek to describe or interpret various aspects, elaborating a framework upon which to hand the evidence for explaining the various formulae or theories of their disciplines. This study enters not into such debates; it only uses such literature to extract any relevant evidence on the issue of smuggling, seeking to understand the latter in light of the former, from a historian's perspective.

Defence issues are analysed in more depth than others, for two reasons. The verbiage in the literature of strategy and grand strategy evolved from military experience and teachings, a very specialized discipline much abused by historians over the years. Within

limits, this study seeks to provide a review of the issues, thus elaborating a description – specifically of grand strategy – upon which to explain the impact of smuggling on Spain’s royal objectives. The second reason for an in-depth look at defence issues is that the primary effort to stop and eradicate smuggling throughout the Empire was assigned to the various elements of military forces – the many fleets, militias, and other law enforcement groups, seen as the best resource for the task. In almost every case, this task was assigned as a secondary mission – the mission creep experienced by all armed forces – with resources assigned in a similar manner. As a solution to smuggling it proved a failure, as a lack of law enforcement was seldom the cause of the problem.

Significance

Describing the significance of a thesis by its author is a task fraught with problems, as it assumes expertise and knowledge applicable over decades or more of time, and a certain amount of ego and responsibility. The significance sought in this case involves an interpretation of what constitutes governance considered good for those being governed, not just a portion of them. What governing philosophy works best for the individual? What economic (or fiscal) beliefs or practices help everyone, or most of the polity? Spain’s jurisprudence closely matched the legal philosophy of ancient Rome, and thus was expressed in grandiloquent language. It elaborated its leaders’ objectives in governing, not the limits on behaviour encoded in most Western governments today. Economic philosophy likewise sought to project future goals on current behaviour, by using experience and theological interpretation of good versus sinful (not just bad) practices. This experience included one of the few limits on the monarchy, in that permission had to be obtained from the many kingdoms, cities, towns under their rule for the tax income required to fund the government. Blending all of these was no easy task. Much was unknown of these issues, and – as

historians state in awe – Spain’s monarchs kept their regime afloat for three centuries. But, as in the case of all societies, individuals are often craftier than those elites who develop policies or laws. Smugglers as a whole tend to find ways around the myriad rules causing their profession, and should they fail, customers make up the difference. It is hoped that one of the results of this study is a better understanding of the impact of such laws in a positive-law system such as that in Spain, described best by the Spanish saying “hecha la ley, hecha la trampa.”¹

As stated often throughout this study, mensuration is a problem in studying smuggling. But it is hoped that the data and analysis provided here leaves a better understanding of the volume and reach of the smuggling and *fraude* involved. Spain’s monarchs sought to extract the highest possible volume of tax income from its merchants and their customers, while the latter sought just as vigorously to reduce that pecuniary load.

The Spanish Crown’s efforts to stop smuggling sought to employ all of its resources, from governing philosophy to military might. In many cases, the cost of enforcing the laws outweighed the benefits, and just as often the crown’s negotiated settlements (benefitting both monarchs and elite merchants), one indication that both understood the others’ limitations. The theory of what is today known as free commerce was unknown; the limitations of heavy regulation were known as well. Logical thought processes led to other practices, however. Explaining how this happened is difficult; it is hoped this study adds to the elucidation.

The problem of specialised definitions mentioned earlier in relation to defence applies equally to the term smuggling, generally a term defined by laws. As regulations are created, individuals modify their behaviour to reduce the legal impact on their lives, and governments react by adding legislation or altering the interpretation to cover any new developments.

¹ Probably best translated as “every law has a loophole.”

Over time, the behaviour of individuals is covered by more than one rule, and law enforcement uses all its available resources to apprehend and prosecute scofflaws. Thus, what was once simple smuggling becomes tax evasion, heresy, treason, contraband, or any one of many other crimes. The act itself generally resembles the original smuggling, and is treated in this study as such. For instance, any foreigner selling goods in the Indies was a smuggler; a Spaniard shipping silver to Spain was guilty of tax evasion, but the act of hiding the silver from authorities when crossing borders is identical to that of the foreign smugglers. Shipping goods off-register likewise violated tax, customs, freight, *avería*, and other laws, if not reported, but was in essence no different from simple smuggling. Spanish smuggling companies were accused of treason; anyone selling books not approved by the Inquisition faced heresy laws. All smuggling during time of war was considered contraband, though different laws were written for it. In general, the behaviour was the same, and the specific laws used to prosecute offenders defined the crime variously to fit legal requirements. There are many variations of these legal categories, because there are as many examples of smuggling, contraband, illicit trade, and trafficking as there are legal prohibitions, tax laws, and restrictions on human interaction throughout the world, and multiplied by the number of goods and services people decide to trade. It is generally the specificity of the law that determines when this change from legality to illegality takes place.

Definitions²

In 1654, González de Salcedo traced the word *contraband* to 12th century Emperor Frederick I, who used it as a legal term when referring to the act of violating a law or edict. It rapidly acquired the connotation of a violation of commercial law.³ González noted that Spain's commercial policy was based on a tightly controlled economy and restrictive rules, and therefore, any violation of this regime was called *contrabando* – a violation of the law. Later, in the XVII century, the term *contraband* was used interchangeably with *illicit* or *illegal trade*, referring to transactions in violation of the commercial laws of one country, as opposed to those of more than one country.

It is the purpose of this thesis to analyse *contraband* during Spain's colonial period, carried out at such levels that it removed enough of the Crown's income as to significantly hinder Spain's ability to implement its grand strategy. The importance of analyzing smuggling goes beyond a simple definition or description, the importance lies in demonstrating what it meant to Spanish rule of law. A primary objective of this thesis is to analyze the impact of illicit economic activity on the Spanish Empire not just at the law enforcement or administrative level, but also at the strategic level where it impacted national policy. Nevertheless, it is also necessary to provide definitions of concepts such as smuggling, *contraband* and grand strategy, placed in the context of the XVI and XVII centuries, and to review some of the theories and literature involved.

Historians in general (not all, of course) have much abused the military concepts of tactics, strategy, and grand strategy, if only because they assume these words sound so very much like standard English-language words. This is not meant to denigrate historians, but the

² Scholars from the social sciences may differ from some of the definitions followed in this thesis. For example, the definition of smuggling adheres to the way contemporary sources referred to the term. This thesis refrains from examining theoretical debates on some of these definitions in the social sciences literature, acknowledging that there are alternatives in these matters.

³ Pedro González de Salcedo, *Tratado Iuridico-Politico del Contra-bando*, (Madrid: Diego Diaz de la Carrera, 1654), p. 1.

problem must be defined, if only to help understand some of this study's conclusions. The problem is that specialists, in this case military experts, have developed these words into highly phrased meanings quite apart from their etymology. As a secondary purpose, this study will analyse the difference between tactics, strategy and grand strategy, as used in their military context, and any applicability within colonial Spain's institutions and private organizations.

This is not the first study of contraband; indeed, almost every historian of colonial Spain has written something about smuggling, *fraude*, or contraband, as can be seen in the lengthy list of sources consulted. There is, however, little consensus on what it meant, some saying that it produced serious effects on Spain's economy, structure of government, rule of law, and the value of its archives. Some dismiss the issue as a minor irritant at best. Most historians err on the side of caution and seek to point somewhere between extremes. In fact, Spanish monarchs invested more time in seeking to conquer Europe than in developing the means to finance that project. Thus, despite the enormous volume of treasure flowing from the mines in Potosí, Zacatecas, and the Chocó, Spain's ability to advance its primary objectives proved inadequate. This argument is not presented as a single causal factor in the development of Spain's history – there are almost as many theories on that subject as there are historians writing about it.⁴ But the development of an economic policy based on

⁴ On capitalism and coercion, see Charles Tilly, *Coercion, Capital, and European States, AD 990-1990* (Oxford: Basil Blackwell, 1990); on the political economy of empire, see James D. Tracy, ed., *The Political Economy of Merchant Empires: State Power and World Trade, 1350-1750* (Cambridge: Cambridge University Press, 1991); on social and economic history, see Jaime Vicéns Vives, ed., *Historia social y económica de España y América* (Barcelona: Editorial Teide, 1958); also Frank J. Moreno, "The Spanish Colonial System: A Functional Approach," *Western Political Quarterly*, 20 (1967): 308-320; on the mechanics of Spain's trade with the Indies, see Pierre Chaunu and Huguette Chaunu, *Séville et l'Atlantique, 1504-1650* (Paris: Librairie Armand Colin, 1956-1959); on the myth of Spain's failure as an empire, see David R. Ringrose, *España, 1700-1900: el mito del fracaso* (Madrid: Alianza Editorial, 1996); on the structure of empire see William Hinckley Prescott's series, *History of the Reign of Ferdinand and Isabella the Catholic*, *History of the Reign of the Emperor Charles the Fifth*, *History of the Reign of Philip the Second, King of Spain*, *History of the Conquest of Mexico*, and *History of the Conquest of Peru* (Philadelphia: J.B. Lippincott & Co., 1873); also Colin M. MacLachlan, *Spain's Empire in the New World: The Role of Ideas in Institutional and Social Change* (Berkeley: University of California Press, 1988); also Clarence Henry Haring, *The Spanish Empire in America*

maximizing tax income, and allowing the overall prosperity of the empire to take care of itself, led directly to high levels of what was referred to at the time as *fraude* and contraband, depriving the Crown of indispensable tax revenues. This study seeks to show that this loss of income was sufficient enough to deprive Spain of its ability to achieve the desired objective.

Most of the historiography has concentrated on descriptions of the basics of smuggling, as will portions of this story. Few provide in-depth analysis of the phenomenon, possibly the opposite, to require and/or achieve elucidation. Both alternatives are doubtful. Analysis of the import of smuggling is difficult, as it requires taking a stand on the volume and pervasiveness of the crime, both issues difficult to pin down. Pérez Herrera wrote in 1987 that no comprehensive study of foreign imports or exports had been made, with the possible exception of Malamud's (not then published) study on St. Malö's trade with Cádiz. His point was that mensuration was not possible by studying Spanish archives alone. In truth, the archives contain only two points to study, court records of smugglers caught and tried, and reports by officials to the King or one of his Councils, some interested in ignoring the issue, some seeking increased resources to combat it. Today's anti-smuggling entities assume that only ten to fifteen percent of smuggling is interdicted; if true and applicable to Colonial Spain, this belief supports Vila Vilar's finding on off-register shipping in the Portobelo fleet, as well as many contemporary writers' contention that the King's taxes were being massively defrauded. Most believed 50 per cent to be conservatively accurate.

(New York: Oxford University Press, 1947); on war and trade, see Richard Pares, *War and Trade in the West Indies, 1739-1763* (Oxford: The Clarendon Press, 1936) and J.H. Elliott, *Empires of the Atlantic World: Britain and Spain in America 1492-1830* (New Haven, Connecticut: Yale University Press, 2007); on Spain's decadence, see J.H. Elliott, *América y el problema de la decadencia española* (Sevilla: A.E.A., 1971); and for a bibliographical study on English observers of the Spanish empire, see Colin Steele, *English Interpreters of the Iberian New World From Purchas to Stevens (1603-1726): A Bibliographical Study* (Oxford: The Dolphin Book Co. Ltd., 1975). These, and many others, deal with the issue of how Spain's empire decayed, failed, declined, collapsed, or was otherwise too weak to fight off its enemies, despite being a global force for about 300 years.

Many historians concur with Cole that caution must be taken in studying commercial statistics, and especially so in examining the official records of Spanish history. Vila Vilar wrote that the level of fraud involved is not evident from the official records, the fraud was systemic and institutionalized. Official data may be more accurate for the XVI century when the foundations were being laid for the commercial system, but that is mere conjecture. In fact, Vila Vilar found that contraband on the annual fleets to Tierra Firme often involved 80 per cent or more of the freight. Sevilla merchants were charged tax rates up to 150 per cent on the value of their registered goods in Spain, another 80 per cent in Porto Belo, plus sales taxes when the goods reached their final destination in Lima.⁵ These figures may seem high, but, as will be explained later, the concept of value and price was not used in the early *Carrera de Indias* trade fairs, which makes the evaluation of what constitutes a high tax almost impossible.

Historian Ramón Aizpurúa writes that societies generally define what is considered illegal activity, and thus the act of smuggling can be considered as an assault on the legitimacy of any society. This usage alters the common conception of smuggling, because what is smuggling for one group may be normal commerce for another, and the notion tends to evolve over time, adding an historical dimension.⁶ The latter is an important point to establish for the study of contraband in particular. Social groups use laws and regulations to define which activities are acceptable and which will merely be tolerated; but this toleration evolves over time as social mores, values and governing philosophies change, thus altering how much society will accept and tolerate as legitimate what was once considered an illicit

⁵ Vila Vilar's primary example is the 1628 *flota*, for which goods registered in Sevilla were valued at 1,385,297 *pesos*; the goods sold in Portobelo were valued at 1,081,000 *pesos*; the goods passing through the warehouse in Venta de Cruces were valued at 8,259,422; thus the total value of the *flota* was 9,340,422 *pesos*; meaning that 7,955,124 *pesos*' worth of goods were shipped off-register. Enriqueta Vila Vilar, "Las ferias de Portobelo: Apariencia y realidad del comercio con Indias," *Anuario de Estudios Americanos*, separatas del tomo 39 (Sevilla, 1982), p. 312.

⁶ Ramón Aizpurúa Aguirre, *Curazao y la costa de Caracas: introducción al estudio del contrabando de la provincia de Venezuela en tiempos de la Compañía Guipuzcoana, 1730-1780* (Caracas, 1993), pp. 13, 15.

act. For the most part, criminal activities tend to be identified by the laws prohibiting them, not by the activity itself. Likewise, links between an illicit activity and national security are interpreted by a government's perception of threat from that activity, as manifest in the laws enacted to stop it, and the forces arranged against it. From a historian's perspective, this concept must be adapted to reflect the structure of society and government of earlier historical periods.

Specific terms and legal regimes are used to identify and prosecute individuals involved in contraband. The Spanish government under the Catholic Kings used the term *pirata* when referring to any foreign interloper, primarily in an attempt to enforce its policy of *mare clausum* in the ocean areas west of the line of demarcation, attempting to exclude all but Castilians from entering the king's domain in the Indies.⁷ Anyone not licensed by the Spanish Crown to enter those waters was considered a pirate, regardless of why they had entered the region or of their behaviour, and jurisprudence specific to piracy was used to prosecute those captured. This reflected the reality of French, English, and Dutch interlopers, who sought to capture Spanish wealth from the Indies. Later monarchs elaborated on the definition by adding nationality, referring to English intruders as *piratas luteranos*, Frenchmen as *piratas* or *contrabandistas*, and the Flemish as *rebeldes* or *calvinistas*, though there was a general recognition of the difference between them. The variation in the usage of jurisprudence probably originated in grand strategy, based on religious or security concerns. For instance, English prisoners were often tried first in the Inquisition's courts, and in secular courts later, indicating an emphasis on religious hegemony. Strategic alliances granted

⁷ The line of demarcation was set by the Treaty of Tordesillas at 370 leagues west of the Canary Islands, from the North Pole to the South Pole. Early commercial policy excluded everyone, even Spaniards not from Castille or Leon; after the death of Isabela, this policy was relaxed to include all Spanish subjects. Antonio García-Baquero González, *Cádiz y el Atlántico (1717-1778): el comercio colonial español bajo el monopolio gaditano*, Publicaciones de la Escuela de Estudios Hispanoamericanos, no. 237 (Sevilla: Escuela de Estudios Hispanoamericanos, 1976), pp. 94-5.

limited rights occasionally to French, English, or others, requiring a diplomatic review of what were often simple cases of piracy, indicating an emphasis on political hegemony. Territorial integrity was often the underlying motive in trials against Dutch or Portuguese smugglers, especially during periods of warfare with the rebellious Low Countries or Portugal.

Roman Law. Spain's system of jurisprudence was based on Roman law. In other words, it was an ethical interpretation of goals for the polity, rather than a list of rules to be obeyed. It was an expression of ideals, not a reflection of reality. Moreno notes that, "[t]he function of the written law was to pay homage to the refinements of the soul ... [t]he task of the actual ruler was to keep the empire together."⁸ The king – or the Roman Caesar – was to clarify the objectives society was to meet, thus directing the nation's pursuit of perfection, be it pagan or Christian. The king ruled in God's name, and by His mandate; the Catholic Church aided by providing moral guidance. But his was the final word, the arbiter of all disputes, meaning in practice that the king was above the law. This fact gave him absolute political authority.⁹

The written precedence of this principle – the absolute monarchy – was laid out in the 1260s during the reign of Alfonso X, in his *Siete Partidas*. By 1500, "the principle of absolute monarchical rule was a fact of Spanish political life."¹⁰ As absolute monarch, the king was arbiter of everything related to his subjects, who could appeal to him at any time. This added flexibility to the legal mandates of the king, a flexibility exercised often, given the idealistic nature of the laws. This also subjected laws to local interpretation, as local officials might choose to obey a rule or suspend it during the appeal process. This ability to appeal directly to the king rendered the system if not useless, then singularly inefficient. The government

⁸ "Se acata pero no se cumple." Frank J. Moreno, "The Spanish Colonial System: A Functional Approach," *Western Political Quarterly*, 20 (1967): 314-318.

⁹ Moreno, pp. 308-313.

¹⁰ *Ibid*, p. 313.

structure resembled a circle with spokes radiating from the centre to the rim, where the spokes representing links between king at the centre and citizens around him, rather than the traditional triangle with the king at the top and government officials between him and the people. Furthermore, practices such as “I obey but I do not comply” allowed greater flexibility, by giving officials *de facto* permission to disobey the king’s laws in exchange for professed allegiance to his moderating power. Colonial governing officials’ responsibilities often overlapped – by design – to provide a balance of power and require cooperation among the king’s representatives: the unifying function belonged solely to the Crown. From the Crown’s perspective, the structure was logical and appropriate. But in practice this proved cumbersome and ineffective, and led to bureaucratic processes that fostered *fraude* while allowing those caught to negotiate their punishment.

This Roman law-based system of jurisprudence was never imposed by force, but was accepted by the king’s subjects without reservation. Thus, the Spanish monarchs were absolute in legal authority, without any authoritarianism. The flexibility of appeal allowed the idealistic nature of Spain’s laws could be, in essence, ignored, until new ones were issued or the old ones altered. The king’s authority was never questioned or threatened. This system was embedded in the laws: “Ministers and judges should obey but not comply with our decrees and orders in which the vices of obreption and supreption have intervened, and at the first opportunity should inform us as to the reasons why they did not do it.”¹¹ Lynch described it as a “method of government was personal monarchy exercised through centralized but not unified institutions.”¹² Disobedience was thus built into the law, and thus did not threaten the system’s continuity over three centuries.¹³

¹¹ *Recopilación*, Libro II, Título I, ley xxij.

¹² John Lynch, *Spain under the Habsburgs* (New York: Oxford University Press), p. 47.

¹³ Moreno, p. 320.

In 1740, the governor of Tierra Firme Dionisio Alsedo y Herrera described the basic structure of Spain's colonial government as based on four obligations required for the preservation of the kingdom: zeal for the ecclesiastical government; the civil, political, and economic government; the bureaucracy; and the administration of the *real hacienda* (royal treasury). He summed up the philosophy of government as "pleasing God, service to the king, and the benefit and common coexistence of the kingdom."¹⁴

Another example of the need to study crime in context is the nature of the Spanish government. Sixteenth-century Spain was ruled by an absolute monarchy, limited primarily by its inability to keep spending in check, and thus dependent on specific sectors of society finance the projects of government. This distinction is crucial to understanding the phenomenon of contraband throughout the Spanish colonies. The monarchy was absolutist in terms of political and religious control, but was forced to negotiate certain freedoms or rights with various actors in exchange for the financial support required to gain its absolutist status. These actors relaxed their attitudes and actions toward the ruler, paying political and religious homage, but ignoring the fiscal and regulatory laws imposed on their commercial activities. They knew full well that the Crown had few means of imposing its will in this regard.

Smuggling. The activity of *smuggling* or *contraband*¹⁵ requires the involvement of at least three elements: a seller, a buyer, and a government to legally restrict that transaction. The restriction of these activities, often in the form of an outright prohibition, has been

¹⁴ Dionisio de Alsedo y Herrera, *Aviso Histórico, político y geographico, con las noticias mas particulares del Perú, Tierra-Firme, Chile y Nuevo Reyno de Granada, en la relacion de los sucessos de 205. años, por la Chronologia de los Adelantados, Presidentes, Gobernadores, y Virreyes de aquel Reyno Meridional, desde el año de 1535. hasta el de 1740. Y razon de todo lo obrado por los ingleses en aquellos Reynos por las Costas de los dos Mares del Norte, y del Súr, sin diferencia entre los tiempos de Paz, y de la Guerra, desde el año 1567. hasta el de 1739. Dedicado al Rey Nuestro Señor, (que Dios Guarde) y escrito en virtud de real orden de S.M. Por Don Dionysio de Alcedo y Herrera, Presidente que ha sido de la Real Audiencia de Quito, Gobernador, y Capitán General de las Provincias de su Distrito*, (En Madrid: en la Oficina de Diego Miguel de Peralta, 20 de Febrero de 1740), pp. 31-2.

¹⁵ These terms are used interchangeably throughout this study.

described in terms of “pull, moral, and push” factors.¹⁶ The former are those which induce smuggling, including taxes imposed on the flow of goods, the protection of national industry through import tariffs, and laws designed to protect the common good, for instance, keeping the Catholic faith pure by prohibiting the ownership of heretical Protestant books. Moral forces are societal standards, for instance, the belief that disobeying the king’s orders is wrong and brings public shame on the disobedient, or that those orders are illegitimate, and thus can or must be violated. Push factors are those that entice individuals to take advantage of market demands, for instance, drug traffickers who take advantage of profit incentives boosted by risk. Variations or combinations of these three factors are possible.¹⁷ All three of these elements were present in the situations and timeframes analysed in this study.

Amoral analyses assume that no value judgement should be imposed on the value of contraband, seeking to judge smuggling’s impact on trade and consumption as a positive force. But such analysis also ignores the demoralizing or de-legitimizing effect of contraband on government institutions and the people staffing them.¹⁸ Writing from another point of view, Feliciano Ramos noted that contraband had a positive effect on economic growth in the marginalized areas of the Spanish colonies ignored by the formal economy of the empire but well-served by foreign interlopers. The heavily micromanaged economic regulations imposed on the colonists obliged them to deal illegally with foreign merchants in order to survive and prosper.¹⁹ At the individual level, *fraude* helped the colonists. But while it is true that smuggling allowed many colonists to earn a living, in many cases it became a substitute for legal trade. The negative impact of ignoring laws and the royal will cannot

¹⁶ Jean Cartier-Bresson, "Corruption Networks, Transaction Security and Illegal Social Exchange," *Political Studies*, 45 (1997): 463.

¹⁷ *Ibid.*

¹⁸ Jagdish Bhagwati and Bert Hansen, "A Theoretical Analysis of Smuggling," *The Quarterly Journal of Economics*, 87 (1973): 9.

¹⁹ Héctor R. Feliciano Ramos, *El contrabando inglés en el Caribe y el Golfo de México (1748-1778)* (Sevilla: Publicaciones de la Excma. Diputación Provincial de Sevilla, 1990), p. 12.

easily be analysed in a moral vacuum. Adding to this mix, the use of Roman jurisprudence philosophy and the vast distances and time required to appeal or enforce laws certainly influenced the colonists' attitude in favour of smuggling.

Part of the reason for the evolving definition of *smuggling* was a reluctant recognition by the Spanish Crown that an absolute *mare clausum* was beyond its capability, and another rationale had to be employed to keep the foreigners out. The changing definition of an interloper accompanied the recognition by the mid seventeenth century that other European powers had occupied territories in the Caribbean, such as the English possessions in Jamaica and Barbados, or the Dutch territories in Curaçao and the Essequibo, or the French settlements on Hispaniola and Guadeloupe. These nations' citizens were allowed to navigate along what were termed "direct routes" to those territories, using the language of the Treaty of Tordesillas, but if they strayed, Spain declared they could be taken as legitimate prizes by corsairs or coast guard forces. As it turned out, only Spain observed the rule of direct routes.

The terms *smuggling* and *contraband* imply a movement of goods across an international border, though it is probably more accurate to state that goods are moved despite governmental restrictions. If the source country also has prohibitions on the transaction, some additional elements may enter the equation. This was true in the case of British smugglers after the enforcement of the Navigation Acts in the 1660s, making it illegal for British ships to sail from Spanish to British colonies, especially if these ships then sailed back to British homeports. On the other hand, the States General's policies encouraged trade with Spain, even during times of war, as this helped provide sufficient tax income to finance the government and its war effort. Thus, there were no restrictions on Dutch smugglers from

their home country, as was the case for their British counterparts. French policy varied, at times imitating the Dutch, at times, the British; often no policy at all was enforced.²⁰

Most studies of smuggling assume that the seller moves the goods, an element that does not affect the definition. However, in the XVI and XVII centuries, the source of risk often determined which party moved the goods. Prior to the enactment of the British Navigation Acts, the main source of risk to British smugglers in the Caribbean was the Spanish coastguard or *corçó* forces (a minimal threat at best), so the movement of goods was done primarily by the sellers.²¹ When Britain began enforcing anti-piracy laws, the main threat to contraband came from the Royal Navy, and Spaniards sailed to Jamaica, Barbados, and other British territories to purchase goods. The Royal Navy did not hinder them, as they violated no British laws. But for the Spanish government this was still contraband, and the foreign suppliers were still referred to as *piratas*. Spanish colonists caught in the trade were convicted *fraude* – defrauding the king of royalties and taxes.

The regulation that causes contraband may be an outright prohibition, a tax, a restriction to specific venues, or a combination of these. During the timeframe of this study, most goods were legal to own, and their owners sought primarily to evade taxes and duties.²² There were, however, prohibitions on some goods. For instance, all books had to be approved by the Inquisition, so book sellers primarily shipped approved religious books or pamphlets to the colonies, though there was apparently a large market for contemporary secular literature as well.²³ Thus, if a British *pirata* took a book on Protestantism from

²⁰ Bernardo Ward, *Proyecto económico. Obra póstuma. Segunda impresión* (Madrid: Joaquín Ibarra, impresor de Cámara de S.M., 1779), pp. 238-240.

²¹ The difference is more than semantic. Coast guard forces were official national or local government forces that relied on regular troops for staffing, while the *corçó* was a private force operating for profit under a license from the Crown or a local official. However, all naval forces (official, quasi-official, or private) at the time enjoyed the right to take prizes from enemy forces.

²² Examples included Protestant books or frivolous novels, and Chinese silk was prohibited in Peru and Nueva Granada unless taxes were first paid in Seville.

²³ In one exceptional case, Nicolás Braunke in 1760 smuggled a box of goods for a Spanish gentleman who spoke English, delivering them to Juana “la Montañesa” Cario, valued at 267 *pesos*, 7.5 *reales*. Though the bulk of the goods consisted of medicines (liniments, salts, balsams, ointments, various waters and oils), the unnamed

London to sell in Cartagena de Indias, he would be considered a trafficker, because the ownership of such reading material was prohibited. If he hid the book in a box of goods on the annual fleet without declaring them on the ship's manifest, he would also be a smuggler, because he bypassed secular and ecclesiastical import restrictions as well as tax laws while using a legal venue for commercial activity. However, he might be tried by the Spanish Inquisition for heresy, because he was English, Protestant, and dealing in printed heretical materials.²⁴ The prisoner may have been tried by both courts – in the ecclesiastical courts for the trafficking of prohibited religious materials, and in the secular for any other illegal goods he had at the time of the arrest. In this way the civil judges could separate the marketable cargo from that which had to be destroyed (because of spoilage or heresy), and split the proceeds with the Royal Treasury. The lesson here is that the prohibiting authority often uses all the legal resources available to prosecute violators, regardless of the crime committed or the intentionality involved. Implied in this analysis is the fact that the regulations of such commercial transactions take advantage of the many facets of the business involved, as well as defining the terms used in referring to the crime.

Other regulations sought to control which goods could move over specific routes. In keeping with the mercantilist concept of colonies existing primarily to benefit the home country, goods imported from the East Indies had to be licensed in Sevilla prior to shipment. Thus, all goods imported on the Manila galleon were transhipped through Acapulco to Veracruz (New Spain), sent to Sevilla and then back to Panama and on to Lima, Quito, or New Granada, in order to be sold legally. Naturally, this made such products too expensive

gentleman had ordered books in French, English, Latin on chemistry, surgery, pharmacology, on pregnant women, sexual diseases and gonorrhea, philosophical perspective, a history of Charles XII of France, a commentary on Psalms, the *Satires of Juvenal*, and a book by Ovid. Since the books had not been approved for shipment to the Indies, all three individuals were arrested and taken before the Inquisition. Feliciano Ramos, *Contrabando inglés*, p. 240.

²⁴ The Inquisition had a better prosecution rate than did the fiscal or civil courts, no venue for appeal, and the added attraction of a public *auto de fé* ceremony where the subject renounced heretical beliefs and received an appropriate punishment. The infrequent use of this venue would argue that the Spanish secular courts were successful enough in separating the smuggler from his goods and imposing an adequate punishment.

to purchase, and from the first Manila galleon entering Acapulco, goods made their way illegally into the homes of wealthy colonists, establishing a contraband pattern repeated continually thereafter.²⁵

A third restriction was the highly detailed and bureaucratic licensing system devised to control the market and to deter contraband, which in reality imposed such heavy costs on legal goods that few could afford them. Contraband goods, with no regulatory overhead to pay, were of course cheaper. A more detailed analysis of this system will be provided in chapter three.

The fourth restriction on legal goods was the heavy taxation imposed by the government. Most estimates of the price discrepancy between legal and illegal goods available in the Indies range between 30 and 50 per cent, certainly a margin of profit that encouraged many to participate in the smuggling.²⁶ As will be detailed later, the overly expensive legal goods served a valid function for the Sevilla merchants by providing a legal cover for the illegal goods, and for the colonial merchant guilds, aiding in the licensing and distribution of illegal goods throughout the colonies.²⁷

Law enforcement today recognizes two kinds of smugglers; the casual and the criminal. The casual smuggler is the individual who is caught with insignificant amounts of proscribed goods for personal use. While such acts are illegal and can be prosecuted, the cost

²⁵ Even as late as 1736, smugglers were being convicted in Nueva Granada for having in their possession goods determined to be from China but not certified from the legal *flotas*. One case involved 8 *varas* of China cloth, and the defendant lost the case, was imprisoned, and his goods were confiscated, including a gold mine and a store in the Chocó. Archivo General de la Nación (Bogotá) [hereafter cited as A.G.N. (Bogotá)], Colonia, Contrabando, SC 15, 1522-1820, tomo XXVII, año 1736, fol. 317-399, "Autos Que sigue la parte de D.ⁿ Francisco Maturana, en grado de apelaz.ⁿ delo Determinado. Por el Gou.^{or} Del Choco = Sobre Ymputarles, el Delito De Contrabando. Año 1736."

²⁶ Clarence Henry Haring, *Trade and Navigation Between Spain and the Indies in the Time of the Hapsburgs*, Harvard Economic Studies, volume 19 (Cambridge, Mass.: Harvard University Press, 1918); Pares; also, Feliciano Ramos, *Contrabando inglés*.

²⁷ Examples of how legal trade was used to cover smuggling can be found in Vila Vilar, "Ferias de Portobelo, Apariencia y realidad del comercio con Indias," *Anuario de Estudios Americanos*, separatas del tomo 39 (Sevilla, 1982), and Germán Colmenares, *Relaciones e informes de los gobernantes de la Nueva Granada* (Bogotá: Fondo de Promoción de la Cultura del Banco Popular, 1989).

of doing so in general outweighs the benefits. The criminal smuggler, however, ships a significant volume of products, intent on commercial gain. This may be done frequently with small loads, or infrequently with large loads, or by recruiting others to carry the products. It is this increased volume of goods and frequency that causes the government forces to seek the smugglers' arrest because of the damage inflicted on legal commerce, tax income, foreign policy, or moral standards of society. Early anti-contraband laws in the Spanish empire made no distinctions between casual and criminal smugglers, labelling them all as violators of the king's authority and defrauders of the *real hacienda*. Court cases hint at a later relaxation of these definition, as casual smugglers negotiated fines and punishments not available to criminals.

However, governments often ignore the cost of enforcing its laws, and especially so in absolutist or authoritarian regimes, as the imposition of state authority is viewed as more important than the cost of doing so. The archives are filled with examples of individuals caught taking a few personal goods off-register (the legal term of the time for goods not listed on the tax registers or ship manifests). There are also voluminous files of court cases against merchants caught with ships full of goods smuggled into the Indies.

In many cases the differences between the specific sets of law employed to prosecute contraband are subtle. Migration is as legal now as it was in the 1500s but migrating without a license has always been illegal, as is assisting such individuals. Moving persons across borders against their will, on the other hand, is today considered a serious crime breaking several laws, including immigration, smuggling, and slavery regulations.²⁸ Until the XIX century this was a component of the slave trade, though the contraband in slaves only violated tax and shipping, not immigration, laws. As mentioned above, this is a case where

²⁸ The difference between a smuggler and a trafficker is in the goods; the latter is a subset of smuggling dealing in goods that are illegal to possess, such as cocaine (today), or Protestant books (XVI century Spain).

the laws of a nation define the crime and also the legal regime to be used in prosecuting the violators. The Spanish legal system, however, was not specifically designed to achieve justice. Justice and legal logic were not ignored, but were often set aside, and even religious or racial prejudices were set aside if the monetary incentives were strong enough.²⁹

Many factors involved in the analysis of illicit commerce relate to the various actors and their links to government officials. These factors invoke various parts of the law, and thus bring into play different terms that require definition. Today any group that conspires to break the law on a regular basis is referred to as being involved in *organized crime*.³⁰ There are almost as many definitions and variations to organized crime as there are organized criminal organizations. Groups meeting this definition existed throughout early modern Europe and the Indies, though the term or legal regime did not. In general, such groupings were convicted through laws governing tax, treason, or heresy, depending on who sought to apprehend them.³¹ They tended to be local, and often comprised family, ethnic, or interest group which increased security and cohesion by restricting membership. In one case, Dutch, English, and Spanish smugglers organized into three distinct groups in the town of Natá in the Darién, both in Panamá in the early XVIII century, with several hundred members pooling resources to build forts and warehouses, purchase ships, and move goods to practically all seaports on the Pacific coast of the Indies. Governor of Tierra Firme Dionisio de Alsedo y Herrera was forced to mobilize militias from outside Panamá (and thus not

²⁹ In one example on Hispaniola, a slave's testimony (translated from his African language by a fellow slave) was used to convict several individuals of smuggling and *fraude*, resulting in the confiscation of several slaves and the smuggler's goods. Archivo General de Indias [hereafter, A.G.I.], Santo Domingo, 453 / 1746, *Comiso en Sancti Spiritus de géneros de ilícito comercio*.

³⁰ See, for instance, Alberto Ades and Rafael Di Tella, "The New Economics of Corruption: A Survey and Some New Results," *Political Studies*, 45(1997).

³¹ Groups tried for treason were usually referred to as *alzados*, rioters, for having participated in a *motin*, or riot.

infiltrated or suborned) in an effort to dislodge them, suffering two military defeats before succeeding in defeating the criminals.³²

Most smuggling involves parties who know each other, either personally or professionally, through exchanges designed to offer transactional security, and sometimes price security. *Normalized illegality* refers to a level of secrecy in the acts, achieved when regular contacts and perhaps collusion are developed. A regular and organized exchange through each party's networks enables the institutionalization to take place, and the result is increased security for all concerned.³³

Fraude was defined as any effort to defraud the royal treasury, a different concept from today's usage as an act by public officials violating the public trust for personal gain. It often involved criminals providing money or some other service in exchange for the impunity to carry out their illegal acts; today such transactions are referred to as accommodation. This is a very broad definition of the term, as it includes any act that induces an official to act illegally, but is mostly used here in reference to a Spanish official accepting regular or occasional payments to allow foreign smugglers to bring shiploads of goods for sale in the Indies. Fraud tends to be highest in a state that prohibits or limits foreign involvement in commerce or industry, and more intense in a state with an inefficient system of justice or one which ignores the rights of some individuals to own private property.³⁴

One reason fraud is commonly linked to contraband relates to the symbiotic relationship between the criminal and the law enforcement official. Both seek to reduce the number of people or groups involved, one ostensibly to show a good record of arresting

³² Dionisio de Alsedo y Herrera, *Piraterias y agresiones de los ingleses y de otros pueblos de Europa en la América española desde el siglo XVI al XVIII deducidas de las obras de D. Dionisio de Alsedo y Herrera* (Madrid: Publicado en la Imprenta de Manuel G. Hernández por Justo Zaragoza, 1883), pp. 292-307; A.G.N. (Bogotá), tomo VIII, año 1745, fol. 480-520, "Dionisio Alsedo y Herrera; Presidente de Panamá; su correspondencia sobre varios asuntos administrativos de dicha provincia"; A.G.N. (Bogotá), legajo 65, #053, fol. 294-320, "Notas de contrabando en Penonome, y reclamo de los jueces de residencia. Años 1747-1751."

³³ Cartier-Bresson, pp. 464-466.

³⁴ Ades and Di Tella, p. 514.

criminals, and the other to reduce the number of competitors. A tacit accommodation may be reached, as the police eliminate less-efficient smugglers and a criminal group turns in its weaker competitors. Eventually, law enforcement is left with a network of smugglers who turn in an adequate number of competitors, and the informants become the major shareholders of the illegal market. At some point, probably early on in the relationship, an exchange may begin, with the criminals offering compensation for being allowed unhindered freedom of action. Either way, both sides of the accommodation are satisfied, one with its level of control of the market, and the other with a reduced level of violence, higher arrest statistics, and perhaps a growing off-shore bank account. In the words of Marshall, “successful trafficking organizations need more than organizational skills, financial sophistication and ruthlessness. Above all, they need political or police protection.”³⁵ This current view of fraud is relevant to this study, as colonial officials often colluded with smugglers to profit from the illicit trade, to the point of faking arrests and confiscation, kidnapping and extortion.

Violence has always been associated with the business of contraband, though not always directly. In the XVI century, before the formation of standing national military forces, individuals could sell their services to monarchs, doing violence to enemies for pay. On land these men were called mercenaries and at sea, privateers, and often how they were reimbursed for services defined criminality or legality. If not paid on time or sufficiently well, mercenary armies plundered, sometimes the very towns they were hired to defend, becoming brigands or bandits. Privateers taking unreported prizes or captured enemy ships long after the conflict had ended, becoming pirates in the process. All these various categories of armed men sought to maximize their wealth by selling their booty through

³⁵ Jonathan Marshall, *Drug Wars: Corruption, Counterinsurgency and Covert Operations in the Third World* (Forestville, CA: Cohen & Cohen Publishers, 1991), p. 1-2, 36.

extra-legal venues, catering to places where such goods commanded high prices. Thus, the town of Port Royal in Jamaica in the late XVII century perhaps saw more coin circulating per capita than did London, as pirates and privateers traded booty or prize goods for bullion or booze, and profited from their violence against foreigners.³⁶ In many cases, the same individuals were involved in all these activities. Many were merchants seeking to turn a profit by trading with the colonists in the Indies, and turned to piracy or privateering, often depending merely on how they were received. All eventually sought merchants or, to use a modern term, fences,³⁷ to liquidate the goods brought to port through the various legal and illegal ventures.

The problem of smuggling involved collusion between the Crown and the *Consulado de Sevilla* for market manipulation and a yearly cycle of tax increases triggering higher fraud levels. But the imposed routing requirements led to ridiculous situations. In the example of restrictions on the Manila Galleon mentioned above, a *vara* of China silk, which had to be routed through the Philippines, Nueva España, Sevilla, Panamá, and finally Peru, sold for over 100 *reales* in Lima. The same product, arriving as contraband directly from Acapulco sold for 15 *reales*, or in Cartagena de Indias for 30 *reales*. Merchants who obeyed the laws could not compete with such price differences.³⁸

But even Vila Vilar's caution on using legal sources ignores some of the forms of fraud used. In her research she relied on official assessments of ship tonnage which various examples in the archives prove unreliable. *Fraude* was so embedded in the system that even the measurement of ships produced incorrect official records, and there were other ways around the tonnage registry, as seen years later in contraband techniques used by the South

³⁶ Nuala Zahedieh, "Trade, Plunder, and Economic Development in Early English Jamaica," *Economic History Review*, second series, 39 (2, 1986): 219.

³⁷ "Fence" is jargon for a person who purchases illegal goods and sells them, attempting to hide the fact that they are illegally owned or purchased goods.

³⁸ *Ibid.*, pp. 294, 320-1, 328, 335.

Sea Company (as will be explained in chapter three).³⁹ This unreliability of archival records is probably true even today, though it could be argued that better computing and communication systems have made the job easier to quantify. Both sides of an illegal transaction seek to keep the information away from law enforcement, and this secrecy has contaminated the trade statistics of all nations over time. Further, only cases where smugglers were caught are recorded in the archives. Today's law enforcement estimates assume that seizures of contraband goods reach between 10 and 15 per cent of the illegal trade, which coincides with Vila Vilar's findings, leading to the conclusion is that there was more fraud in the XVII-XVIII centuries than the archives present. After all, these records are of court cases, and reflect illegality arrested, not all illegality. It is difficult to escape the conclusion that official trade statistics are either useless or should be analysed much more critically before conclusions are accepted.⁴⁰

One difference between the contraband of imperial Spain and that of today is the structure of government. In many cases the *fraude* of the XVI-XVIII centuries was fostered by the imposition of a government system based on clientelism and patronage, through such normal and legal institutions as the sale of offices for profit. Investing large sums to buy a position forced officials to recuperate their investment through graft, patronage, extortion, and the sale of official services within their authority. Spain's list of priorities in the Indies put commerce below its primary objectives, so official attention to the problem was reduced dramatically. The government's emphasis on mining 'noble metals' and self-sufficient

³⁹ Using support ships, the SSC's 600-ton Annual Permission ship could unload over 900 tons of goods in Veracruz alone. Guido Donoso Nuñez, "La penetración comercial inglesa en el Caribe español a mediados del siglo XVIII," *Revista de Historia*, año 2 (1977): 20. Shipbuilders often re-designed ships after the initial inspection, adding up to 50 per cent to the capacity. A.G.I., Indiferente General, 2479, 1731-1743, "Comisión de Tomás Pinto Miguel sobre contrabando"; Vera Lee Brown, "The South Sea Company and Contraband Trade," *American Historical Review*, 31(#4, July 1926): 674.

⁴⁰ Jagdish N. Bhagwati, ed., *Illegal Transactions in International Trade: Theory and Measurement*, Studies in International Economics, v. 1 (New York: Elsevier, 1974), p. 1; W.A. Cole, p. 396.

administration led to the marginalization of large areas of the Indies, abandoned as unprofitable. This lack of attention, combined with the great distances and time required to cover them, resulted in an enforcement mechanism that simply could not cope with the volume of illegality involved. On issues where Spain directed its attention and energy, it succeeded; other issues – among them smuggling – the lack of adequate government presence led to significant losses.

Grand Strategy. Most of the literature on the subject of grand strategy has been written by experts in military or defence issues, from the perspective of the application of state force, by authors such as Mahan, Corbett, and Richmond.⁴¹ Few, however, have tackled the problem of deciphering the grand strategy in a monarchy, though Prescott, Kohler, Tracy and Parker have produced several studies of the Hapsburg dynasty's rule in Spain.⁴² It matters little whether grand strategy is stated or not, but it must be elaborated by the head of state, be it a monarch, an elected official, or otherwise. It is apparent from researching in the archives that Carlos V never wrote "The Grand Strategy of the Holy Roman Empire." His predecessors had not, and neither did his successors. Their common signature – *Yo el Rey* – summarized the fact that the king was the source of all authority, which needed no further elaboration.

Statements of strategy are thus more likely to be hidden in testaments, secret instructions, or diplomatic capitulations, and present to the reader specialized contemporary jargon referring to God's will, or the good of the realm, or such vague personages as rival Christian Princes and threatening heathen powers. From these it is possible to discern the

⁴¹ A.T. Mahan, *The Influence of Sea Power upon History, 1660-1883* (London: Methuen and Co., 1965); Julian Stafford Corbett, *Some Principles of Maritime Strategy* (London: Brassey's Defence, 1988); Herbert William Richmond, *Sea Power in the Modern World* (New York: Reynal & Hitchcock, 1934).

⁴² Prescott, *Charles the Fifth*; Alfred Kohler, *Carlos V: 1500-1558. Una Bibliografía* (Madrid: Marcial Pons, 2000), p. 90; Geoffrey Parker, *The Grand Strategy of Felipe II* (New Haven: Yale University Press, 2000).

primary objectives of each king. During the time of the study, however, the term was unknown, though the concept was not. Royal correspondence referred to plans, methods, policies, means, and other such words to describe efforts to achieve success. Nonetheless, because of its history of military usage, most analyses of grand strategy is viewed in the context of either times of war or peace. The latter is further divided into those issues related to politics or defence issues, and subdivided into external and domestic forces.⁴³

The underlying theme of this section is to define the basic terms used in the study of grand strategy. At its core, the term grand strategy is used today to denote the process through which a state puts into practice the effort to achieve its principal objectives, especially during time of war. Those objectives define what a state views as its primary reason for existence, a declaration short and simple, embodying the basic wishes and desires of what the state's polity seeks to achieve over time. Each of these objectives has a value to the leaders and citizens, which translates into the resources – wealth, lives, time – that must be allocated toward their achievement. Liddell Hart referred to this process as grand strategy: “it is the function of grand strategy to discover and exploit the Achilles heel of the enemy nation; to strike not against its strongest bulwark but against its most vulnerable spot.” In this view, grand strategy is policy in execution, the coordination of all national resources. Corbett noted that grand strategy can be a “theory of war” combining naval and military strategies as tools of national power to help a country realize the full potential of both.⁴⁴

National objectives seldom change, though they can be altered over the long term as societies' values evolve, or external pressure is brought to bear on the state. Many objectives are internal to the state, though most overlap into the international arena. International politics are a conglomerate of accepted practices: proceedings, techniques, methods of

⁴³Richard Webb, ed., *The Naval Review*, 22 (#3, August, 1932), p. 430.

⁴⁴ Corbett, *Some Principles*, pp. 4, 10-11.

execution used by all states to reduce conflict.⁴⁵ During peacetime, these relations are dealt with through diplomacy, and dissidents are generally subject to sanctions imposed by one or more states, and vary according to the perceived severity of the violation. States must rely on their own means to achieve their objectives, and military power is the final arbiter, should diplomacy fail. The use of military power varies over time, but in general the threat of its use brings a measure of order and stability.⁴⁶

One of the principal elements of grand strategy is military force; through it a national leader defines the military objective to be achieved through warfare, and requires that a military strategy be developed to reach that goal. Subsequent chapters will apply this underlying theme to the Spanish experience during the XV through XVIII centuries, because the task of dealing with foreign threats usually was assigned to the armed forces, be these police, coast guard, armies, or navies. Grand strategy requires all of the state's forces, not just military, as the latter may be insufficient to the task. The specific composition of forces to be applied varies according to the resources available, and the freedom of action granted by national leaders. The military's role is defined by the government: it may be to dislocate the enemy, disrupt his disposition by moving between several fronts, separate the enemy from his resources, to annihilate him, or to deter him from a specific action. But it must never be forgotten that the enemy has a say in the conduct of the war, and may upset the military strategy so that political objectives cannot be met.⁴⁷ By the end of the conflict, the state's grand strategy must be aimed at "compelling the enemy to accept our will," the phrase used by Clausewitz.⁴⁸ Sun Tsu noted that the political aspects of a war are of paramount importance, though tactical success is critical on the battlefield: "Good rulers deliberate on

⁴⁵ Alberto Marini, *La Guerra La Política y la Estrategia* (Buenos Aires: Círculo Militar, 1962), vol. 2, p. 183.

⁴⁶ Robert J. Art and Kenneth N. Waltz, *The Use of Force: Military Power and International Politics* (Lanham, MD: University Press of America, 1993), p. 1.

⁴⁷ "Basil Liddell Hart," in Gerard Chaliand, ed., *The Art of War in World History, From Antiquity to the Nuclear Age* (Berkeley: University of California Press, 1994), pp. 928-930.

⁴⁸ *Ibid.*, pp. 41-42. Carl von Clausewitz, *On War* (London, Penguin Group, 1988), p. 101.

plans, good generals execute them.”⁴⁹ His work supports Clausewitz’ conclusion that war is a political act, and thus no war plans can be executed without understanding the political conditions behind it.

Because war has generally been organized and used by states, most theorists link its utility to the state. But this is not a truism, in that non-state actors can also wage war, and not all of them aspire to become a state.⁵⁰ History is replete with examples of non-state actors waging war on state or their citizens: pirates, smugglers, subdued or conquered tribes, or smaller groups such as the escaped slaves of San Basilio de Palenque, who bedeviled Nueva Granada’s governors for decades.⁵¹ However, most wars are linked to states, or war would not be very different from piracy or commercial wars.

Rationality cannot always be assumed in international relations. Most conflicts are based on policies that worked in the past, or to resolve past issues; most seek an achievable goal. National leaders often seek an outcome they prefer or incorrectly evaluate their policies, rather than seeking the most effective, best, or even possible options. The state’s decision-making processes often lead to irrationality, as Singer writes: “individual and bureaucratic priorities mingle with poor organization, faulty intelligence, and collective ignorance,” resulting in bad policy decisions. To this he adds the caveat that any “theoretical formulation that ignores, avoids, or obfuscates the human decisions that link stimulus to response will be, at best, incomplete and, at worst, downright wrong.”⁵² This is especially apparent when analyzing the many available treatises on war, strategy, and international relations, as all have been written from a specific national or regional perspective. The

⁴⁹ Sun Tsu, cited in Chaliand, p. 18.

⁵⁰ Strachan writes that Clausewitz did not link war specifically to states, noting instead that it is a clash of wills. Hew Strachan and Sibylle Scheipers, eds., *The Changing Character of War* (Oxford: Oxford University Press, 2011), pp. 6, 12.

⁵¹ Marco Palacios and Frank Robinson Safford, *Colombia: país fragmentado, sociedad dividida, su historia* (Bogotá: Editorial Norma, 2002), p. 132.

⁵² J. David Singer, “System Structure, Decision Process, and the Incidence of International War,” in Manus L. Midlarsky, ed., *Handbook of War Studies* (Boston: Unwin Hyman, 1989), pp. 8-11, 14.

meaning of any war depends on how and why people fight, and on these also depend the result, and thus a war is the ultimate election of their values and objectives because an active participation and sacrifice by a nation's citizens is required. Even monarchs in medieval and early modern Europe had to entice their subordinate nobles to make the call to arms and support their monarch, often offering economic or political incentives as rewards for participation.⁵³

Marini writes that because all wars are 'pluricausal,' their resolution must result from a combination of multiple actions.⁵⁴ The end of any war must be defined at the beginning or early during the conflict, or it will continue even after the formal cessation of hostilities. In other words, the political objective must be achieved or the conflict will remain in place. Marini cites Hugo von Groot [Grotius] in defining war as a condition in which individuals collectively propose to resolve differences through force, adding that war is traditionally linked to states because of the absence of an international police force.⁵⁵ Corbett added that grand strategy during wartime is concerned with the peace that follows, because winning a war means making the acceptance of peace terms more desirable than the alternatives. Thus, military strategy only seeks to end a conflict, while grand strategy defines that victory and the peace that follows. Both serve a nation's interests, and are interdependent, even when they do not appear to act in concert.⁵⁶

Strategy is a list of measures to be taken to achieve an objective. But grand strategy is not a strategy with more value or importance (grandness?), as many historians appear to understand the term. In a nutshell, grand strategy is a list of national objectives or outcomes, paired with a list of national resources to be expended in the effort to achieve those objectives. The most common component is, of course, military strategy.

⁵³ Paul Seabury and Angelo Codevilla, *War: Ends & Means* (New York: Basic Books, 1989), pp. 27-28.

⁵⁴ Marini, vol. 1 p. 172.

⁵⁵ Marini, vol. 1 pp. 37-38.

⁵⁶ Corbett, *Some Principles*, p. 16. See also Marini, vol. 2 pp. 193-195.

Military force is what a state uses to ensure its safety from enemy attack, or to impose its will on other states. Carl von Clausewitz' essays described war as one of the elements of a state's available actions taken to achieve national interests. Because his work was an effort to elaborate a theory of war, he condensed the definition to the dictum that "war is nothing but a continuation of political intercourse, with a mixture of other means."⁵⁷ In other words, a state may practice international relations through violence to achieve results unobtainable through diplomatic means.

National leaders, however, also impose limitations on that use of violence, just as they impose limits on the use of diplomacy, psychological, or economic actions. In 1902 von Bernhardi paraphrased the popular dictum on the objective of war, stating that "war is always a means only for attaining a purpose entirely outside its domain," by which he meant that the objective sought through war was not something the military component of a government could elaborate, because that object is seldom military, and thus falls within the realm of the monarch or elected head of state. At the very least, grand strategy must consider the effect of a war on the political affairs of the state, something that could only be done practically by the head of state.⁵⁸

Corbett expanded on the Clausewitz dictum, noting that any contemplation of war must begin by asking why the decision to go to war is being made: should the armed forces be expected to take something from the enemy, or prevent it from taking something? How much value do the national leaders (or the enemy) attach to that something? How many resources should be expended in the enterprise? Another way to state this is that all wars are limited, in that asking such questions imposes political, religious, diplomatic, cultural, or economic limitations on any military action.⁵⁹ Marini adds that in the process of elaborating

⁵⁷ Clausewitz, p. 402.

⁵⁸ Friedrich von Bernhardi, *On War of To-day*, volume 2 (London: Hugh Rees, 1912-13), pp. 187-194.

⁵⁹ Corbett, *Some Principles*, pp. 10, 17. Corbett cites Carl von Clausewitz, *On War*, Paret translation, p. 605.

national policy, leaders define the enemy, probable adversaries, and circumstances leading to a conflict, the interests of those opposing the state; they also identify allies, friends, or neutrals and how to deal with each. National leaders must review war plans developed by the generals, to ensure these match the nation's political requirements.⁶⁰ Any political limitation imposed on the military leaders begins with the idea that the means used in the war cannot be in conflict with the policy on which the war began, or the core values of the nation. If there is a differing opinion on how to proceed, the policy side must always be supreme, or, using Corbett's words, "the policy is always the object; war is only the means by which we obtain the object, and the means must always keep the end in view."⁶¹

Not everyone agrees. Liddell Hart wrote that the aim of all war is the subjugation of the enemy's will. Leaders must weigh the respective merits of each means available: "it is the function of grand strategy to discover and exploit the Achilles heel of the enemy nation; to strike not against its strongest bulwark but against its most vulnerable spot."⁶² He assumed that without a viable military force, a state would abandon its war objectives. Corbett noted that often states seek objects that are not worth the expense of a conflict, and its leaders must decide if the state can afford the expense of overcoming an enemy's full resources before initiating a conflict. They may decide to wage a very limited war, seeking even to not engage the enemy's military, if possible.⁶³

Regardless of the rationale or posture, all armed forces must be credible enough for the national leaders to use when needed – they must be able to achieve the military objective dictated in the grand strategy. To do this, military leaders must develop what is now known as military strategy. Of all a nation's components of power, those dealing with politics and military strategy are the most important during wartime; national successes are based on

⁶⁰ Marini, vol. 2 pp. 107-108, 141.

⁶¹ Corbett, *Some Principles*, pp. 26-27.

⁶² Basil Henry Liddell Hart, *Thought on War* (London: Faber & Faber, 1944), pp. 151-152.

⁶³ Corbett, *Some Principles*, p. 45.

military and political strategy executed intelligently. The political aspect is generally the most stable, while the military component varies according to the fortunes of the war. Marini added that a good grand strategy followed by a poor execution of military strategy will lead to chaos; likewise, a brilliant military strategy not exploited and used to advantage by grand strategy has little value.⁶⁴

Strategy. Until the XVIII century, the term ‘strategy’ related to how a military commander used forces to achieve success *on the battlefield*. As communication technology improved and armies grew in size, the term was promoted from the battlefield to the national command level, used to refer to the national military command authority to blend all national resources to achieving success in the overall war effort. It has today been adopted by most disciplines to describe all methods – at any and all levels – used to achieve success in any endeavour. The term *strategy* evolved through a background of military studies, with a lengthy history of usage denoting several things.

The term’s origins can be found in Greek writings describing the role of a general officer on the battlefield, what today is referred to as tactics. Some authors state that the word is a combination of the Greek *strates* (army) and *agein* (to direct), and that it always dealt with the conduct of war or military campaign, though Pliny used it in reference to the work of a state’s governor during wartime.⁶⁵ Both Xenophon and Polybius used the term Στράτηγος (*strategos*) in relation to the art of the general officer and his overall battle plan for using all of the forces at his disposal.⁶⁶

Not until the XVIII century was the term strategy given further definition, to include what a general officer did when preparing for war. This change reacted to the advent of

⁶⁴ Marini, vol. 2 pp. 196-197.

⁶⁵ Marini, vol. 2 p. 17-18.

⁶⁶ Strachan, “The Lost Meaning of Strategy,” *Survival*, 4(#3, Autumn 2004): 34-5.

standing armies and the need to plan for their support and armament over the course of several years. The expansion of the term also represented one of the first attempts to define a theory of war. Joly de Maizeroy's book *A Theory of War* added the relationship between time, position, means, and interests during conflict, taking into consideration as many factors as could be controlled by a government.⁶⁷ One of the most influential author on military arts, Antoine-Henri Jomini, wrote that "strategy is the art of making war on the map, and comprehends the whole theatre of war," seeking thus to expand the term yet again by including elements of government that traditionally had been separated from war, such as commerce, diplomacy, national industry, or transportation.⁶⁸

Then and now the boundary between leadership during time of war (the general officer) and peacetime (the monarch), then and now has defied all efforts at exact delineation. Personalities are as critical a variable as any other in this equation. Furthermore, until the XVIII century, strategy and policy were almost one and the same, in that they were developed and given voice by the same person – the monarch. During the three hundred years covered by this study, there was no significant change in Spanish policy and strategy: all responsibility for elaborating them devolved from the king. He may have delegated, farmed out, or otherwise sought advice, consent, or inspiration from others, but the actual elaboration of state action required the king to first state his wishes.

Ferdinand Foch⁶⁹ combined the Prussian theories of peacetime preparation with those of Napoleon's mass armies, seeking a logical basis for designing armies that guaranteed victories. But such efforts seldom produce results, in part because there are too many variables. Ropp points out that one key variable often ignored by military writers is grand

⁶⁷ Paul-Gédéon Joly de Maizeroy, *Mémoire sur les Opinions qui partagent les Militaires, suivi du Traité des Armes Défensives, corrigé et augmenté* (Paris: Claude-Antoine Jombert, 1773), cited in Strachan, "Lost Meaning," p. 35.

⁶⁸ Antoine-Henri Jomini, *Summary of the Art of War* (Philadelphia: J.B. Lippincott, 1862), p. 69.

⁶⁹ Ferdinand Foch, *The Principles of War* (New York: H.K. Fly Co., 1918).

strategy, in that directing a war requires political authority, economic self-sufficiency, national discipline, and an infrastructure that can support the campaigning army. He quoted Huntington's principle that a nation's civilizing forces keep military forces in check, by limiting the use of violence to achieve political ends.⁷⁰ It is by limiting resources that a nation can pursue what military scholars refer to as a limited war – usually a narrow interpretation of victory and a limitation on the resources assigned to the effort.

French Admiral Raoul Castex is credited with coining the term 'general strategy,' a very close approximation to today's definition of grand strategy.⁷¹ The term described a general officer's actions for military operations, to include preparing for combat, developing the best conditions for victory, linking the various units under his command, coordinating events as they develop, keeping order, guiding tactics, developing rules to govern the area in question before and after combat operations. A major limitation of Castex' analysis is his focus on land wars, ignoring many variables such as naval blockades, war of commerce, and a navy's support of land combat.

Liddell Hart further elaborated the concept of separating *strategy* from *grand strategy*. Foreign policy objectives must be adapted to the political, geographical, and economic environment of the state. The general officer's task he labeled 'pure strategy,' whereas grand strategy was "to coordinate and direct all the resources of the nation towards the attainment of the political object of the war – the goal defined by national policy,"⁷² a circle back to Clausewitz' comments to the same effect almost a century prior.

The most recent refinement to the definition was provided by Michael Howard, who wrote that

grand strategy in the first half of the twentieth century consisted basically in the mobilization and the deployment of national resources of wealth, manpower

⁷⁰ Ropp, pp. 4, 7-9.

⁷¹ Raoul Castex, *Théories stratégiques*, volume 1 (Paris: Societe d'Editions Géographiques, Maritimes et Coloniales, 5 volumes, 1927- 1933), p. 9. Marini, vol. 2 pp. 105-106.

⁷² Liddell Hart, *When Britain Goes to War* (London: Faber. 1928), p. 83.

and industrial capacity, together with the enlistment of those allied and, when feasible, of neutral powers, for the purpose of achieving the goals of national policy in wartime.⁷³

Thus were brought together all the elements spelling out the thesis posited by Clausewitz, that war is politics by other means: national leaders develop the objectives and limitations, and provide the means; military leaders conduct the war within those parameters, coordinating with all other elements of national power, seeking to achieve the object of the conflict.

These concepts may have not been spelled out specifically in early modern Spain, but there are many examples in the archives of monarchs issuing orders that bear all the hallmarks of a modern national security strategy. Most were tailored to a specific threat or situation, rather than being all-encompassing or generalized enough to cover overall policies.⁷⁴ One example is that of Spain's efforts in 1510 to establish a defensive colony in Tunis. Twenty years later Barbarossa conquered the port and established a pirate haven. Carlos V wrote a grand strategy for its re-conquest, sent to his wife (his regent in Madrid), and to his principal admiral, Andrea Doria. It all came to naught, however, and by 1541 Spain had abandoned the effort. Not all of the emperor's grand strategy plans dealt directly with military threats; in 1530, Carlos V wrote his objectives relating to Henry VIII's efforts at divorcing Catherine of Aragon and its impact on religious and international relations. This one succeeded partially, by keeping Catherine alive, though Henry's efforts caused a religious schism in order to divorce her.⁷⁵

Historians today blend such terms and concepts into the word 'strategy', and link it to the particular state institution involved, such as the *Junta de Guerra* for military strategy, the

⁷³ Michael Howard, "Grand Strategy in the Twentieth Century," *Defence Studies* vol. 1 (2001): 1-10.

⁷⁴ A.G.S. Estado leg. 29. Carlos V al Principe de Andrea Doria, 11 Junio 1534; A la Emperatriz N. Sra., Aguyta a ocho de Junio de MDXXX^{os}.

⁷⁵ A.G.S. Leg. 636 fol. 82, 83. Asuntos de Religión luego que llegó ally y otras negocios, divorcio de Henrique 8º. Aguista, 8 de Julio 1530.

Real Hacienda for fiscal strategy, the *Casa de Contratación* for commercial strategy, or the king for dynastic marriage negotiations. As mentioned earlier, the later Hapsburg monarchs produced little by way of detailed instructions or wills of the kind written by Carlos V and Felipe II. Even the Bourbon dynasty that rose to power in 1713 did not significantly alter the Hapsburg grand strategy, though it did produce many written plans elaborating tactics designed to streamline the government to increase the efficiency of their taxation system, as a means to finance the grand strategy already in place. These examples show clearly that the Spanish monarchs knew and understood what is today called grand strategy, and used it to their best advantage.

Military strategy is an easier term to define, in that it encompasses all efforts carried out by a state's armed forces aimed at defeating the enemy's armed forces. Corbett described it as the art of directing force towards an end, seeking an ulterior object, through the use of force. What he called 'minor strategy' is today known as doctrine, how a specific armed force plans and trains to apply force towards primary objects.⁷⁶

Most military strategies contain plans to prevent alterations to the state's territorial integrity, specifically any that could weaken its sovereignty. During times of peace, the armed forces play a significant role as a deterrent to foreign aggression. They provide support to militias and police forces to preserve internal order and public safety, and help secure the state's borders by maintaining coast guard or coastal defence posts along the coastal maritime zones. Another mission is to provide security to the nation's citizenry engaged in innocent business abroad, primarily through deterrence, such as maintaining rapid-response special forces.⁷⁷

⁷⁶ "Julian Corbett," in Chaliand, pp. 831, 842.

⁷⁷ Webb, p. 431.

Posen explains military strategy in terms of seeking the most effective means to reduce uncertainty on the battlefield. An offensive battle plan is easiest to develop, because its objective is to deny the enemy his standard operational plan; a defensive plan requires reacting to the enemy's actions, and thus is more difficult to develop in advance, which increases uncertainty. Successful implementation of any military plan requires integrating military force with foreign policy. More specifically, the leaders of the armed forces and the diplomatic forces need to work closely if the objectives are to be met, and need to know each other's issues sufficiently to work together.⁷⁸

Throughout history, military commanders have used all their available resources to achieve victory. The development of standing armies, permanent navies, and (now,) air forces has led to a separation of the commander's resources, primarily in an effort to simplify the complexity of command. This in turn led to the development of joint strategy, which allows the senior commander to call on any component of his force to pressure the enemy at the time and point of his own choosing. However, each service has its own operational strategy, ranging from simple conventional forces to nuclear weapons, to subversive or guerrilla tactics.⁷⁹

Another means of classifying military strategy is that of limited or unlimited.

Clausewitz defined military strategy by categorizing wars as:

First, those in which the object is the *overthrow of the enemy*, whether it be we aim at his political destruction or merely at disarming him and forcing him to conclude peace on our terms; and secondly, those in which our object is *merely to make some conquests on the frontiers of his country*, either for the purpose of retaining them permanently or of turning them to account as a matter of exchange in settling terms of peace.⁸⁰

⁷⁸ Posen, in Art and Waltz, pp. 13-16.

⁷⁹ Marini, vol. 2 pp. 131-132.

⁸⁰ Clausewitz, p. 104, *passim*, italics in the original.

Both on land and at sea, the range of a conflict's intensity runs from a death struggle for supremacy to a simple blockade.⁸¹ In some cases, absolute war is justified, such as when a state's survival is threatened. But in other cases the political objective is less important and only limited resources are considered sufficient to the task, so as to limit the risk of retaliation (or loss).⁸² Thus the first question military leaders must ask relates to the force required to meet the political objective, after which they need to find out how much the enemy values the object, how distracted it is, and how to make the enemy's logistics into that area much worse for mobility.⁸³

Limited wars are not defined by the strength or size of the armed force, but rather on the resources political leaders are willing to expend on the battlefield. At times the limit is imposed by the political objective, such as when England sent small expeditionary forces to assist the Dutch fight against France or Spain during the XVII-XVIII centuries. The overall war was helped by this symbolic force, but it gave England political coverage for deploying the Royal Navy against the colonial assets of both rival powers, where its contribution was more significant.⁸⁴

Military strategy during the XV-XVII centuries was of a limited nature, in that campaigns were conducted by monarchs leading armies or navies directly, against fortified enemy positions or naval formations. Operations were carried out only by professional (often mercenary) forces, and civilians were involved primarily as sources of revenue (taxes or plunder) or as collateral damage. Large battles were avoided as too costly, and most campaigns involved maneuvers and feints to cut enemy communications, to wear down the enemy by exhausting its resources. Corbett used the example of the sixty years of war between Spain and the United Provinces, during which only one large battle took place (the

⁸¹ Corbett, *Some Principles*, pp. 41-42.

⁸² *Ibid.*, p. 43.

⁸³ *Ibid.*, pp. 86-87.

⁸⁴ *Ibid.*, pp. 58-61.

siege of Antwerp in 1585). Most of the campaigns involved lengthy sieges fought by mercenaries, in which generals sought to reduce casualties because of their expense.⁸⁵

However, the campaigns imposed a high cost on the civilian population, in that plunder was acceptable as a major source of income for the troops.

An unlimited war strategy requires that a state assign almost all of its resources to the conflict, which makes it more difficult to decide when the war has been won. Is it necessary to annihilate the enemy armed forces alone, or must the enemy nation also be destroyed? In this sense, a limited war is always a better option, as it allows a state to aim its forces at the object of the war, rather than at the enemy's armed forces.⁸⁶ Destruction of the latter seldom ends a conflict, as the enemy territory must be occupied and governed, requiring additional troops and a further allocation of national (non-military) resources.⁸⁷ But this last fact does not lead to rejecting the corollary that war demands the use of conflict – all wars require that battles be fought. A limited war means only destroying enough of the enemy's force to prevent or terminate the action.⁸⁸

Naval Strategy. Sea power is generally understood to be the national power which enables a state to send armies or merchants to overseas territories as needed, while preventing an enemy from doing the same. War at sea is a struggle between armed naval forces, and such a force usually contains fighting ships to overcome enemy movements, bases to keep those ships ready and close to the action, and transport ships to move troops and provisions.⁸⁹ A successful navy can control its enemies' communications at sea (that is, the routes used for maritime trade), to control distant possessions, or to move about with a fighting force.

⁸⁵ Chaliand, pp. 2-3.

⁸⁶ Corbett, *Some Principles*, pp. 73-74.

⁸⁷ *Ibid.*, pp. 74-75.

⁸⁸ *Ibid.*, p. 86.

⁸⁹ Herbert William Richmond, *Statesmen and Sea Power* (Oxford: Clarendon Press, 1946), p. ix.

Naval strategists determine where and when to best commit a fleet, occasionally deciding that control of the sea may be urgent, or in other cases that the destruction of an enemy fleet is more critical.⁹⁰ Most modern definitions of maritime policy include the need for a fighting fleet to defend against invasion, to protect maritime commerce by keeping open the sea lanes of communication and blockading enemy ports, or to engage in combined operations. These include fighting the enemy, sealift, operations in support of land forces, and amphibious operations. Dispersed naval bases are important to keep the fleet close to where action is anticipated.⁹¹ Command of sea lanes is a vital concern for sea powers, because cutting off of an enemy's source of commerce is the surest way to end a war, a strategy adapted to naval power by John Hawkins in the 1560s.⁹²

Unfortunately for Spain, its military strategists believed that naval power was of limited value when facing land-based military power. Because the Hapsburgs' objective of hegemony involved Europe's land mass, and large land forces to conquer it, enforcement of national objectives was logically equated with large armies. Navies were considered expensive and of questionable value, especially when sent to patrol parts of the empire not directly in support of the European battlefield, such as the Indies or the western Mediterranean. As a result, the Crown was forced to use diplomacy as its primary effort to keep foreign irregular forces – pirates, privateers, or smugglers – out of the Caribbean.⁹³

Corbett wrote that military and naval strategy are not separate entities, they are different manifestations of the same thing, though still components of government power. Likewise, naval strategy is a component of maritime strategy: the latter includes the

⁹⁰ Corbett, *Some Principles*, pp. 15-6.

⁹¹ Clark G. Reynolds, *History and the Sea: Essays in Maritime Strategy* (Columbia, South Carolina: University of South Carolina Press, 1989), pp. 15-16.

⁹² Arthur Herman, *To Rule the Waves: How the British Navy Shaped the Modern World* (New York: Harper Collins Publishers, 2004), p 104; Reynolds, pp. 2-4.

⁹³ Jeremy Black, "Naval Power, Strategy, and Foreign Policy 1775-1791," in Michael Duffy, ed., *Parameters of Naval Power, 1650-1850* (Exeter: University of Exeter Press, 1992), p. 115.

principles that “govern a war in which the sea is a substantive factor,” not just the naval fleet. Maritime strategy includes seaborne commerce, the merchant fleets, and the ports they use. Naval strategy deals with the movement of the fleet, demonstrating how national leaders deploy the fleet in relation to the conflict on land.⁹⁴ Richmond wrote of naval strategy as the best means for applying military might to maintain and increase its national power. The basic problem was to achieve a balance between the military and economic elements of grand strategy, for instance, using naval action to reduce an enemy’s commercial strength.

There is little consensus among theorists on the nature of naval warfare. Mahan wrote that a navy is never static, always on the offensive, reasoning that coastal defense is a defensive posture and only works well when used as the basis for offensive action.⁹⁵ Corbett disagreed. At sea, a strategic defense can be very successful, especially against a stronger naval force. Most of England’s enemies during the XVII-XVIII centuries adopted this attitude, as the Royal Navy offensively sought and destroyed its enemies on the open seas. On the other hand, the deterrent power of a strong navy created this situation: the Royal Navy’s power and prestige forced its rivals to adopt a defensive posture. But it was not always so, as demonstrated in the XVI century when Admiral Howard, Sir Francis Drake, Captain Frohbisher, and other illustrious ship captains used the Scilly islands as a strategic defensive point against the Spanish Armada.⁹⁶ In that case, Spain’s power and prestige was such that England was forced to develop new tactics to lure the Armada to fight on her terms, with great success.

The concept of limited war is inherent to naval conflict, and even more so when empires are separated by seas. In such cases, Corbett stated that limited warfare is organic, given that colonial wars never put the home country at risk.⁹⁷ Isolation of the disputed area is

⁹⁴ Corbett, *Some Principles*, p. 15-16.

⁹⁵ Jean Nelson, pp. 3.

⁹⁶ Corbett, *Some Principles*, pp. 37-38.

⁹⁷ *Ibid.*, pp. 56-57.

required for a limited war, by barring the enemy from a counter-stroke. Waging a war with no contiguous borders makes it easier for a defender to deter an enemy than is the case of warfare against a continental neighbour. The mere act of controlling the sea lanes limits an enemy's freedom of action, as stated by Sir Francis Bacon: "he that commands the sea is at great liberty and may take as much or as little of the war as he will, whereas those that be strongest by land are many times nevertheless in great straits."⁹⁸ In other words, the object of naval warfare is control of the sea or preventing the enemy from gaining control over it. However, the loss of such control never leads directly to an enemy's control, because the sea cannot be occupied outside of territorial waters where land-based weapons can keep an enemy at bay. There is no equivalence between conquest at sea or on land, as a navy cannot forage or subsist in its environment. In other words, the normal condition at sea is one of lack of control and this can only be negated when a force occupies the area or denies the enemy all access to it.⁹⁹

Then as now, command of the sea refers to the ability of a naval force to deny the use of a portion of the sea to another force, a denial based on the range and effectiveness of its weapons. This was a serious problem in the XVI century when ships depended on wind and weather for propulsion. Richmond wrote that "command of the sea is only useful for the end it serves:" as soon as the navy evacuates the area, that control is lost, as its weapons can no longer deter an enemy from using that section of the sea. Richmond noted that technological advances usually lead to the development of strategy, though the opposite would be more efficient. Normally, seamen and shipwrights develop new ways of building, rigging, and arming ships, after which naval commanders then seek ways to integrate these developments into their battle plans and tactical operations.

⁹⁸ Francis Bacon, *Essays* 29, "Of the True Greatness of Kingdoms," in *Ibid.*, pp. 56-57.

⁹⁹ Corbett, *Some Principles*, pp. 91-93.

Naval pressure alone can seldom win a war or achieve a nation's objectives. A navy serves to exhaust an enemy's land forces by denying them supplies normally received via the sea. During wartime, commercial cargo ships must be defended from enemy action, usually through escorting convoys, patrolling the sea lanes, or capturing enemy bases from which attacks are launched. Escort forces must have sufficient capability to deter or counter an enemy attack, regardless of the type and strength of that force. Patrolling forces often must be kept for long periods of time in the area of vulnerability, and thus must be given sufficient force to defend against the enemy's probable strength and type of force. Padfield argued that naval power is seldom superior to land forces, and in fact "power on the sea can only be exercised consecutively and for long periods, by a settled state possessed of large revenues."¹⁰⁰ It needs to be taken into account, however, that during the XVI century, European land-based armed forces were roughly balanced, and thus sea power often became a decisive force, if only because of the nature of warfare at the time. Relatively small states such as England or the Netherlands could use their navies effectively as counterweights to Spain and France, the large land powers.

Economic warfare is the foundation of maritime strategy, and is intertwined in all studies of the issue.¹⁰¹ All maritime theorists agree that the underlying assumption of naval strategy is to deny the enemy the ability to conduct commerce, whether to earn income or purchase supplies to feed the war effort. This commerce involves moving ships and cargo, both civilian and military. Thus a navy's primary objective during war is to deny the enemy sea lanes of communication, to cut off his access to food supplies, energy, or any other thing required to conduct the war or even to survive; as Corbett wrote, a navy seeks to starve the

¹⁰⁰ Peter Padfield, *Tide of Empires: Decisive Naval Campaigns in the Rise of the West*. Volume 1, 1481-1654 (London: Routledge Kegan Paul, 1979), p. 53.

¹⁰¹ An exception to this analysis is the development of sea-based nuclear weapons as a deterrent factor. These alter the analysis in that they are a separate component of grand strategy, related tangentially because they are carried on navy ships or submarines.

enemy into submission. By comparison, land forces must occupy the contiguous borders surrounding the enemy and force an end to the conflict by defeating the enemy's will to continue fighting. The navy serves best by shortening the time required to achieve that objective. Usually, when control of the seas surrounding the enemy is achieved, the end of the conflict is near.¹⁰²

At this point in the argument, Corbett writes about several elements of grand strategy, noting that armed force is important to a conflict, but finance is equally important, because if the armed forces are equal, the side with the most resources wins.¹⁰³ At sea, this means that occupation of the enemy's sea lanes of communication is paramount, because having command of a sea means the enemy cannot effectively attack one's sea lanes of communication, or effectively defend his own lanes, and in the end has insufficient resources to prosecute the conflict. Control at this level of effectiveness requires a preponderance of power in relation to the objective of the war. Having a fleet capable of controlling the sea lanes connecting a state's naval bases and trade nodes, in addition to denying the same to the enemy, is of paramount importance.¹⁰⁴ Richmond added that most analysis on naval power asserts that "trade is as intertwined in sea power as is the navy; one exists because of the other, and vice versa."¹⁰⁵

Blockades require achieving naval or air superiority in a specific location for the time required, seeking to ensure that the enemy state never achieves enough superiority of forces as to bring an end to the action. This implies maintaining sufficient naval, air, or ground forces to conduct deterrent or aggressive action¹⁰⁶ to successfully contain the enemy's forces.¹⁰⁷ Naval blockade is not a panacea, however, unless a state is willing or able to

¹⁰² Corbett, *Some Principles*, pp. 93-95.

¹⁰³ *Ibid.*, p. 102.

¹⁰⁴ *Ibid.*, pp. 104-106.

¹⁰⁵ Richmond, *Modern World*, p. 15, 56.

¹⁰⁶ In today's terminology, kinetic force.

¹⁰⁷ Webb, p. 432.

enforce it. In 1689, England agreed with the Netherlands to boycott trade with France, in part to prevent France from gaining control over all Atlantic ports in Europe. But no one could be convinced to honour the boycott: Sweden and Denmark refused and sued the English crown, seizing all her ships within their respective areas of jurisdiction. Merchants (including Dutch and English) resorted to smuggling to such levels that commerce in France continued as if the boycott did not exist. However, by 1690 France had lost control of the Channel, and was reduced to launching raids against foreign shipping. Increased English spending for the navy deterred naval battles, and by 1694 the Royal Navy was strong enough that sending a fleet to patrol off the coast of Barcelona deterred a French invasion of Spain. Emphasis on England's maritime strategy, as the naval and economic components of grand strategy, proved balanced enough to achieve the Crown's political objectives.¹⁰⁸

The principal purpose of Spain's defensive system of fortifications and sea lanes of communication (known in today's navies as SLOCs) was not the protection of the Indies, but rather the protection of the flow of goods and, more importantly, treasure along the sea lanes between the fortified nodes or chokepoints. In this regard, the system worked remarkably well; more treasure was lost to weather and careless seamanship than to enemy action, and little Crown treasure was ever taken by force at the fortified points in the Indies. Most of the losses to enemy action were smaller merchant ships or dispatch boats; few were warships.¹⁰⁹ The only losses to enemy action included attacks by enemy navies, not pirates or privateers, to Dutch Admiral Piet Hein in 1628 near Habana, and to the British fleet in Cádiz in 1596 under Admiral Howard. There were other incidents, such as the 1657 attack by the British fleet under Admiral Blake in Tenerife, which prevented the treasure from arriving that year,

¹⁰⁸ Richmond, pp. 12-19.

¹⁰⁹ García-Baquero González, pp. 275-281.

though it was not lost.¹¹⁰ Francis Drake's capture of the *Caçafogo* in the South Sea in 1577 and Henry Morgan's 1671 sacking of Panamá are evidence that depending for defence on a central committee in Spain whose principal concern was to cut costs was not in the best interest of either the Crown or the colonists. Both occurred outside the areas declared "strategic," in places that were not effectively protected.

Protection of the colonies themselves was a secondary purpose for the strategic forts, though attacks on them did result in military action. Pirates seeking to capture treasure and hold towns for ransom were a frequent threat during the XVI – XVII centuries; military forces seldom occupied extensive territory for long periods of time, seeking mostly to defeat Spanish forces at that location or prevent the treasure fleets from sailing.¹¹¹ In terms of preventing foreign nations from conquering the principal colonies on the mainland or chokepoints along the treasure route, the secondary strategy functioned well also. The only mainland lost was the sparsely populated areas of Guyana, Balis (now Belize) and the Miskito coast, and for a short period the Darién. Enemy positions along the sea lanes considered strategic were attacked fiercely. This happened in Florida, occupied by the French in 1562; Ribault and Laudonnière's Huguenot colony was attacked three years later by Menéndez Avilés. It happened again in the Darién, occupied (1698-1701) by Paterson's Scottish New Caledonia Enterprise; and in the San Andrés and Providence archipelago. The latter was initially occupied by Dutch pirates, then formally colonized by English Puritans in 1630, and recaptured by the Spaniards in 1640 and 1666. The only islands of any size or strategic importance taken by foreigners were Jamaica and the western half of Española,

¹¹⁰ Gervasio de Artífano y de Galdácano, *Historia del comercio con las Indias durante el dominio de los Austrias* (Barcelona: Oliva de Vilanova, 1917), p. 90; Richmond argued that the Royal Navy's strategy was not so much to capture the treasure as to prevent its arrival in Madrid. Thus, the British action in Tenerife was a success, despite the lack of prize money. Richmond, *Statesmen*, p. 34.

¹¹¹ Antonio Gutiérrez Escudero, "La defensa y las fortificaciones del Caribe español durante la época colonial," in José Mañas Martínez, director, *Puertos y fortificaciones en América y Filipinas* (Madrid: Comisión de Estudios Históricos de Obras Públicas y Urbanismo, 1985), p. 147.

neither considered strategic losses at the time, because there was little treasure to be found on them anymore. Indirectly, though, the territorial losses throughout the Caribbean were significant, as these provided the enemy commercial bases from which to launch smuggling operations, in addition to their use by pirates as bases for plunder and mischief.

The slow expansion of responsibilities – known today as mission creep – grew to include protection of the colonies, and, much more significantly, deterring or capturing smugglers. The king often received letters from governors or merchants recommending the latter to fleet missions, asking that the navies, militias, *guardacostas*, or *corço* ships be sent to patrol along abandoned or hidden ports, inlets, or river mouths which the foreigners frequented. Many were the complaints that royal ships spent too much time in port, or were held up through lack of maintenance when they should be out patrolling the coasts. These complaints reflected in part the lack of a maritime tradition; ships have always been maintenance-intensive platforms, requiring large expenditures and long periods of time in dock for repairs. Few of the administrators writing to the king considered this problem, always hinting that perhaps there was a level of laxity involved in law enforcement. This may well have been so, but the resources allocated to anti-contraband efforts were never adequate, and seldom efficacious.

Historiography

The literature specific to smuggling is much smaller than would be anticipated. That said, there is a large volume of work on the topic of Spain's government and commerce in the Indies that include at least some writing about smuggling. Reviewing the latter would almost necessarily require commenting every book on colonial Latin America. There is always the risk of omitting or overlooking the one book important to the reader.

Archival material always provides a wealth of data, but has its own limitations. In smuggling, the bulk of the materials consist of correspondence from the colonies (complaints of interloping, abuses, problems, requests for resources) and reports of court cases. In the case of smuggling, it is similar to attempting to drink from a firehose, the volume of data is overwhelming to the point of repetitiveness. In one case, the entire story of a French ship was recreated during the interrogation of the crew, from the departure in 1579 to the capture in 1580, detailing all ports visited, merchants contacted, goods sold or exchanged, clashes with Spanish forces at sea and on land, and an inventory of everything confiscated. At the other extreme is a case in Nueva Granada details the arrest of a local man attempting to sell a small bundle of goods licensed for elsewhere; the record ends with evidence of the Inquisition being involved – no resolution indicated.

Published primary sources are almost as difficult to categorize. The bulk of these are memoirs such as Alsedo Herrera,¹¹² based on the author's records and memory; specialized commissioned studies such as Gonzalez Salcedo's analysis of contraband,¹¹³ biased in favour of the government or a specific institution; and the many lobbying efforts known as *arbitristas*, advocating a specific solution to a specific problem, often in favour of the sponsoring entity or individual. Historians and other scholars have given these various degrees of credit, also depending on the value perceived of the *arbitristas'* analysis on the study being authored. Recent analysis by Dubet¹¹⁴ indicates such studies were much more influential than is normally assumed, though (as usual) more research is required to support the assertion.

Overarching diplomatic histories were generally written after years of archival study, where the author read everything on the topic and then dedicated years to writing the history

¹¹² Alsedo y Herrera, *Piraterías*, op cit.

¹¹³ Gonzalez Salcedo, *Tratado Jurídico*, op cit.

¹¹⁴ Anne Dubet, "Los arbitristas entre el discurso y la acción política. Propuestas para un análisis de la negociación política," *Tiempos Modernos* 4(9, 2003).

of everything on the specific topic. These often set the tone for all future studies, as students read them, often uncritically, and based future studies on impressions therein gleaned. If read more critically, it is often difficult to refute many of such assumptions and impressions without altering definitions. Cultural attitudes change over time, making it important for today's scholars to read such works more carefully, so as to not detract from their value as sources of data and analysis still important to the topic's historiography.

Overview studies are those seeking to describe a theory or elicit historical cycles, often within a specific discipline. An example related would be Heckscher's work describing mercantilism.¹¹⁵ Another would be that of Wilson, studying the Thirty-Years War, including much on the governance of Spain, one of the primary participants.¹¹⁶ Invariably, a critic provides an alternate interpretation, and a scholarly debate ensues, sometimes over decades. There are no such tome son smuggling, but many related to Spanish history, such as Tracy¹¹⁷ (rise of empires), Liddel Hart¹¹⁸ (grand strategy), Hamilton¹¹⁹ (economic policy), Chaunu¹²⁰ (fleet trade), TePaske and Klein¹²¹ (colonial finances), several on the structure of the Spanish government (Elliott,¹²² Lynch¹²³), the empire's objectives (Fernández Alvarez¹²⁴) and several more on colonial government (Hanke,¹²⁵ Haring,¹²⁶ Ots Capdequí,¹²⁷ Cespedes del

¹¹⁵ Eli Filip Heckscher, *Mercantilism* (London: George Allen & Unwin, Limited, 1934).

¹¹⁶ Peter H. Wilson, *The Thirty Years War: Europe's Tragedy* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2009).

¹¹⁷ Tracy, op. cit.

¹¹⁸ Liddell Hart, op. cit.

¹¹⁹ Hamilton, "The Role of Monopoly in the Overseas Expansion and Colonial Trade of Europe Before 1800," *American Economic Review*, 38 (#2, May 1948): 33-53.

¹²⁰ Chaunu, op. cit.

¹²¹ John J. TePaske; Herbert S. Klein, "The Seventeenth-Century Crisis in New Spain: Myth or Reality?" *Past and Present*, Vol. 0 (issue 90, Feb. 1981): 116-135.

¹²² Elliott, op. cit.

¹²³ Lynch, op. cit.

¹²⁴ Manuel Fernández Alvarez, *Política Mundial de Carlos V y Felipe II* (Madrid: Consejo Superior de Investigación Científica, Escuela de Historia Moderna, 1966).

¹²⁵ Lewis Hanke, *The Spanish Struggle for Justice in the Conquest of America* (Philadelphia: University of Pennsylvania Press, 1949).

¹²⁶ Haring, op. cit.

¹²⁷ José María Ots Capdequí, *Las instituciones económicas hispanoamericanas del período colonial*, separata del *Anuario de Historia del Derecho Español* (México: Fondo de Cultura Económica, 1946).

Castillo¹²⁸). Of note, when the issue of smuggling arises, most of these treat it as a trivial thing that does not impact their main thesis. However, none offers any evidence to support the assertion. Studies more specialized in nature tend to give the smugglers a more important role, in general offering some rationale with this conclusion.

Anthologies are a boon to young scholars seeking to “get up to speed” on a given topic, as they often present differing views from well-known scholars of a given overarching topic. Difficulties abound, however, given internal contradictions of basic starting points or definitions, sometimes pointed out in the introduction to the work; a peek at reviews is always useful in placing these in context. Tracy’s¹²⁹ work on empires and trade provides a great background to understanding the background to smuggling during the time frame; Yuste’s¹³⁰ work, specific to Spanish trade is equally useful; on colonial government, Castillero Calvo & Kuethe’s book is of great value.¹³¹

The trend in historiography since the early 1970s is to analyze history from the point of view of “los de abajo,” which brings in a new set of interpretations and value judgments seeking to counter those of the past, revising history to match current cultural ideas. Important as these may be, the risk is that all past histories are denigrated as insufficiently ‘woke.’ The irony to this trend is that often such revisionism is based almost entirely on the data gleaned from reading secondary works, without seeking new data from archival resources. This is especially true in cross-discipline studies, where new or ‘nuanced’ definitions lead to the new interpretations or analysis. This is not to denigrate new interpretations of data or events, as many such studies result from rigorous number-crunching

¹²⁸ Guillermo Céspedes del Castillo, *América Latina Colonial hasta 1650* (México: Secretaría de Educación Pública, 1976).

¹²⁹ Tracy, op. cit.

¹³⁰ Carmen Yuste, coordinator, *Comercio marítimo colonial; Nuevas interpretaciones y últimas fuentes* (México: Instituto Nacional de Antropología e Historia, 1977).

¹³¹ Alfredo Castillero Calvo, and Allan Kuethe, eds, *Consolidación del orden colonial. Historia general de América Latina*, Volume 3, book 1 (Paris: Ediciones UNESCO/Editorial Trotta, 2000).

of archival or generally accepted data sets from previous authors, studies that contribute greatly to the understanding of history.

Most of the historical studies on colonial topics published since the 1980s fall into this category, providing much detail on specific issues. Examples include Romero¹³² or Gonçalves Salvador¹³³ on the trade in slaves; Marchena¹³⁴ on the armed forces in the colonies; Grahn¹³⁵ on smuggling in Rio Hacha during the mid-18th century. Relating to smuggling, examples include García Fuentes¹³⁶ on the Lima merchants' and the Peruleros, and Malamud work on trade between Cádiz y St. Malö.¹³⁷ Much data can be gleaned from such works, with the proviso that it is very difficult to elicit trends applicable over time, unless one reads all of them.

Basic to understanding Spain's government and jurisprudence is the topic of absolutism and law. Phelan's¹³⁸ work is one of the best, describing how Spanish law devolved from Rome. His work is supported by Terradas¹³⁹ (liberal fiction), Schumpeter,¹⁴⁰ and Von Ranke.¹⁴¹ At the point of being repetitive, the basic works describing Spain's

¹³² Fernando Romero, "The slave trade and the Negro in South America," *Hispanic American Historical Review*, 24 (1944): 168.

¹³³ José Gonçalves Salvador, *Os magnatas do tráfico negreiro (séculos XVI e XVII)* (São Paulo: Editora da Universidade de São Paulo, 1981).

¹³⁴ Juan Marchena Fernández, "Guarniciones y población militar de Florida Oriental (1700-1820)," *Revista de Indias* (Madrid), XLI (#163-164, enero-junio, 1981): 91-142.

¹³⁵ Lance Grahn, "An Irresoluble Dilemma: Smuggling in New Granada, 1713-1763," in J.R. Fisher, A.J. Kuethe, and A. McFarlane, eds., *Reform and Insurrection in Bourbon New Granada and Peru* (Baton Rouge: Louisiana State University Press, 1990).

¹³⁶ Lutgardo García Fuentes, *Los peruleros y el comercio de Sevilla con las Indias, 1580-1630* (Sevilla: Universidad de Sevilla, 1997).

¹³⁷ Carlos Daniel Malamud Rikles, *Cádiz y Saint Malö en el comercio colonial peruano (1698-1725)* (Cádiz: Diputación Provincial de Cádiz, 1986).

¹³⁸ John Leddy Phelan, "Authority and Flexibility in the Spanish Imperial Bureaucracy," *Administrative Science Quarterly*, V (June, 1960): 47-65.

¹³⁹ Ignasi Terradas, "El contrabando en el orden social y en la economía política: notas a propósito del caso de la Nueva España," *Relaciones: Estudios de Historia y Sociedad*. 2 (#7, Summer 1981): 40-84.

¹⁴⁰ J. Schumpeter, *History of Economic Analysis* (London: Allen & Unwin, 1954).

¹⁴¹ Leopold von Ranke, *La monarquía española de los siglos XVI y XVII* [translated into Spanish by Manuel Pedroso] (Mexico: Editorial Leyenda, S.A., 1946).

governance include Elliott, Lynch, Prescott,¹⁴² Stradling,¹⁴³ and Fisher.¹⁴⁴ There are works combining governance with economics, such as Slicher van Bath,¹⁴⁵ Terradas¹⁴⁶ (the effect of smuggling on the society of New Spain), Sempat¹⁴⁷ or Ots Capdequi¹⁴⁸ (colonial economic institutions), and a large body of work involving the colonial society.

Despite Haring's massive work on how the colonial government developed, many historians have continued to analyze the topic. Hanke¹⁴⁹ reviewed the structure of jurisprudence, Cespedes del Castillo¹⁵⁰ wrote on the Indies' place in the empire's government, as did Levene.¹⁵¹ Morse described the theory of Spanish government in the colonies, and there are many works dedicated to specific areas, such as Knight's work on governance in New Spain.¹⁵²

As a subset of history or political science, defense studies present their own set of problems for the historian. The initial authors were military practitioners primarily, scholars of varying quality, writing impressions taken from the battlefield. The value of their work almost always reflects the results from the battlefield, as losers infrequently publish analysis of their defeat. Clausewitz¹⁵³ is one of the primary sources of strategic thought, but his work is difficult to analyze, given that it was written over decades, and his conclusions change as

¹⁴² Elliott, op. cit.; Lynch, op. cit.; Prescott, op. cit.

¹⁴³ Robert A. Stradling, *La Armada de Flandes: política naval española y guerra europea, 1568-1668*, 8 (Madrid: Ediciones Cátedra, S.A., 1992).

¹⁴⁴ John R. Fisher, *The Economic Aspects of Spanish Imperialism in America, 1492-1810*, (Liverpool: Liverpool University Press, 1997).

¹⁴⁵ B.H. Slicher van Bath, *Real Hacienda y economía en Hispanoamérica, 1541-1820* (Amsterdam: Centro de Estudios y Documentación Latinoamericanos (CEDLA) Publications, 1989).

¹⁴⁶ Terradas, op. cit.

¹⁴⁷ Carlos Sempat Assadourian, "The Colonial Economy." In Bulmer-Thomas, Victor, Whitehead, Lawrence, and Halperín-Donghi, Tulio, eds., *The Colonial and Post-Colonial Experience: Five Centuries of Spanish and Portuguese America* (Cambridge: Cambridge University Press, 1992).

¹⁴⁸ Ots Capdequi, "Algunas consideraciones en torno a la política económica y fiscal del Estado Español en las Indias," *Revista de Indias* (Bogotá), 2ª época (#6, May 1939): 172- 181.

¹⁴⁹ Hanke, op. cit.

¹⁵⁰ Cespedes del Castillo, "Las indias en el reinado de los Reyes Católicos," In Jaime Vicens Vives, *Historia social y económica de España y América* (Barcelona: Ediciones Vicens-Vives, 1957).

¹⁵¹ Ricardo Levene, *Las Indias no eran colonias* (Buenos Aires: Espasa Calpe Argentina, S.A., 1951).

¹⁵² Alan Knight, *Mexico: The Colonial Era* (Cambridge: Cambridge University Press, 2002).

¹⁵³ Clausewitz, op. cit.

experience broadens his perspective. For instance, his most serious observations were published posthumously, and often conflict with those written in the first few volumes. Sun Tsu¹⁵⁴ has similar issues, with the added complication that he apparently included lessons learned by other authors, without acknowledging the fact, making some of the material is conflictive as well. But all defense scholars feel obligated to credit these initial authors, leading to much confusion as to the basic definitions or starting points.

Studies of Spain's colonial defense can be divided into several components, including strategy (Hoffman,¹⁵⁵ Elliott¹⁵⁶), finance (Barbier,¹⁵⁷ Jara,¹⁵⁸), structural (Marchena,¹⁵⁹), national (Campbell,¹⁶⁰ Kuethe¹⁶¹), regional (Gutiérrez Escudero¹⁶²), component (Marchena¹⁶³ on armies and militias, Fernández Duro¹⁶⁴ on the navy), policy related (McLachlan¹⁶⁵), or based on threat perception (piracy, etc.). A sub-set of defence is the many highly specific studies of the many fortifications throughout the region (ranging from Zapatero's architectural studies¹⁶⁶ of many individual forts to Zackrison's unpublished work on

¹⁵⁴ Tsu, Sun *The Art of War*, Translated by Samuel B. Griffith (Oxford: Clarendon Press, 1963).

¹⁵⁵ Paul E. Hoffman, *The Spanish Crown and the Defense of the Caribbean, 1535-1585. Precedent, Patrimonialism, and Royal Parsimony* (Baton Rouge: Louisiana State University Press, 1980).

¹⁵⁶ Elliott, op. cit.

¹⁵⁷ Jacques, Barbier, "Peninsular Finance and Colonial Trade: The Dilemma of Charles IV's Spain," *Journal of Latin American Studies* (12 (#1, 1980): 21-37.

¹⁵⁸ Alvaro Jara, "El financiamiento de la defensa en Cartagena de Indias: los antecedentes de las cajas de Bogotá y de Quito, 1760-1802," *Historia* (Instituto de Historia, Pontificia Universidad Católica de Chile) 28 (1994): 117-182.

¹⁵⁹ Juan Marchena Fernández, *Ejército y milicias en el mundo colonial americano* (Madrid: Ediciones MAPFRE, 1992).

¹⁶⁰ P.F. Campbell, "Charles Fort and the Little Island," *The Journal of the Barbados Museum and Historical Society*, 35 (4, 1978): 270-286.

¹⁶¹ Alan J. Kuethe, "The Pacification Campaign in the Riohacha Frontier," *Hispanic American Historical Review*, 5: 467-481.

¹⁶² Gutierrez Escudero, op. cit.

¹⁶³ Marchena Fernández, "Guarniciones," pp. 91-142.

¹⁶⁴ Cesáreo Fernández Duro, *Disquisiciones Náuticas: conformación, adorno y armamento de naves antiguas*, (Madrid: Instituto de Historia y Cultura Naval, Ministerio de Defensa, 1996).

¹⁶⁵ McLachlan, op. cit.

¹⁶⁶ He authored many such. An example is: Juan Manuel Zapatero, *El Real Felipe del Callao. Primer Castillo de la Mar del Sur* (Madrid: Servicio Histórico Militar, 1983).

Omoa¹⁶⁷), or descriptions of their place as a defensive system (Zapatero,¹⁶⁸ Calderón Quijano¹⁶⁹). There are many works collecting the document resources on individual fortifications (Rubio Sánchez on Omoa,¹⁷⁰ Zapatero on Santa Marta¹⁷¹). Another topic related to defence is how to pay for them, such as Hoffman's work on royal parsimony,¹⁷² Marchena's studies on how and why Spain defended its colonies,¹⁷³ and Barbier's work on royal expenditures.¹⁷⁴

Literature on the political economy of Spain and how the colonies fit into it fits into several categories. There is great overlap with the overarching studies mentioned above, reviewing global or regional examples and including portions on Spain (Wilson¹⁷⁵). Specific to Spain, there are two principal divisions, the empire (Kamen,¹⁷⁶ Lynch,¹⁷⁷ Vicens Vives¹⁷⁸), and government finances (Wilson,¹⁷⁹ Klein,¹⁸⁰ Carandé,¹⁸¹). A recent trend involves revision of earlier histories, seeking economic theory rather than historical interpretation (Storrs,¹⁸²

¹⁶⁷ James L. Zackrison, "The Castillo de San Fernando de Omoa: The History of a Fiasco" (M.A. thesis, Loma Linda University, Riverside, California, 1985).

¹⁶⁸ Zapatero, *Fortalezas españolas en América, "Cartagena de Indias"* (Madrid: Editorial Revista Geográfica Española, 1967).

¹⁶⁹ José Antonio Calderón Quijano, *Las fortificaciones de la Nueva España* (Madrid: Gobierno del Estado de Veracruz, Consejo Superior de Investigaciones Científicas, Escuela de Estudios Hispanoamericanos, 1984).

¹⁷⁰ Manuel Rubio Sánchez, *Historia de la Fortaleza y Puerto de San Fernando de Omoa* (Guatemala: Negociado de Historia, Departamento de Información y Divulgación del Ejército, vol. 1, 1987, vol. 2, 1988).

¹⁷¹ Zapatero, *Historia de las fortalezas de Santa Marta y estudio asesor para su restauración* (Bogotá: Academia Colombiana de Historia., 1980).

¹⁷² Hoffman, op. cit.

¹⁷³ Marchena Fernández, "La financiación militar en Indias: introducción a su estudio," *Anuario de Estudios Americanos*, 36 (1980): 81-110.

¹⁷⁴ Barbier, op. cit.

¹⁷⁵ Wilson, op. cit.

¹⁷⁶ Henry Kamen, "La financiación militar en Indias: introducción a su estudio," *Anuario de Estudios Americanos*, 36 (1980): 81-110.

¹⁷⁷ Lynch, *Spain, 1516-1598: From Nation-State to World Empire* (Oxford: Basil Blackwell., 1991).

¹⁷⁸ Vicens Vives, op. cit.

¹⁷⁹ Wilson, op. cit.

¹⁸⁰ Klein, op. cit.

¹⁸¹ Ramón Carandé Thovar, *Carlos V y sus banqueros. Los caminos del oro y de la plata (Deuda exterior y tesoros ultramarinos)*, two volumes (Madrid: Editorial Crítica., 1977.)

¹⁸² Christopher Storrs, *The Fiscal-Military State in Eighteenth Century Europe*, (London: Routledge, 2016).

Dincecco¹⁸³). Other interpretations sought include Carandé¹⁸⁴ (Hapsburg finances), Domínguez Ortiz¹⁸⁵ (economic war), Hamilton¹⁸⁶ (economics, monopoly), Land,¹⁸⁷ Fisher,¹⁸⁸ Lynch¹⁸⁹ (each on Bourbon reforms). A subset of this topic is that of mercantilism, specifically as related to Spain: Boxer¹⁹⁰ (relates it to smuggling), Colmeiro¹⁹¹ (Spanish economists), Florescano¹⁹² (relating it to free trade), Harman¹⁹³ (it was commercial warfare), Muñoz-Pérez¹⁹⁴ (*tratadistas*), Silva Herzog¹⁹⁵ (overview), Smith¹⁹⁶ (aberrations such as Struzzi and Dormer).

Any study of smuggling must at least review the literature on trade, which in this case is widespread. Early trade trends are well covered by Barbour,¹⁹⁷ Bernard,¹⁹⁸ and Bernal¹⁹⁹ (published over 70 years). Descriptions of colonial trade have many important works,

¹⁸³ Mark Dincecco, "Fiscal Centralization, Limited Government, and Public Revenues in Europe, 1560-1913," *The Journal of Economic History*, 69(#1, March 2009): 48-103.

¹⁸⁴ Carandé, op. cit.

¹⁸⁵ Antonio Domínguez Ortiz, "Guerra económica y comercio extranjero en el reinado de Felipe IV," *Hispania: Revista Española de Historia*, 23 (# 89-92, 1963): 71-110.

¹⁸⁶ Hamilton, "Revisions in Economic History. VIII. The Decline of Spain," *Economic History Review*, 8 (1937-1938): 168-179.

¹⁸⁷ James Lang, "New Spain's Mining Depression and the Supply of Quicksilver from Peru," *American Historical Review*, 48 (#4, November 1968): 632-641.

¹⁸⁸ Fisher, op. cit.

¹⁸⁹ Lynch, *Spain, 1516-1598: From Nation-State to World Empire* (Oxford: Basil Blackwell, 1991).

¹⁹⁰ C.R. Boxer, "A Question of Contraband: The Old Colonial Trade," *History Today*, 22 (1972): 204-212.

¹⁹¹ Manuel Colmeiro, *Biblioteca de los economistas españoles de los siglos XVI, XVII y XVIII* (Madrid: Memorias de la Real Academia de Ciencias Morales y Políticas), 1879.

¹⁹² Enrique Florescano y Castillo, ed., *Ensayos sobre el desarrollo económico de México y América Latina, 1500-1975* (México: Fondo de Cultura Económica., 1979).

¹⁹³ Joyce Elizabeth Harman, *Trade and Privateering in Spanish Florida, 1732-1763* (St. Augustine: St. Augustine Historical Society, 1969).

¹⁹⁴ José Muñoz Pérez, "El comercio de Indias bajo los Austrias y los tratadistas españoles del siglo XVIII," *Revista de Indias* (Madrid), 17 (#67, 1957): 209-221.

¹⁹⁵ Jesús Silva Herzog, *Tres siglos de pensamiento económico (1518-1817)*, México: Fondo de Cultura Económica, 1950).

¹⁹⁶ Robert Sidney Smith, "Spanish Antimerchantism of the Seventeenth century: Alberto Struzzi and Diego Jose Dormer," *he Journal of Political Economy*, 48 (#3, June, 1940): 401-411.

¹⁹⁷ Violet Barbour, "Rigidities Affecting Business in the Sixteenth and Seventeenth Centuries," *The American Economic Review*, 30 (#1, March, 1940): 290-297.

¹⁹⁸ Gildas, Bernard, "La Casa de Contratación de Sevilla, luego Cádiz, en el siglo XVIII," *Anuario de Estudios Americanos*, 12 (1955): 253-286.

¹⁹⁹ Antonio Miguel Bernal, and Antonio García-Baquero, *Tres siglos del comercio sevillano, 1598-1868. Cuestiones y problemas* (Sevilla: Cámara Oficial de Comercio, Industria y Navegación de Sevilla, 1976).

including Arcila Farias,²⁰⁰ Artiñano y Galcándano,²⁰¹ Castellero Calvo²⁰², Garcia Fuentes,²⁰³ Ots Capdequí,²⁰⁴ Phillips,²⁰⁵ Cervera de la Chica.²⁰⁶ A more recent trend has been to describe a wider, regional scope, described as “Atlantic trade;” proponents include McLeod,²⁰⁷ and Elliott.²⁰⁸ More specific are works on colonial trade, specifying its structure in fleets: Andrews,²⁰⁹ Cespedes del Castillo²¹⁰ on the *avería*, García-Baquero’s²¹¹ overview of the fleets, Hussey²¹² on how the fleets provided a monopoly, Pares,²¹³ Izard²¹⁴ on the limited volume of fleet trade, Smith²¹⁵ on the *Consulados*. Relating the fleets to smuggling is described by Haring²¹⁶ on government restrictions, Pérez Herrero²¹⁷ on the internal networks of smugglers.

Analysis of smuggling as a practice comes from law enforcement and economics authors; they vary greatly in approach and conclusions. Of note, few scholars attempt to mensurate the volume of smuggling, most likely because the archival sources almost prohibit

²⁰⁰ Eduardo Arcila Farías, *Comercio entre Venezuela y México en los siglos XVII y XVIII* (México: Instituto Mexicano de Comercio Exterior, 1975).

²⁰¹ Gervasio de Artiñano y de Galdácano, *Historia del comercio con las Indias durante el dominio de los Austrias* (Barcelona: Oliva de Vilanova, 1917).

²⁰² Castellero Calvo, op. cit.

²⁰³ García Fuentes, op. cit.

²⁰⁴ Ots Captequí, op. cit.

²⁰⁵ Carla Rahn Phillips, “The Growth and Composition of Trade in the Iberian Empires, 1450-1750,” in James Tracy, ed, *The Rise of Merchant Empires. Long Distance Trade in the Early Modern World, 1350-1750* (Cambridge: Cambridge University Press, 1990).

²⁰⁶ Pascual Cervera de la Chica, “El comercio castellano con América en el siglo XVIII,” pages 403-410 in Mariano Sánchez Bravo, ed., *Memorias del VII Simposio de Historia Marítima* (Guayaquil, Ecuador: Instituto de Historia Marítima, 2004).

²⁰⁷ Murdo J. MacLeod, “Spain and America: the Atlantic Trade, 1492-1720,” in Bethell, L., ed., *The Cambridge History of Latin America, Volume I: Colonial Latin America* (Cambridge: Cambridge University Press, 1984).

²⁰⁸ Elliott, op. cit.

²⁰⁹ Kenneth R. Andrews, “Caribbean Rivalry and the Anglo-Spanish Peace of 1604,” *History* LIX (1974).

²¹⁰ Guillermo Céspedes del Castillo, “La avería en el comercio de Indias,” *Anuario de Estudios Americanos*, 2 (1945): 515-698.

²¹¹ García Baquero, op. cit.

²¹² Roland D. Hussey, “Spanish Reaction to Foreign Aggression in the Caribbean to About 1680,” *Hispanic American Historical Review*, 9 (August, 1929).

²¹³ Pares, op. cit.

²¹⁴ Izard, op. cit.

²¹⁵ Robert Sidney Smith, *Historia de los Consulados de Mar (1250-1700)* (Barcelona: Editorial Península, 1978).

²¹⁶ Haring, op. cit.

²¹⁷ Pedro Pérez Herrero, “La estructura comercial del Caribe en la Segunda mitad del siglo XVI,” *Revista de Indias*, 47 (#181, 1987).

the process. The volume of data provides anecdotes, mostly about failed (captured) smugglers. Even a study patterned on Chaunu's²¹⁸ summaries of trade would only provide a small portion of the volume, as no source has yet been found by successful smugglers.

Two works fall into the primary source category, and are similar in nature, those of Mun²¹⁹ on trade (1620), and González de Salcedo (1565).²²⁰ Many important works were published during the 1970-80 timeframe, including Klitgaard²²¹ (on corruption), Ray²²² (black markets), Feige²²³ (underground economies), Becker and Landers²²⁴ (sociology of criminals), Bhagwati²²⁵ (smuggling is primarily an economic problem), and Chowdury²²⁶ (policies leading to smuggling). More recently, Ades and Di Tella²²⁷ analyzed the economics of crime, concluding that inefficient law enforcement produces high levels of fraud. Aizpurúa²²⁸ noted that smuggling is defined by national laws, and thus varies by country. Cartier-Bresson²²⁹ described smuggling networks. Relating to Spain, Vila Vilar²³⁰ analyzes the social impact of smuggling, Zahedieh²³¹ writes of smuggling in the legal trade system, and Cole describes the phenomenon during the 18th century.

²¹⁸ Chaunu, op. cit.

²¹⁹ Thomas Mun, *A Discoverse of Trade, From England vnto the East-Indies: Answering to diuerse Obiections which are vsually madee against the same* (London: Printed by Nicholas Okes for Iohn Pyper, 1621).

²²⁰ González de Salcedo, op. cit.

²²¹ Robert Klitgaard, *Controlling Corruption* (Berkeley and Los Angeles: University of California Press, 1988).

²²² S.K. Ray, *The Economics of the Black Market* (Boulder: Westview Press, 1981).

²²³ Edgar L. Feige, ed., *The Underground Economies: Tax Evasion and Information Distortion* (Cambridge: Cambridge University Press, 1989).

²²⁴ Gary S. Becker, Gary S., William M. Landers, eds., *Essays in the Economics of Crime and Punishment* (New York: National Bureau of Economic Research, 1974).

²²⁵ Bhagwati, op. cit.

²²⁶ A.H.M. Nuruddin Chowdury, *Smuggling and Domestic Economic Policies in Developing Countries* (Manila: Asian Development Bank, 1986).

²²⁷ Ades and DiTella, op. cit.

²²⁸ Aizpurúa, op. cit.

²²⁹ Cartier-Bresson, op. cit.

²³⁰ Vila Vilar, op. cit.

²³¹ Zahedieh, op. cit.

On the issue of smuggling, many studies divide the topic geographically. Zahedieh²³² and Feliciano Ramos²³³ deal with illicit trade in New Spain almost exclusively; Vignols,²³⁴ Suárez,²³⁵ and Villalobos²³⁶ specialize in French smuggling, the latter dealing with ports in the Pacific; Donoso Núñez²³⁷ and Andrews²³⁸ emphasize English smuggling. There are many authors who write of Dutch efforts at illicit trade, including Aizpurúa,²³⁹ Araúz Monfante,²⁴⁰ Israel,²⁴¹ Klooster,²⁴² Boxer,²⁴³ the latter emphasizing the Brazil connection. Smuggling in Nueva Granada is described by Mena García,²⁴⁴ Restrepo Tirado,²⁴⁵ Sharp²⁴⁶ (on slaves and gold). Smuggling by various individuals or groupings are covered well. Brown²⁴⁷ details smuggling by the South Sea Company; Oliva Melgar²⁴⁸ writes of illicit trade on the Carrera fleets; illicit sale of slaves has been mentioned earlier as part of the subaltern studies.

²³² Ibid.

²³³ Feliciano Ramos, op. cit.

²³⁴ León Vignols, "L'ancien concept monopole et la Contrebande universelle, I, Le 'commerce interlope français, à la Mer du Sud, aux débuts du XVIII^e siècle, type de cette contrebande' ..." *Revue d'Histoire Economique et Sociale*, 3 (1925): 239-299.

²³⁵ Margarita Suárez, Margarita, "Monopolio, comercio directo y fraude: la elite mercantil de Lima en la primera mitad del siglo XVII," *Revista Andina*, Año 11 (#2, 1993): 487-502.

²³⁶ Sergio Villalobos R., "Contrabando francés en el Pacífico, 1700-1724," *Revista de Historia de América*, 51 (June 1961): 49-80.

²³⁷ Donoso Núñez, op. cit.

²³⁸ Andrews, op. cit.

²³⁹ Aizpurúa, op. cit.

²⁴⁰ Celestino Andrés Araúz Monfante, "El Contrabando en el Istmo de Panamá y la Nueva Granada, una de las causas del colapso de las Ferias en Tierra Firme (1700-1731)," *Revista Lotería*, 342-343 (September-October 1984): 90-127.

²⁴¹ Jonathan Irwin Israel, "España, los embargos españoles y la lucha por el dominio del comercio mundial, 1585-1648," *Revista de Historia Naval*, Año 4 (#23, 1988): 89-105.

²⁴² Wim Klooster, *Illicit Riches: The Dutch Trade in the Caribbean, 1640-1795* (Leiden: KITLV Press, 1998).

²⁴³ Charles Ralph Boxer, *The Dutch in Brazil (1624-1654)* (Oxford: Clarendon Press, 1957).

²⁴⁴ María del Carmen Mena García, *El contrabando de Santa Marta en los inicios del siglo XVIII* (Sevilla: Universidad de Sevilla, 1979).

²⁴⁵ Ernesto Restrepo Tirado, "Datos para la historia de Cartagena," *Revista Contemporánea* (Cartagena, Colombia), 2a época, 1 (#1, July 1933).

²⁴⁶ William F. Sharp, "The Profitability of Slavery in the Colombian Chocó, 1680-1810," *Hispanic American Historical Review*, 55 (1975): 468-495.

²⁴⁷ Brown, op. cit.

²⁴⁸ José María Oliva Melgar, "El monopolio de Indias en los siglos XVI y XVII. Plata y mitos en un sistema imperial," *Rábida*, 11 (1992): 34-47.

The comments above on how many scholars mention smuggling only briefly applies also to anti-smuggling efforts. Hussey wrote of the use of diplomacy by the Spanish crown, primarily against English interlopers. Donoso Nuñez²⁴⁹ described the use of treaties, again, against the English, and also against the Dutch. Zorraquín Becu²⁵⁰ analyzed commercial policy, specifically how the Spanish crown traded the *Assiento de Negros* for recognition of its trade exclusivity. Sanders,²⁵¹ writing about the Spanish navies, noted the lack of coordinated policy between the Crown and the various armed forces available to its efforts to stop illicit trade.

Brief Description

This study begins with an examination of the many definitions available for on just what constituted smuggling, seeking to describe the function itself, and how governments attempt to eradicate it. The function and its various tactics changed over time, as did the effort to combat it; the terminology evolved with it, and these will be described as necessary for the study.

A section is dedicated to defining the military term strategy, and how it developed from battlefield management into describing a process of governing and organizing a state's resources for achieving a national objective. A large component of Spain's armed forces was afloat, and thus this section includes applicable analysis of naval and maritime elements. Spain developed several ingenious maritime practices, such as *mare clausum*, ownership of the seas, innocent passage, and wartime contraband laws. These, along with other maritime and naval tactics to stop smuggling are studied in their context.

²⁴⁹ Donoso Nuñez, op. cit.

²⁵⁰ Ricardo Zorraquín Becú, "Esquema del Derecho Internacional de las Indias," *Anuario de Estudios Americanos*, 32 (1975): 573-597.

²⁵¹ G. Earl Sanders, "Counter-contraband in Spanish America: Handicaps of the Governors in the Indies," *The Americas*, 34 (1977): 59-80.

The main components of grand strategy examined include the overarching philosophy of *monarchia universalis*, which combined the elements of religion and diplomacy to achieve a specific end. Chapter two examines the commercial and economic policies as developed by the Spanish Crown, with some emphasis on those that led to smuggling, such as mercantilism and its emphasis on exclusive national trade, bullionism, and commercial warfare. The main topic of smuggling is the focus of chapters 3-4, dealing with the dimensions of smuggling and *fraude*, in the context of the empire's overall trade and financial issues. How smuggling functioned in the Indies, its tactics, practices, development and cycles over the centuries is next, and leads to Spanish anti-smuggling strategies. Conclusions to the overall thesis seeks to bring it all together to support the basic premise of how smugglers hindered the monarchy's ability to achieve its grand strategy objectives.

The study concludes that illicit economic activity was so widespread that it detached enough of the Crown's overall income to significantly hinder Spain's ability to implement its grand strategy. The importance of the study is that it demonstrates, in the context of the XVI and XVII centuries, the impact of the level of contraband on Spanish rule of law. *Fraude* robbed the Spanish Crown of more than half its potential tax income from the Indies. The loss of income contributed directly and significantly to the Crown's inability to achieve its grand strategy, the political, territorial, and religious hegemony over Europe, similar to the objectives sought by its European rivals, primarily France, and to a much lesser extent, England. The armies and navies were capable of such missions, when adequately funded: fighting wars was their primary objective, and these were met often – in Europe. But in reality, Spain in the Caribbean fought to defend its empire, while its rivals sought commercial gain at Spain's expense.²⁵² The difference between these objectives is vast, and the strategies used, just as varied.

²⁵² Padfield, p. 109.

Chapter I

Politics, Defence, and Religion

It would be a godsend to historians if monarchies had left documents explicitly detailing their objectives and strategy and spelling out how they proposed to achieve these. Today's scholars must delve into the voluminous correspondence available in the various archives, deciphering letters between monarchs explaining policy decisions, or instructions sent to governors, viceroys, ambassadors and personal envoys. Policy objectives must be deduced from such correspondence, from analysis of the structure of government, and from decisions made during critical times. More than a century ago Prescott reviewed the objectives of empire under the Catholic Kings, Carlos V and Felipe II, listing these as the importance of keeping Christianity inviolate against heresy (both Lutheran and Islamic), and unifying territorial holdings for a more effective and moral rule.²⁵³ Kohler studied the relations between the Pope and the Emperor, and the hazy delineation between sacred and profane powers, specifically Carlos V's use of the medieval concept of *monarchia universalis* to buttress his expanding sovereignty.²⁵⁴ Tracy delineates Carlos V's military strategy, but his narrow definition of the term leads him to conclude that there was no grand strategy beyond a general idea of how to rule the extensive holdings.²⁵⁵ In considering Felipe II's policies, Parker opines that "[n]ot every grand strategy is aggressive, however, nor does it merely involve war. Grand strategy may be defined as the decisions of a given state about its overall security. . . 'the integration of the state's overall political, economic and military

²⁵³ He also delighted in describing Spanish government and society, pageantry and court intrigue. Prescott, *Carlos*; Prescott, *Fernando and Isabella*; and Prescott, *Philip the Second*.

²⁵⁴ Kohler, p. 90.

²⁵⁵ James D. Tracy, *Emperor Carlos V, Impresario of War: Campaign Strategy, International Finance, and Domestic Politics* (Cambridge: Cambridge University Press, 2002), pp. 21-2.

aims.”²⁵⁶ Koenigsberger states that Felipe II had no concrete plan of government: Fernández Alvarez disagrees, presenting Spain’s foreign policy as evidence – Felipe II proposed to establish a lasting peace for his kingdom, but failed, in part because of his personal isolation in the Escorial distanced him from the reality of his kingdoms.²⁵⁷

The basic definition of grand strategy, as proposed in the previous chapter, is that it describes a nation’s primary long-term objectives and the resources required to achieve them. A careful study, however, reveals that the Spanish monarchs had specific objectives. This broadens somewhat the basic definition of grand strategy outside of the traditional military concern, but it also eliminates the pitfall of reducing the concept to the point of uselessness, and allows for the proposal that the Spanish monarchs did indeed have a grand strategy. For the most part, Spain’s primary elements of grand strategy — territorial integrity, political and religious hegemony — were developed and elaborated by Fernando and Isabela. Carlos V added territorial expansion to the list, and Felipe II developed a government bureaucracy to ensure continuity.

There were other issues on the list, such as administration, justice, law enforcement, commercial and economic issues, but these were relegated to lower priority levels and assigned resources to match, or were even delegated to the private sector, albeit under close royal scrutiny. The exact order in which any objective was presented varied over time, depending on circumstances or personality, occasionally even with a level of clarity seldom achieved in any government since then.

Common to all was the overarching medieval concept of a theocentric government; the idea known as *monarchia universalis*, which held that the king received his authority

²⁵⁶ Geoffrey Parker, *The Grand Strategy of Felipe II* (New Haven: Yale University Press, 2000), p. 1.

²⁵⁷ The Escorial is the palace Felipe II built 43 kilometers from Madrid in which the monarch lived reclusively for some 14 years. Manuel Fernández Alvarez, “Felipe II e Isabel de Inglaterra: una paz imposible,” *Revista de Historia Naval*, año 4 (#23, 1988): 20. H.G. Koenigsburger, “El arte de gobierno de Felipe II,” *Revista de Occidente*, 107 (February, 1972): 127-159.

directly from God and thus was the source of all law and justice, the supreme judge and guarantor of all peace and unity among Christian humanity. Morality concerns, as perceived and defined by the religious leadership, permeated the discourse of government, in part because the primary participants were theologians. Céspedes del Castillo noted that “[t]he laws resulting from their advice were beautifully humanistic and wholly impracticable,” and consequently could only be obeyed through the imposition of significant coercive power. Based as it was on Roman law, Spanish law itself was considered an expression of the Divine Will — the king was subject only to God and the laws of nature. In other words, the king directed the pursuit of ethical laws, but was personally above them.²⁵⁸ The king combined theological and secular law, intertwining the objectives of territorial expansion with religious zeal to impose peace and order throughout the realm.²⁵⁹ Laymen seldom participated in the legal debate, and there were few concessions to the practical realities of running the kingdom. The Indies entered into this grand strategy as a theatre for expanding Christianity to the heathen inhabitants and, more importantly, to provide resources for funding royal objectives in Europe.

The intention of this chapter is to review materials relating to the objectives of empire: religion, diplomacy, international law, defence and maritime policy and the structure of government, in search of evidence of a grand strategy of the Spanish empire. This approach will serve as a background for analysing the commercial policy developed primarily to extract wealth from the citizens and colonies. This background will, in a later chapter, serve to explain how smuggling emerged as a phenomenon that consumed such vast amounts of government energy and resources that it thwarted the Crown’s efforts to achieve its grand strategy.

²⁵⁸ Guillermo Céspedes del Castillo, “La organización institucional,” in Castellero Calvo and Kuethe, p. 29.

²⁵⁹ *Ibid.*, p. 29.

The basic components of Spain's grand strategy involve the monarch's views and objectives for the empire, and how he proposed to use those. As general categories, they include the idea of *monarchia universalis* (with its sub-components of religion), diplomacy, international law, and military—specifically naval or maritime—policy. Evidence of how the monarchs used these can be seen in the structure of government, including how authority was delegated, often to non-government groups.

Monarchia Universalis.

There is little consensus on the role of *monarchia universalis*, most of the debate questioning whether it was a philosophy, dogma, theory, or idea. In fact, there is an intense debate in the literature, in which this thesis does not engage.²⁶⁰ Fernandez-Armesto doesn't even refer to it or "divine right of kings"; Bossuet termed it a "theory"; Bosbach called it a political myth; Dixon calls it simply an "idea."²⁶¹ But the concept fits neatly into the Roman-based legal system of Spain, justifying the absolute power of the king, while adding a Christian directive to his reign. In its most basic form within the Spanish context, *monarchia universalis* held that God wished all Christian leaders to be united (as Roman Catholics, of course) under one prince (Spanish, or at least a Hapsburg), who would impose God's will, justice, and peace throughout Europe. This would allow for a pooling of resources to expand Christianity (and Spanish rule) over the Moslem infidel and beyond, until the entire world's peoples were ruled by the true principles of God's love. The effort sought to achieve the medieval wish to reunite the eastern and western portions of the Roman Empire, and subsequently the world, at which time everyone on earth would enjoy the ministrations of a (Spanish) Christian ruler

²⁶⁰ Most of the evidence on *monarchia universalis* in this section refers to the reign of Carlos V.

²⁶¹ Felipe Fernandez-Armesto, *Ideas that Changed the World* (New York: DK Publishers, 2003). Jacques-Benigne Bossuet, *Discours sur l'histoire universelle* (Paris: G. Charpentier, 1870). "Mito politico e categoria pratica." Franz Bosbach, *Monarchia universalis : storia di un concetto cardine della politica europea (secoli XVI-XVIII)* (Milano: Vita e pensiero, 1998); C. Scott Dixon, *The histories of Emperor Charles V: nationale Perspektiven von Persönlichkeit und Herrschaft* (Münster: Aschendorff, 2005).

and the ensuing peace. Christ could then return to earth and fulfil the Biblical prophecies.²⁶² Carlos's Holy Roman Empire embodied the ideal of a single Christian nation, on which was based his pretensions to rule as secular head of Europe.²⁶³ In the Indies, one outcome of the theory was the requirement that the *Conquistadores* make an major effort to Christianize the natives they conquered.

The concept of a world government was applied at a national level through the philosophical belief in natural law, the result of nature in harmony as ordained by God. Human relations were ruled by pre-existing or divine – and therefore natural – laws, and the government's role as the intermediary between God and man was to enforce them. The state intervened in human affairs to keep God's natural law intact, which argued for a strong, centralized, heavily authoritarian state, with little legislation. Naturally, a hereditary monarchy was the best system for achieving God's objectives, as it allowed Him to appoint a king through birth.²⁶⁴ The monarch thus selected was in charge of his subject's destiny.²⁶⁵ In order to bring about this Christian kingdom, the Spanish Crown used all the forces at its disposal, including diplomacy, military power (maritime and land-based forces), internal political pressure, delegation of various government functions, and the social and economic power of the Catholic Church.

Specific forms of language and vocabulary were used in referring to these ideas. An undated document lists Fernand's political aims, the first and foremost being a wish for general peace among Christians and war against the unfaithful enemies of the Holy Faith.²⁶⁶ In 1529, Carlos V signed an agreement of union and friendship with his brother the King of

²⁶² Kohler, pp. 90-93.

²⁶³ Wilson, p. 16.

²⁶⁴ Marcelo Bitar Letayf, *Los Economistas españoles del siglo XVIII. Sus ideas sobre la libertad de comercio con las Indias* (Madrid: Ediciones Cultura Hispánica, 1968), p. 8.

²⁶⁵ Wilson, p. 124.

²⁶⁶ A.G.I., Patronato Real, 56-45, "La minuta simple en castellano dela Relazion dela Boluntad que el Rey Catholico tenia en los negózios de estado; sin fha. Escripta en ocho ojas de papel sueltas: sacada del Aposento del R.^l Patronato Caxon 8.º dela Arquilla de Capitulaciones con la Cassa de Austria leg.º 2.º dellas."

Hungary and Romania, describing the hope that other Christians would join in common cause under the Emperor's protection. The ceremonial version of the capitulation declared this a:

Union and Friendship and confederation between His Holiness [the Pope], Myself and the Serene King of Hungary my brother ... I Hope in our Lord that from this beginning a Universal Christian Peace that I always have wished for and wish will follow, as will the Reformation of the church and other good results through which our Lord may be served.²⁶⁷

Felipe II's will and testament in 1557 counselled his son Carlos to take great care in those dangerous times to always consider his divine responsibility to the Catholic faith, and also to strive for peace in his kingdom.²⁶⁸

Successive Spanish kings echoed these sentiments in one form or another. Fernández Alvarez writes of an *Idearium de los Austrias*, a policy continuum throughout the XVI century, though various forces moved Carlos V and Felipe II to occasionally depart from the philosophical underpinning developed by Fernando and Isabela, especially in foreign policy. But on national issues, all remained faithful to the original philosophy and objectives.²⁶⁹ Much of the actual description of this grand strategy can be found in the writings and actions of their close advisors, most of them more sanguine than their masters.²⁷⁰ Carlos V sought two nearly impossible objectives: to first resolve the Lutheran heresy through a concordat, to thus free up energy and resources for the second, a successful fight against the Moslem Turks. He eventually renounced the crusade against the Turks in favour of a new one against *luterano* Protestants.²⁷¹ Carlos V sought to pacify Spain, Italy, and Flanders by defeating his

²⁶⁷ Archivo General de Simancas [hereafter cited as A.G.S.], Estado, 635, fol. 47, "Carta del Emperador a la Emperatriz sobre el Tratado de unión y amistad con Su Santidad y el Rey de Hungría su hermano. Firma autógrafa. Barcelona, 10 de julio de 1.529"

²⁶⁸ Written in London, prior to his assuming the crown of Spain. A.G.S., Patronato, 29.33, "Testamento original cerrado de D.ⁿ Felipe 2^o otorgado en Londres Palacio de Hues moster (sera Westminster) a 2 de julio de 1557."

²⁶⁹ Fernández Alvarez, *Política*, p. 1.

²⁷⁰ These were Tomás de Torquemada and Cardinal Cisneros, advisors to Fernando V and Isabela; Nicolás Perrenot de Granvelle and Mercurino Gattinara, advisors to Carlos V; and Juan and Antonio Pérez, advisors to Felipe II.

²⁷¹ In A.G.I., Patronato Real, 56-45, op. cit. Carlos V also repeatedly states that nothing he did satisfied the French monarchs, and they were not to be trusted, ever.

rival Francis I of France in 1544, and then directing his efforts to pacify Germany. Felipe II expanded the strategy, especially in foreign policy:

[t]hose principles, on which were based the greatness of the monarchy, were political, ideological, and economic. The political involved the maintenance of hereditary territories; the ideological, the defence of Catholicism; and the economic, involving the monopoly of navigation to the Indies.²⁷²

Elements of Spain's grand strategy were repeated in the titles assumed by the monarchs, specifically "Protector of Christianity, Defender of the Faith in the Legitimate Conflict Against Heresies and Infidel Ottomans." Under such a title, whatever occurred in the secular or religious arenas helped determine their image as the universal monarch. Mercurino Gattinara used this kind of propaganda throughout his tenure as Chancellor of Carlos V's court, and Felipe II also adopted this theme as presumed heir to his father's throne, noting that "mundane and spiritual tasks determine the image of the universal monarch."²⁷³

The Christian divine right concept was used to justify the territorial integrity in Europe. Having more than one supreme ruler engendered rivalry and lead to war. Using this rationale, Fernando organized alliances and launched campaigns to conquer the Iberian Peninsula. Further abroad he viewed the French monarchs as a serious impediment, for, in his opinion, the House of Valois (the reigning dynasty in France) did not spend an hour without thinking of how to take Brittany through whatever means possible, or how to cause constant trouble in Italy.²⁷⁴

But by the 16th century it had become obvious to all that *monarchia universalis* was not feasible as an objective of empire. The rhetoric was still used, though to what point

²⁷² Fernández Alvarez, *Política*, pp. 12-13; 20.

²⁷³ Kohler, pp. 92-3.

²⁷⁴ A.G.S., Patronato Real, 56-1, "Instru^{on} delos Reyes catholicos Al Arcediano de seui^a p^r lo que ha de tratar con el Rey de Romanos. Sin Año [marginal note states it must be before the year 1493]. Minuta de despacho al Arcediano de Sevilla embajador al Rey de Romanos dandole instrucciones de lo que debia de hacer en material de Alianzas casamientos dela Duquesa de Bretaña, del Archiduque con una de las hijas de los Reyes Católicos del Principe D.ⁿ Juan con hermana de la Duquesa de Bretaña."

Carlos V actually believed this propaganda (as opposed to simply using it) is difficult to assess. He often justified the wars against Valois France as the simple preservation of his inherited territories, but he also expected other European princes to support his efforts to fulfil the responsibilities of empire – “to repel the Turk or fight against the heretic” – and he severely criticized those who refused. Carlos V’s actions reflected a frequent movement between political expediency and the spiritual notion of order, not just in Germany, but throughout Europe.²⁷⁵ His most cherished dream, he stated, was “a general peace among Christians and war against infidels that is what I in the world wish the most.”²⁷⁶

Felipe II used the rhetoric of a divine Christian authority as did his father, and likewise knew it brought together several secular objectives to his advantage. To a much greater extent, Felipe II based his governance on the assumption that history was providentially regulated in his favour. The Armada of 1588 was thus considered part of God’s work, and in preparation for its success the monarch spent several hours every day in prayer, urging the fleet commanders, the Dukes of Parma and Medina-Sidonia to order their crews to do the same. Even when told by both commanders that the Armada’s objectives were strictly impossible in human terms given the practical problems of such a huge enterprise, Felipe always answered that God would help. Clearly, the theological aspect of Spanish government was taken seriously by its monarch.

If unifying Europe under one Christian prince was the first step to *monarchia universalis*, conquering the Moslem infidel was the second. Here again the religious rhetoric was supported by secular concern and ambition, because the Ottoman Empire was a grave danger to the Catholic faith, the Emperor’s lands, and his vassals. The Christian Mediterranean states were on perpetual alert against a possible invasion by the Ottoman

²⁷⁵ Kohler, p. 98.

²⁷⁶ A.G.S., Estado, 635, fol. 10, “Del Rey catholico para don Pedro de Vireo. Es buena sCriptura [1511].”

Empire's forces, and diplomatic correspondence and cooperation to present a unified front to the common enemy.²⁷⁷

This religious philosophy often imposed a high state of alert that cost a large amount of money, and was a constant strain on the empire's chronically stressed resources, at times forcing unwelcome compromises. That Carlos V willingly undertook these expenses is evidence of his commitment to it. This financial pressure, however, was due primarily to the lack of a comprehensive economic plan. Diplomatic and military campaigns kept each part of the emperor's finances chronically insolvent, fighting wars against the Turks in the Balkans and Africa, suppressing revolt in the Netherlands, conquering new lands in Italy, and pursuing hegemony over France, England, and Germany, plus defending the seaborne colonies from pirates and other foreign threats.²⁷⁸ For example, Carlos V noted that the Ottoman naval forces demanded much of his attention and money. In this instance the need to finance a campaign outweighed the need to repay a debt to his brother in Bohemia. However, this was complicated by the campaign in Germany, which was in arrears to the point where an increasing number of soldiers were deserting and many operations had to be abandoned.²⁷⁹ Added to these were the cost of maintaining the court, financing dynastic marriages, and the high cost of the bureaucracy, which in the late 1600s rose to over 125 million *pesos* per year.²⁸⁰ The disjointed nature of the empire made it difficult to develop a cohesive financial plan, further hindering efforts to apply diplomacy to achieve grand strategy.

As stated in the introduction to this study, grand strategy components change infrequently, if ever. If any of Spain's objectives changed, it was *monarchia universalis*.

²⁷⁷ A.G.S., Patronato, 26.56, ob. cit.

²⁷⁸ Kamen, p. 85.

²⁷⁹ A.G.S., Patronato Real, 57-126, "Las minutas cuias copias se embiaron al obpo de Palencia. De Insbruch a 29 de Abril 1552."

²⁸⁰ Oliva Melgar, p. 41.

The idea of unifying all Christians under one monarch proved too grandiose for anyone to implement, and in Spain the effort lost its importance over time. In its place, the Crown sought the objective of maintaining religious hegemony over its territory, to hold at bay the heretical beliefs of Lutheranism or the infidel tenets of Islam, both threatening the Catholic faith underlying Spain's governance.

Religion

It was understood that Spain's religion was to be Roman Catholic. Fernando and Isabela wrote instructions to their successors on the importance of appointing officials to politically sensitive government posts only if they were in good standing with the Church. In the Canaries and Indies, only native-born residents of Castilla and Aragón could assume office, because foreigners, even if subjects of the Spanish monarchs, could undermine the Catholic hegemony sought by the Crown.²⁸¹ The same held for migration to the colonies. The prohibitions on foreigners participating in the Indies trade were regularly re-issued and never abrogated, in part to reinforce the Inquisition's role in maintaining the religious monopoly, and in part to keep out interlopers and smugglers.²⁸² Laws relating to the transport of passengers to the Indies reflected the fear that non-Catholics would bring their heretical thoughts to the new world. But such emphasis indicates the Crown took its proselytizing responsibilities seriously. The Papal Bull of 1508, *Universalis Ecclesiae*, imposed onerous tasks and heavy costs, but also gave the Crown the *real patronato*, the privilege to name bishops and collect – and therefore, spend – the tithes, and act vicariously for the Pope on ecclesiastical issues.²⁸³

²⁸¹ A.G.I., Patronato Real, 56-16, “Pragmatica q se ordenaua para en caso que subcediessen los Principes a nro señor [Fernando V el Católico]. 1504.”

²⁸² Title 27 Book 9 of the *Nueva Recopilación* was dedicated completely to the issue of commerce and prohibitions on foreigners. Rafael Morant, *Memoria sobre participacion de los estrangeros en el comercio de Yndias*, unpublished manuscript, dated in the Palacio (Madrid), 30 June 1814.

²⁸³ Céspedes del Castillo, p. 29.

The rhetoric might be religious, but there was a distinct secular rationale behind it. Carlos V clearly was concerned that some German princes under his rule were lukewarm in imposing religious laws. He greatly feared this would translate into equal laxity toward political and fiscal law.²⁸⁴ In 1530 he noted that his schedule depended on which issue pressed most – religion, war, or administration. In the end, he trusted Admiral Andrea Doria to defend southern Europe against the Turks, and left the daily administration of the empire to the Empress.²⁸⁵

Carlos V's fears proved accurate, though not in Germany. While in Flanders in late 1539, he wrote to his son that successful government required:

the urgent need and remedy for our holy faith and religion, and to provide a resistance to the Turk, to give order in other businesses and things relating to the public good of Christianity, to complete and establish a perpetual peace with the King of Romans our son, us, his sons and mine, and the king of France and his [sons], to give order and tranquillity within our dominions.²⁸⁶

To this end, Felipe was to live first and foremost in the love and fear of God, and to observe the holy faith and ancient religion of the Roman Catholic Church. All issues regarding the administration of the kingdoms and vassals, justice and law enforcement should be decided through prayer for the universal public good and respect of Christianity. If Felipe trusted God, it would all work out in the end to his advantage.²⁸⁷ This counsel was taken to heart, for, as noted by von Ranke, Felipe later wrote that his main interest was “[o]bedience and the Catholic religion in Spain; Catholic religion and submission in other countries: this was

²⁸⁴ AGS, Estado, 635, fol. 89, “Carta A su Sanct. Del Emp^{or} sobre cosas de la dieta; cree que es preciso convocar concilio. 14 de Julio 1530.”

²⁸⁵ A.G.S., Estado, 635, fol. 87-88, “El Emperador a su Esposa dicela q.e ha sentido mucho la muerte del Ynfante = Que esta muy ocupado con los negocios q.e se tratan en aquella dieta, Andrea Doria = Turcos = Rey de Hungria. Augusta, 31 Julio 1530.”

²⁸⁶ A.G.S., Patronato, 26.56, “Instucción que Carlos V dejó al Príncipe D. Felipe, para que en caso de muerte, durante su ausencia y viaje a Flandes, pudiese su hijo ejecutar sus intenciones y sucederle pacíficamente en el trono. Madrid, 5 Noviembre 1539.”

²⁸⁷ Ibid.

what mattered to him, and this the objective of all his action.” Felipe II was convinced that his rule benefited the world through spiritual salvation.²⁸⁸

Unfortunately, the rigid controls required to impose a religious monopoly proved impossible to enforce, and especially so in the Indies. There were few problems among the Europeans, but conversion to Catholicism was never fully achieved among the indigenous polytheistic population. A review of the Inquisition records lists many examples of deviation, rejection, or simple ignorance of church doctrine. Arboleda Mora writes that “the presence of heresies, new religious communities, Indigenous and Black syncretism and resistance ... always existed within Catholicism.”²⁸⁹ Nevertheless, the Church attempted to impose control over the social and religious life of the colonies in keeping with the *inter caetera* Papal Bulls sending missionaries to convert all inhabitants to Catholicism.

Even before the arrival of the Inquisition, royal orders had been issued to prevent heretical ideas from entering the new lands. All books were registered in Sevilla prior to loading onto *Carrera* ships, and were again inspected at the point of entry by officials of the Inquisition. On the king’s authority they could open any container, and were required to burn any non-approved materials thus found.²⁹⁰ A *Real Cédula* dated 21 September 1543 ordered the governors of the islands not to allow the importation of “any books of romance, of profane materials, fables, or lying histories of knights,” in order to protect the innocent Indians from any other such trivial and mundane material.²⁹¹ Only “healthy” books well versed in Catholic doctrine relating to the Bible and the saints were authorized, to prevent bad habits or vices prior to conversion. The Bishop of Puebla was charged with buying up such

²⁸⁸ Von Ranke, pp. 25-26.

²⁸⁹ Carlos Arboleda Mora, *Aspectos históricos del pluralismo religioso en Colombia* (http://www.naya.org.ar/congreso2000/ponencias/Carlos_Arboleda_Mora.htm). Evidence can be seen today in the syncretic ceremonies by Mayans in Chichicastenango, Guatemala.

²⁹⁰ Manuel B. Trens, *Historia de la H. ciudad de Veracruz y de su ayuntamiento* (Mexico: H. Ayuntamiento de Veracruz, 1955), p. 34.

²⁹¹ Juan Diez de la Calle, *Memorial, y noticias sacras, y reales del imperio de las Indias Occidentales* [1646] (Mexico: Bibliófilos Mexicanos, 1932), pp. 104-105.

“profane books, and of comedies, and amorous novels,” to be burned publicly, replacing them with devout books for sale to all Christians. In 1574, the king wrote to the Bishop of Yucatán, advising him of the possibility that Lutheran preachers from the Duchy of Savoy intended to spread their heresy in Campeche. He was authorized to capture these men and punish them.²⁹² This case illustrates again how religious discipline was used to achieve political results, in that a majority of the foreign incursions were commercial ventures seeking profits from smuggling or from exploiting the region’s resources, in this case logwood for the textile industry in Europe. A secondary damage greatly feared by the Crown was the spread of ideas that resulted from the constant contact and communication between Spanish colonists and foreigners.²⁹³

The Inquisition was sent to the Indies to protect the colonists and Indians from foreign or indigenous heresies. In 1559, the governor of Nueva Granada was instructed to remove all the Jews, Moors, and Lutherans (the latter meaning Protestants in general) who apparently had emigrated without first renouncing their beliefs.²⁹⁴ There were secular benefits to this effort as well, in that most of the non-Catholic individuals were itinerant factors representing various commercial houses, and undoubtedly were trading illegally in the region, and possibly proselytising as well. Not a totally unfounded fear, either: John Calvin’s Protestant colony in Geneva in 1555 sent a mission to trade and convert natives in Brazil to their beliefs, a mission that lasted three years.²⁹⁵

²⁹² Interestingly, while Spaniards were prohibited from owning such mundane books, the Indians were only prohibited from reading them. Fray Diego López Cogolludo, *Historia de Yucathan* (Madrid: Por Jvan Garcia Infanzon, 1688. Reprinted in México: Editorial Academia Literaria, 1957), pp. 357-358.

²⁹³ A.G.I., Santo Domingo, 100 r.2, N.18 / 03-01-1604 / Cartas de Gobernadores, “Carta del Gobernador Don Pedro de Valdés al Rey. Habana, Hen.^o 3, 1604.

²⁹⁴ Severino de Santa Teresa. *Historia documentada de la Iglesia en Urabá y el Darién. Desde el descubrimiento hasta nuestros días*, vol I (Bogotá: Biblioteca de la Presidencia de la República, Tomo 39, 1956), p. 210, cited in Arboleda Mora, ob. cit.

²⁹⁵ James W. Zackrison, “The Calvinist and Anabaptist Views and Practice of Mission,” unpublished manuscript (October, 1983), pp. 6-7. See also G. Baez-Camargo, “The Earliest Protestant Missionary Venture in Latin America,” *Church History*, 21 (#32, June 1952): 135-145; R. Pierce Beaves, “The Geneva Mission to Brazil,” *The Reformed Journal* (July-August, 1967): 14-20.

Sixty years later the problem still existed. A letter to the *Consejo de Indias* in 1610 noted that Cartagena de Indias had a large, wealthy and powerful Portuguese community, well known for *mañas* (tricky habits) used to subvert governors and ministers. Many of these worked for the *Assiento de Negros*,²⁹⁶ and thus had access to trade information such as fleet sailing schedules or the volume of treasure available in the colonies. A big concern was that foreigners with such market intelligence could be heavily involved in smuggling. A century later, one *Casa de Contratación* analyst wrote, “these incursions are so continuous along this coast; and with such great impunity they purchase goods, that I assure you no one misses the Galleons, even though these never show up.”²⁹⁷ Knowing the Crown’s attention to religious fervour, the analyst further noted that most of these Portuguese were Jewish *conversos*, who threatened the purity of the true Christian religion, and might come to outnumber the Spaniards, potentially threatening regional security if allied with the large numbers of slaves.²⁹⁸ Thus was repeated the Crown’s stated policy of religious hegemony, but in a context that demonstrated the very credible fear of foreigners undermining the (secular) commercial monopoly.

By the XVIII century religion was no longer the leading policy issue. By way of example, Gilbert notes that the disputes with England were few, mostly related to ships seized by the *guardacostas*. A Cédula of 1672 re-stated the prohibition on trade with foreigners, and authorizing the use of force against such intruders.²⁹⁹ Religion, specifically adherence to the Catholic Church, remained on the list of grand strategy objectives, but heresy was no longer considered a threat to the empire.

²⁹⁶ An *assiento* was a government contract granting monopoly to a private company, in this case to supply the Indies with slaves from Africa. The term was consistently spelled in this manner throughout the archival records, and has been adopted as such in this study. The word comes from *asentar*, to concede or sign a treaty.

²⁹⁷ A.G.I., Contratación, 5144, “Correspondencia de Juan de Varas sobre comercio ilícito en Tierra Firme, 12 septiembre 1721.”

²⁹⁸ Antonio Domínguez Ortíz, *Los judeoconversos en España y América* (Madrid: Ediciones ISTMO, 1971), p. 141.

²⁹⁹ Gilbert M. Joseph, “Logwood Trade and Its Settlements (Part 2),” *Belizean Studies*, 5 (#3, May 1977): p. 3.

Dynastic Diplomacy

Fernando was an early architect of Spain's diplomatic initiatives to increase security and hegemony through marriage alliances. He capitalized on his marriage with Isabela, expanding the network linking Castilla, León, Aragón, Navarra and Naples together under their daughter Juana, and hoped to add the kingdom of Romania through her marriage to Felipe I. Conquest and the right of discovery brought into the empire the the Indies and the Philippines. Carlos V's ascent added Austria, Germany, and the Low Countries.³⁰⁰

Carlos V expanded the use of marriage diplomacy, instructing his son Felipe in 1539 to keep faith within the family alliances as a *dever parentezco*, a family obligation to assure national security. Though in this instance the Emperor referred to territorial integrity within the Holy Roman Empire, he also wrote of keeping good and peaceful friendship with all other Christian kingdoms, principalities and potentates, if only to avoid threatening the utility and comfort of his lands and vassals.

There were caveats, especially relating to France. Carlos V claimed he maintained a constant effort to smooth relations, despite constructing an elaborate system of alliances encircling that country. He also sought links through marriage to the Valois family, if only to reduce French support to the rebellion in Flanders. Other alliances included the marriage of his daughter Juana, the *Infanta* of Portugal, to her cousin Juan of Portugal, in an effort to unify the Iberian Peninsula, and links to Milan through the house of Austria. The final effort was the wedding of his son Felipe to Mary, Queen of England, which strained relations with his brother Fernando until it became obvious that no heir was forthcoming.³⁰¹ Rhetoric and diplomacy aside, Carlos was careful to ensure his ambition succeeded, by carefully keeping

³⁰⁰ A.G.I., Patronato Real, 56-45, op. cit.; A.G.S., Patronato Real, 56-1, op. cit.; A.G.S., Estado, 635, fol. 10, op. cit.

³⁰¹ Kohler, pp. 86, 364.

his personal interests and his line of succession clear, to the extent of demanding his daughter Maria renounce all claims to the throne of Spain in perpetuity for her descendants as well as herself prior to her marriage to Maximilian, prince of Austria.³⁰² Alliances, unless they led to a war of succession, were a good thing in that they reduced inter-state violence and the heavy expenditures these entailed.

International Law

Blended into Spain's diplomacy were other elements of grand strategy, principally international law as applied through maritime practices. The Pope's unifying and arbitrary power to mediate disputes had long been accepted by Christian Europe. Portugal established a major precedent in diplomacy by seeking Pope Nicholas V's decision, *Romanus Pontifex* of 8 January 1455, sanctifying its claims to all lands discovered and granting the right to enslave all natives encountered. Fernando and Isabela pursued a similar policy in 1493, specifically mentioning their discoveries in the Indies, in the end receiving three Papal Bulls consolidating their authority over the Indies: *Inter caetera* giving Spain ownership rights, *Eximiae devotionis* granting privileges equal to those of Portugal over Guinea, and *Inter caetera* extending Spain's claims to all islands and mainland beyond a demarcation line 100 leagues west of Cape Verde and the Azores.³⁰³ Spain based its ownership over all lands in the Indies, and the universal prohibition on unlicensed travel to the region on these edicts, but increased the stakes considerably by adding sovereignty over the sea surrounding the lands and all shipping routes to them. These rights were granted as "plain, free and omnimodal power, authority and jurisdiction," accrued to the Spanish Crown from the Pope's temporal

³⁰² A.G.S., Patronato Real, 56-13, "Concordia entre Su Mag.^d yel Ser.^{mo} Rey de Roms^o sobre el cassam^o de Sus hijos. Año 1548."

³⁰³ Issued on 3 May, 3 May, and 4 May of 1493, respectively. Antonio de Remesal, *1494: La raya de Tordesillas* (Salamanca: Junta del Castilla y León, 1994), pp. 77, 108.

authority. In exchange, the Crown acknowledged the superiority of the Pope's spiritual authority by accepting the divine commission to act in the service of the Church.³⁰⁴ Other European monarchs recognized this authority tacitly, if grudgingly, primarily because none was in a position to challenge it, though the Spanish ambassador in Paris reported that Francis I of France formally repudiated his claim to total ownership of the Indies by refusing to renounce his right to the newly discovered lands.³⁰⁵ Elizabeth I of England expounded to the Spanish ambassador that she did not understand Spain's claims, as the Pope's grant was unprecedented in international law if only because he had no prerogative over other princes.³⁰⁶ Such grumbling came to naught for over 130 years.

Diplomatic rivalry was intense. England and Spain were not natural enemies, but France was to both, according to Toye.³⁰⁷ France and Spain were perpetual rivals, intent on achieving supremacy over the other, whether political, religious or simply for prestige. France was sufficiently strong as to deter a direct Spanish attack, but England had no such guarantee.

Both Carlos V and Felipe II believed that peace with England was essential to keeping the Low Countries under Spanish tutelage. To shield England from French influence, Felipe acquiesced to Elizabeth's claim to the throne: "[t]hus Felipe II attempted through all means to maintain an alliance with Elizabeth; in return, he believed that Elizabeth would show gratefulness and, given her dangerous situation, would remain always under his protection."³⁰⁸ As a last resort, he even proposed a marriage alliance. Felipe II's diplomatic

³⁰⁴Zorraquín Becu, pp. 574-577. Francis I of France reportedly asked to see the codicil in Adam's will that granted the Pope such authority.

³⁰⁵ Fernández Alvarez, "Orígenes," p. 312. Fernández Alvarez cites the research of Dr. Pérez Villahermosa in the A.G.S. as the source of the ambassador's report, though he does not cite a specific archival reference.

³⁰⁶ Eric Williams, *History of the People of Trinidad and Tobago* (London: Andre Deutsch Limited, 1964), p. 19.

³⁰⁷ This generalization did not prevent Henry VIII from building forts specifically designed to deter any potential Spanish invasion, however. Sidney Toye, *A History of Fortification from 3000 B.C. to A.D. 1700* (London: William Heinemann, 1955), p. 245.

³⁰⁸ Fernández Alvarez, "Felipe II," pp. 23-25.

efforts continued until 1568, when two events changed his mind: Viceroy Martín Enríquez de Almansa's defeat of Hawkins at fort San Juan de Ulúa in New Spain, and Elizabeth's expropriation of a Spanish treasure ship seeking refuge in Portsmouth. A cold war ensued until 1588, when Spain attempted to turn up the heat by deciding to end England's support of the rebels directly.

In time, England came to view the Netherlands revolt as an opportunity to counter the growing Spanish power. When Felipe II attempted to impose his will on the Low Countries, Elizabeth I signed the 1585 Treaty of Nonsuch with the Dutch rebels to ensure Spain never gained unimpeded control over the mainland side of the English Channel. Elizabeth's objective was not so much to help the rebels as to ensure that neither side could win sufficient power to threaten her throne. Directly threatening Spain was out of the question, however, as Rodger wrote, for "[h]er kingdom was by far the poorer and weaker of the two, and it would have been folly to risk a war from which England had nothing to gain."³⁰⁹ The spread of Protestantism was a concern to all of Catholic Europe. The Pope urged Felipe II to intervene militarily to return England to the Catholic fold, offering to help finance the venture.³¹⁰ Elizabeth's permission for Hawkins, Drake, Frobisher, and others to carry out depredations in the Caribbean simply increased Felipe's determination to put an end to her meddling in the affairs of his empire. After Drake's attack in Galicia, Felipe II accepted the idea and began preparing for a grand *armada* to remove Elizabeth from her throne. As was the case with Carlos V's concern over Germany, Felipe II worried that religious heresy could lead to

³⁰⁹ N.A.M. Rodger, *The Armada in the Public Records* (London: Her Majesty's Stationery Office, 1988), pp. 1-2.

³¹⁰ Luis Miguel Enciso Recio, "El Mediterráneo y el Atlántico en la política de Felipe II. Dos ejemplos," in Rosario Villari and Geoffrey Parker, *La política de Felipe II: dos estudios*, volume IX of *Cátedra 'Felipe II': Colección 'Síntesis'* (Valladolid: Universidad de Valladolid, 1996), p. 21.

political heresy, and he would lose influence over England. He also feared the English merchants' maritime and smuggling capabilities, and their threat to his Indies treasure.³¹¹

Diplomacy had its risks. Over the centuries, Spain's rivals sought to penetrate the Indies monopoly, through diplomatic pressure.³¹² Spanish diplomats aggressively sought to defend the Indies by negotiating treaties stipulating the monopolistic ownership of the region. This effort proved unsuccessful, as no one wished to grant outright recognition to the Spanish title, and the agreements either bypassed the issue or affirmed each other's ownership of their respective colonies.³¹³ In fact, many of the negotiated provisions weakened Spain's control by gradually allowing foreign powers to consolidate ownership of islands in the Caribbean. Thus Spain's hold on the Caribbean and Atlantic began to diminish in the early 1600s through a reluctant acceptance that sea lanes be available to European powers other than Spain and Portugal to places Spain had failed to effectively occupy, diluted the latter's ability to act independently or to impose its commercial and territorial monopoly over the Americas.³¹⁴

England, France and Holland often merely pledged to stop all illegal trade in the Spanish colonies, promises seldom enforced because of the profits available to all involved.³¹⁵ Prior to the Treaty of London in August, 1604, in which Britain promised to stop using privateers or tolerating pirates, these semi-official actors faced only Spanish military pressure. Until Britain began enforcing the 1665 Navigation Acts, there was no

³¹¹ Drake led a series of attacks on Spain as part of a concerted effort to delay Felipe's campaign to invade England. Corbett, *Sir Francis Drake* (London: Macmillan and Co., 1936), pp. 138, 141, 151.

³¹² Sergio Bagú, *Economía de la sociedad colonial: ensayo de historia comparada de América Latina* (Buenos Aires: El Ateneo, 1949), p. 162.

³¹³ Paul E. Hoffman, "El Desarrollo de las defensas del Caribe. Siglo XVI y principios del XVII," in Antonio Acosta, and Juan Marchena Fernández, eds., *La influencia de España en el Caribe, La Florida, y La Luisiana, 1500-1800* (Madrid: Instituto de Cooperación Iberoamericana, 1983), p. 19.

³¹⁴ Examples include the 1604 the treaty with England on import duties; the 1607 commercial treaty with the House of Hansa; the 1648 commercial treaty with Holland; the 1665 commercial treaty with England that, in effect, legalized the imports that until then supported a large smuggling network; and a further expansion of trade rights with England in 1667. Augusto Pinochet Ugarte, *Geopolítica* (Santiago, Chile: Editorial Andrés Bello, 1984), p. 179.

³¹⁵ Hussey, p. 300.

domestic pressure on British merchants to stay out of Spanish ports in the Indies.³¹⁶ The Dutch never limited their merchants, and indeed encouraged trade with Spain and its colonies, even during times of war, under the theory that commerce produced the income required to finance the rebellion, even if it meant providing the enemy with war supplies. French merchants generally operated with little or no supervision from Paris, but the many wars fought with Spain provided ample opportunity to interfere all along the Spanish sea lanes, ceding only to the pressure from Dutch and British competitors. Portuguese merchants enjoyed many advantages over other European interlopers, and especially so during their temporary integration into the Spanish empire; but their legally recognized claim to Brazil provided an entry decades before the arrival of their competitors.

However, the claim to exclusive access was also reaffirmed through treaties, such as the 1648 Treaty of Münster, in which Spain and the Netherlands agreed to withdraw their citizens from each other's sphere of influence, thus confirming the right to control migration. The idea that the high seas were free for all to use was reinforced through deliberate omissions in the Treaty of Madrid in 1670 in which Spain ceded ownership of various islands in the Caribbean currently occupied by foreign powers, listing only lands, regions, islands, colonies, or dominions. No mention was made of claims or ownership over oceans or seas, a major deviation from Spain's norm of vigorously defending its policy of *mare clausum*.³¹⁷

Spain did not yield these rights easily, though military losses eroded its ability to negotiate effectively. Efforts to exclude foreign ships from all but the major sea lanes of communication each traversed in route to its Caribbean colonies were constant. The right to exclude foreign trade was never relinquished.³¹⁸ In the 1713 Treaty of Utrecht, Felipe V was

³¹⁶ Philip Ainsworth Means, *The Spanish Main: Focus of Envy, 1492-1700* (New York: Charles Scribner's Sons, 1935), p. 145.

³¹⁷ A.G.S., Estado, 7633, "El Conde del Montijo, Sobre la Georgia establecida por Ingleses de la Carolina en territorios della Florida. S.n Lorenzo, 9 de Nov.^{te} de 1737."

³¹⁸ Donoso Núñez, p. 21.

forced to give England the *Assiento de Negros* in exchange for recognition of Spain's exclusive commercial policy. In other words, England agreed to work toward keeping its citizens out of Spanish territories, reinforcing Spain's long-standing claim to commercial and immigration monopoly.³¹⁹ Had England complied, smuggling would have dropped dramatically.

Through creative interpretation of diplomatic language, it was possible to misconstrue Spain's claims, as conflicting interests produced policies which at face value contradicted Crown objectives. The supply of slaves to the Indies provides an example of how the Crown sought to reconcile conflicting vested interests, in this case the need for labour, while excluding foreigners from the area. Spain had exchanged with Portugal all rights to Africa for an exclusive title to the Indies and surrounding oceans, while acknowledging the rights of innocent passage over known and specific navigation routes.³²⁰ This prevented Spanish merchants from purchasing slaves directly in Africa, or Portuguese merchants from delivering any directly to the Indies. The most obvious solution to the conundrum was to allow foreigners to supply slaves to the Spanish colonies. Knowing full well that all foreign merchants would seek to introduce contraband, the king hoped to make them pay for it. A contract was issued – an *assiento* – specifying the points of entry, limits on goods allowed on ships to feed and clothe the slaves. It also imposed heavy taxes to recuperate projected losses to smuggling. Later *assientos* were negotiated directly with the contractors' government, that is, Portugal, France, and England, resulting in international treaties through which political concessions could be extracted. When Portugal rebelled in 1640, it refused Spanish agents access to the slave ports in Africa, forcing Spain to seek contracts for slaves with other

³¹⁹ Zorraquín Becú, pp. 591-592.

³²⁰ Innocent passage is the recognized right of private ships to sail along recognized routes through national waters on the condition they are only passing through, not stopping or taking advantage of any resources while en route.

European powers.³²¹ For the most part Spain abided by the terms of the Treaty of Tordesillas with Portugal, despite the consequences to its policy of exclusivity in the Indies and the expected problem of *fraude*. It was not apparent from this example what Spain's interests were – the exclusive sovereignty policy, the need for slave labour, honouring its international obligation to Portugal, or reaching accommodation with smugglers to recuperate losses to *fraude*. The agreements covered all contingencies, ostensibly granting foreigners full control over the slave trade, while charging high fees to compensate for losses to smuggling. All parties read into these treaties what they could, to their advantage.

In the 1670 Treaty of Madrid, Spain and England agreed to leave the other's colonies alone, though both sides again read more into this treaty than what was written down.³²² The dialogue over ownership of the sea emerged; Spain's inability to effectively control the seas was a serious problem, and England argued that Spain could neither diplomatically or militarily exclude others from the Caribbean.³²³ Spain assiduously avoided conceding commercial rights in the Indies, insisting on a trade monopoly in its colonies. Thus, the presence of logwood in an English ship's hold was considered contraband, and the Englishmen cutting it were thieves. A *cédula* was issued on 22 June 1672 declaring that all unlicensed foreigners entering claimed Spanish lands or waters were pirates and should be treated as such.³²⁴ Spain constantly held on to its cherished ideal of *mare clausum*, despite the concession of various Caribbean islands to foreign powers. The declaration confirmed the principle of innocent passage, allowing foreign ships to navigate along prescribed routes

³²¹ Georges Scelle, "The Slave-Trade in the Spanish Colonies of America: The Assiento," *American Journal of International Law*, IV (#3, July 1910): 617, 626-7.

³²² Parliament was informed by the Lord Keeper that Spain had recognized Jamaica and other lands occupied by English subjects, even though the treaty did not mention the island by name. Archibald P. Thornton, "The English at Campeache, 1670-1682," *Jamaican Historical Review*, 2 (#3, 1953): 27, 28.

³²³ Andrews, p. 1.

³²⁴ *Ibid.*

between their European homeport and the specific island destination, while prohibiting course variations.

To Spain, this example confirmed its right to restrict foreign access to its colonies, and also confirmed the long-cherished *mare clausum*. To its rivals, the example confirmed that Spain's exclusivity was not total, and showed an opening to be exploited. Spain's military power was greater than that of its rivals, and it was theoretically capable of enforcing its claim over the Caribbean. But the cost of such enforcement was considered too great, and state resources were more urgently needed elsewhere in the empire. By mid-XVIII century, Spain's maritime power in the Caribbean was no longer predominant, and by then its rivals' interest and encroachment had changed dramatically as well.

Mare Clausum

In order to ensure a safe transfer of Indies colonial treasure to Spain, and to keep other European states from usurping that treasure, Spanish sovereignty was declared a geographical monopoly. To a great extent, control of the sea was emphasized more than were the territorial holdings. Land could be occupied by maintaining a militia in the contested area as the physical presence representing the Spanish Crown, but the sea was a different issue altogether, because it could not – and still cannot – be occupied. By exercising control over the sea approaches to the land, Spain hoped to impose as much sovereignty as possible, seeking to exclude all foreigners from its claimed lands.

Before the age of expansion, the technology required to go to sea and remain in a specific area for months at a time was unknown. When ships developed to the degree that they could reach the Indies, a strategy had to be developed to exploit that technology. Enrique used Alexander IV's Papal *Bulas* to protect the sea lanes he and his predecessors had

developed along the coast of Africa and east toward the wealth available from India.³²⁵

Likewise, Fernando and Isabela used other *Bulas* and the Treaty of Tordesillas to protect their new holdings and any areas discovered in the future. Enrique graciously granted Spain innocent passage through his oceanic holdings in return for a guarantee that Spanish ships would not stray from those lanes, a concept known as direct sailing or innocent passage. This guarantee Spain for the most part honoured, even though Portugal did not.³²⁶

The first organized analysis of this concept in maritime law was published by Hugo Grotius in 1609 to bolster the Dutch claim to *mare liberum*, the right of all nations and individuals to sail the high seas for commercial purposes.³²⁷ This was also the first treatise to openly reject the jurisprudence behind Spain's claim, though the argument was not directed specifically against Spain.³²⁸ Grotius did not invent his ideas from whole cloth, having studied the usage and writings on navigation from the time of the Greeks and Romans, and in the process expanding the study of maritime jurisprudence and international law. He questioned specifically whether or not the sea could be owned, taking inspiration from analogies to land ownership, where fields could be fenced or fortified to exclude foreigners or neighbours. Inland waters could be occupied by enclosing the adjacent lands, but the ability to fence or occupy the open sea itself was beyond the capability of either nations or individuals.³²⁹ Grotius argued for the Dutch position that the ocean was for all to use since no one nation could occupy – and therefore own – even a portion of the sea. The Spanish

³²⁵ Sea lanes in this case refers to the direct routes each king allowed to another's subjects to use *en route* to their national territories, e.g., from Spain to the Canaries and directly west toward the Indies. This concept is still in use today, applied primarily to warships or a navy's specific routes during times of war; this differs from the principal maritime routes, referred to as sea lanes of communication.

³²⁶ A.G.S., Patronato Real, 50.27bis, "Capitulacion hecha entre los Reyes Catholicos y el Rey don Juan de Portugal, sobre la demarcacion y limites del Mar Oceano: traduzido de lengua portuguesa, 1494."

³²⁷ Hugo Grotius, *Mare Libervm sive de ivre qvod Batavis competit ad indicana commercia, dissertatio*, published by Ludvevici Elzeviry in 1609. This study uses Ralph Van Deman Magoffin's translation, *The Freedom of the Seas or The Right Which Belongs to the Dutch to Take Part in the East Indian Trade*, published by Oxford University Press in 1916.

³²⁸ Ibid.

³²⁹ Inland waters are those surrounded by land, such as lakes, rivers, ponds, streams.

claim of *mare clausum* over the Atlantic and Caribbean areas between Spain and the New World showed how ridiculous any such attempt was, Grotius noted, for despite a century of undisputed sovereignty, piracy, privateering, and smuggling were continual going on in exactly those areas Spain claimed it controlled. Lack of effective maritime control proved the logic of Grotius's argument. It is nevertheless difficult to say that Spain entirely failed to enforce its policy, for two reasons: first, for over a hundred years there were no naval rivals to which Spain could deny access, and second, it is nearly impossible for anyone to effectively occupy an entire ocean.

A rebuttal was written in 1616 by John Selden, supporting the English position that it could exclude Dutch ships from the waters surrounding the British Isles directly under its naval control.³³⁰ This position knowingly supported Spain's claim to a closed Caribbean sea, but did not mention it. Selden (and later Spanish policymakers) made the point that even when privateers hounded shipping in the Atlantic and Caribbean, the principle of ownership over the sea was not contested, to a great extent because of the privateers' questionable legal status.

Grotius and Selden analyzed the Spanish position, primarily from usage. Selden pointed out that not all Spanish jurists agreed with the king's policy, and even the king's title implied ownership of the land, not the oceans.³³¹ Furthermore, Catalan and Castilian common law held that use of the sea was free, though occasionally lawyers argued that

³³⁰ John Selden, *Of the DOMINION, Or, Ownership of the Sea. Two Books.* (London, Printed by William Dugard, by the appointment of the Council of State, Anno Domini 1652).

³³¹ The portion of the Spanish king's title to the Indies refers to his being "[Rey] de las Indias Orientales y Occidentales, de las islas y tierra firme de la mar oceana," (King of the Spanish East and West Indies and the Islands and Mainland of the Ocean Sea), which contemporary jurists noted included the land, not the seas surrounding them. Selden made liberal use of Spanish theorists, most of them at the University of Salamanca, such as Gregorio López, Juan Garcias, Diego de Couvaruvias, Juan de Hevia, and Fernándo Vásquez de Menchaca, who opposed dominion of the sea while acknowledging its widespread acceptance. Other Spanish jurists opposed to *mare clausum* included Francisco de Vitoria and Diego de Soto, both also from Salamanca. Fernández Alvarez, "Orígenes," p. 364.

maritime resources could be placed under royal dominion. The king, for instance, could grant the right to fish, because that portion of the sea belonged to him as lord of the adjoining land. This did not mean the whole ocean, but rather the specific adjacent seas in question.³³² There is little evidence that Spanish jurists ever employed Selden's thesis (if only because Vitoria's similar analysis was readily available to them), and the century of *de facto* uncontested ownership provided a long tradition in support of Spain's diplomatic and legal claims.

Ownership of the sea was pressed during admiralty court cases over captured foreign smugglers or pirates, in negotiations for international treaties, and in other relations with European rivals, though Goslinga wrote that this was a short-sighted policy that ignored the commercial reality of the colonies. When dealing with Dutch smugglers during the Twelve Year Truce, neither the Duke of Lerma nor Felipe III showed the least concern for developing the prosperity of the colonies, pressing instead for the diplomatic claims of exclusivity. During negotiations for the Peace of Münster of 1649 the States General demanded the right to continue exploiting the salt pans in Araya on the Caribbean coast of Venezuela, and Spain's answer again reflected its dedication to *mare clausum*, correctly pointing out that Dutch salt traders had invaded Venezuela during time of war without the right or permission to navigate or trade in the Indies. Furthermore, allowing the Dutch legal access to the Caribbean would invariably invite other foreigners to seek the same rights, something Spain sought to avoid.³³³

³³² Selden, pp. 109-110. Catalán maritime tradition was codified in the *Llibre del Consolat de Mar*, which spelled out the jurisdiction of the various *consulados*. Agustín Corrales Elizondo, "El ordenamiento y la actividad mercantil marítima de la edad media a la edad moderna (del Mediterráneo al Atlántico)," *Revista de Historia Naval*, año 12 (#47 (1994): 59. For more on the codification of maritime traditions in Spain, see José Martínez Gijón, "La jurisdicción marítima en Castilla durante la baja edad media," *Historia*, 8 (1969): 309-321.

³³³ Felipe III's position could not have been based on ignorance, as many colonial governors wrote of the need for the fleets to provide sufficient goods, thereby eliminating smuggling. Cornelis Christiaan Goslinga, *The Dutch in the Caribbean and on the Wild Coast, 1580-1680* (Assen: Van Gorcum Books Ltd., 1971), pp. 64, 138. The Consejo's opinion is found in A.G.I., Indiferente General 1668, "Consejo de Indias al Rey Felipe IV, Madrid en 25 de junio de 1657."

An interesting perspective was provided a century after Grotius and Selden's academic debate. Governor Dionisio Alsedo y Herrera of Tierra Firme, noted that Spain's rivals always spoke of their right to freedom of navigation,

“[T]he greatest extent to which they speak of naval strategy, as practiced between the nations of the world, is that the one with the greatest [or] most strength speaks the loudest to those that do not have any, to ask where he comes from, and where he goes ...”³³⁴

These foreigners entered with impunity the waters immediately surrounding the Spanish colonies, specifically those areas required for the security of any nation. Alsedo y Herrera complained that England demanded the right to forbid Spanish ships from entering the seas surrounding Great Britain, but refused to reciprocate in the Caribbean. Thus a debate continued between those who argued that no nation had the right to limit access to the sea or the exchange of goods between citizens of any country, and those who acknowledged the power of a prince over the seas, land, and trade. Over time, nations changed sides in this debate as interests evolved, though Spain steadfastly sought to exclude foreigners from the Caribbean. A few scholars argued in favour of the natural right of all individuals to trade with whomever they chose, but their opinions had marginal effect, if any.³³⁵

On February 8, 1732, Minister of the Indies José Patiño and British Ambassador Benjamin Keene negotiated an agreement on navigation which included English recognition of Spain's right to patrol the seas around its holdings. English ships could sail with legal commerce to English colonies only. The net effect of this law was that Spain could use the *guardacostas* to stop smuggling, without defining the limits of Spanish maritime jurisdiction. The same year, the Governor of Puerto Rico requested clarification on the rules of

³³⁴ Dionisio de Alsedo y Herrera, *Aviso Histórico, político y geographico*, (Madrid: en la Oficina de Diego Miguel de Peralta, 20 de Febrero de 1740), pp. 347-9.

³³⁵ Examples include Alberto Struzzi, *Diálogo sobre el comercio destes Reynos de Castilla, Por Alberto Struzzi, gentilhombre de la casa de la serenísima Infante doña Ysabel* (Madrid: 1624) and (much later) Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (London: Ward, Lock, and Tyler, 1776).

engagement: could the *guardacostas* stop foreign ships for just being near Spanish lands? The Consejo de Indias answered in *Real cédula* of May 30, 1734, supporting the *guardacostas*' efforts to stop such ships even if they were not obviously breaking any laws. Thus, to impede smuggling, Spain assumed the right to stop ships on the high seas outside permitted routes, without defining what those precise routes were.³³⁶ It took 239 years for Spain to gain English agreement to its claimed exclusivity. The inability to enforce its own laws led to the lengthy diplomatic effort to achieve international acquiescence. During 1738-9, Spain refined its position on ownership of the seas, noting that in practice, freedom of the seas depended on the strength of each nation at a given time. Common law, right of discovery and conquest, and the Papal Bulls of Alejandro VI were thus relegated to secondary status, and the primary rationale linked freedom of navigation to sovereignty. The requirement of Spanish occupation was interpreted in terms of Spain's ownership over the Indies, to include the land and the seas, administered at its pleasure. The recognition of foreigners' rights to enter the region was limited to the right of passage permitting only the most direct route, or the least damaging to Spain, nothing more.³³⁷

Spain's definition on contraband was also novel, in that it included all goods only available in Spain's colonies, such as Spanish coins, silver, cacao, or logwood. The presence of these on foreign ships was considered sufficient evidence of smuggling activity. This definition added the concept of continuous voyage to the jurisprudence of smuggling by considering any evidence of an interruption or variation of the most direct route voyage between England and an English port in the Caribbean as evidence of illegal activity.³³⁸ The probability of finding such goods on a ship returning to England was high regardless of the

³³⁶ Sylvia Lyn Hilton, "El conflicto anglo-español sobre derechos de Navegación en Mares Americanos (1729-1750)," *Revista de Indias* (Madrid), 38 (#153-154, 1978): 675.

³³⁷ *Ibid.*, p. 698.

³³⁸ Continuous voyage was a legal principle of maritime jurisprudence requiring a ship to sail only to the ports listed on its manifest, not stopping at points between.

ship's origin, given the frequent practice of trading goods in lieu of payment. It was also popular with the *guardacostas* because it meant an easy verdict of legitimate prize. England complained that this policy authorized Spain to stop all ships on the high seas to search for goods commonly available throughout the French, English or Dutch islands in the Caribbean, which jeopardized all non-Spanish colonial trade. Further, Spain always claimed a prize of the ship and all its cargo, not just the contraband goods. In 1739 such claimed rights led to war.³³⁹

England, France, and the Netherlands countered Spain's diplomatic efforts, continually seeking means to legalize trade with the colonies, often encouraging their subjects to trade illegally. Martínez Cardós wrote that "strongly held controversial beliefs emerged that converted the problem of freedom of the seas into a highly charged contemporary reality" linked to a nation's vital interests.³⁴⁰ The 1542 treaty of alliance between Henry VIII of England and Carlos V of Spain stipulated free trade between the two countries and dominions, though it was unclear if the Indies were included, and at any rate, Spain required all trade to the Indies to be routed through the Sevilla monopoly.³⁴¹ France was the first nation to legally challenge Spain's *mare clausum* during the negotiations for the peace of Crépy in 1544. Zeller wrote that Carlos V acceded to the French request, but subsequently yielded to intense pressure from the Castilian merchants and the *Consejos de Estado* and excluded the clause on free navigation. French negotiators attempted to reinsert it into the treaties of Cateau Cambresis (1559) and Vervins (1598), with similar results.³⁴² The Dutch and English governments sought to limit Spain's diplomatic claims, in the process adding more detail to the growing list of restrictions on the use of the sea.

³³⁹ Ibid., pp. 700-701.

³⁴⁰ José Martínez Cardós, "Un informe de Campillo sobre la propuesta de una Compañía Holandesa para comerciar con la América española," *Revista de Indias*, año 21 (#38, April-June, 1961): 258.

³⁴¹ Charles Jenkins, *England's Triumph* (London: Printed in the Year 1739), p. 154.

³⁴² Gastón Zeller, "Los Tiempos Modernos," in Pierre Renouvin, ed., *Historia de las relaciones internacionales*, volume 1 (Madrid: 1960), p. 285.

Goslinga points out that none of these nations were as consistent on the issue as was Spain, changing their legal position as national interests evolved. England abandoned Selden's writings upon achieving naval supremacy in the XVIII century, adopting a policy of denying its enemies access to the sea. The Dutch position also vacillated over time, seeking to gain or limit access depending on the control available, at one point making the East Indian archipelago "an unhealthy place for Englishmen as well."³⁴³ Legal principles were honoured or upheld primarily as these agreed with profits or could be enforced by weight of arms. Pertinent to the issue of smuggling and grand strategy, the underlying principle derived from Spain's diplomacy was that the normal means of enforcing its claims was that of military (naval) power. The original concept of imposing government laws to regulate commerce was never questioned, nor was the military's role in enforcing such rules.

Spanish Naval Power

A monarchy's grand strategy is nowhere as clear as in the application of state power. Whether or not diplomacy failed, Spain sought to impose its rule through force. In the Indies and the surrounding seas, Spain relied almost exclusively on its naval forces, at the time the largest war fleet in the world. A large fleet, however, does not equate to naval power or the ability to project power at sea, if only because the size of the task at hand must be considered, and, as Harding points out, "for the size of the empire and the naval challenges it faced, Spain's commercial maritime base was perilously small."³⁴⁴

When Columbus first sailed to the Indies, naval and maritime strategies were well known, though not as intricately elaborated as today. Navies were as temporary as campaign armies, raised for a season and then disbanded, or composed of armed private ships, hired by

³⁴³ Goslinga, pp. XIV-XV.

³⁴⁴ Richard Harding, *Seapower and Naval Warfare, 1650-1830* (Annapolis, Maryland: Naval Institute Press, 1999), p. 26.

the king or commanding general. What little strategic thought on the use of the sea for national power projection was contained in a few Roman or Greek works read occasionally by scholars, seldom by political decision-makers or even naval commanders. That is not to say that the basic premises of the use of the sea were unknown. Fernando and Isabela negotiated the Treaty of Demarcation with João of Portugal based on maritime traditions that eventually led to Spain's strictly-defined right of free, peaceful, and unlimited passage to sail in straight lines to a specific destination on prescribed charts, a concept that English, French, and Dutch governments ignored and smugglers later abused greatly.³⁴⁵ João of Portugal was also acquainted with such traditions, and used similar assumptions to secure exclusive rights of discovery and colonization in the South Atlantic and Indian oceans.³⁴⁶

International law and tradition supported jurisdictional claims, though such reliance had serious drawbacks. As Jane points out, international maritime law is “a series of rules drawn up by a number of learned pedants, and agreed to by a number of other learned pedants, for the conduct of operations of which the said pedants have no practical conception.” This is a more or less a humorous generalisation of the fact that there is no unified power enforcing international law. Belligerent nations, Jane adds, can break international law with impunity as long as they do not inconvenience other nations, “the strong nations obeying it or enforcing it only so far as such action suits their necessities or the expediency of the case.”³⁴⁷ A significant difference between Spain's diplomatic strategy and that of its rivals was naval power and the consistency with which it was applied. Spanish diplomats maintained a constant pressure on European governments to comply with Spanish

³⁴⁵ A.G.S., Patronato, 50.27bis, “Capitulacion hecha entre los Reyes Catholicos y el Rey don Juan de Portugal, sobre la demarcacion y límites del Mar Oceano: traduzido de lengua portuguesa.”

³⁴⁶ Many of these concepts became common usage over time, and are today embodied in international law. For instance, the right to innocent passage through national waters is outlined in Article 19 of the United Nations Convention of the Law of the Sea. *United Nations Convention on the Law of the Sea, with annexes, and the agreement relating to the implementation of part XI of the United Nations Convention on the Law of the Sea, with Annex* (Washington, D.C.: U.S. Government Printing Office, 1994), p. 104.

³⁴⁷ Fred T. Jane, *Heresies of Sea Power* (New York: Longmans, Green, and Co., 1906), pp. 190, 198.

laws, but the application of power to enforce those same laws was less effective or consistent. Thus, diplomatic complaints were less effective than they could have been.³⁴⁸

Spain in the XVI and XVII centuries could not, for instance, prevent foreign incursions into the Caribbean, indicating an inability to control the region. But this did not mean that other powers controlled the sea either, principally because most were irregular forces and never sought to do so. The sea became uncommanded, or as Grotius put it, “not susceptible to ownership,” and available to anyone willing to use it.³⁴⁹ Despite the overwhelming power and presence of the Spanish forces in Tierra Firme (the contemporary name for the Isthmus of Panamá) in 1575, the pirate John Oxenham was able to use the isthmus and Pacific sea routes to Panamá for several weeks. It took the Spanish forces that long to assemble a force sufficiently strong to overwhelm him, despite the severe infighting that developed among the Englishmen and their indigenous allies. When captured, the survivors were taken to Lima, tried, and hanged, ending this particular threat to Spain’s lifeline.³⁵⁰ Spanish military presence and reputation alone were insufficient to deter Oxenham’s incursions.

The frequent defeats at the hands of the Dutch rebels in the 1570s, the English in the 1580s, and the French in the 1590s demonstrated the weakness of Spain’s maritime traditions.³⁵¹ But the size of its naval forces, made affordable by its wealth, was a major problem for its enemies, as was Felipe II’s willingness to undertake extremely expensive operations when he deemed them necessary.³⁵² Elizabeth I of England’s problem in 1588 was that Felipe II could send his Armada against a number of targets: Ireland, the Low Countries, or various places along the English coastline, while she had to pick one location

³⁴⁸ Hussey, p. 291.

³⁴⁹ Corbett, *Some Principles*, pp. 91-3.

³⁵⁰ Herman, pp. 69-70.

³⁵¹ Stradling, p. 32.

³⁵² Parker, p. 2.

for her defence. To cover one option was to leave others exposed, given the size of her navy. In his advice to his queen, Drake appears to have understood the concept of sea control, asking for permission to mount a pre-emptive strike, attempting to destroy Felipe II's fleet in port. He knew Spain could not invade England without first controlling the ocean around it, because, as Corbett notes, "Instead of being a fighting machine of overwhelming power, Felipe's great armada was in reality the convoy of an unwieldy mass of transports and storeships ..." Thus, Drake developed the policy of controlling the sea to prevent an amphibious attack on England.³⁵³

Fortunately for Spain, Felipe II recognized what had gone wrong in 1588 and began taking corrective measures. The decade that followed witnessed the birth of a new navy together with a more coherent naval policy, and the use of ship designs based on French and English race-built warships.³⁵⁴ Drake's 1589 attack on the Iberian mainland changed the threat perception in Spain, and led directly to the formation the following year of the *Armada del Mar Océano*. A naval administration was formed, using the experience of managing the Mediterranean galley fleets as the pattern of command. A construction program was initiated, and by the end of Felipe II's reign, the fleet had 70 new galleons. The principles of leadership changed gradually, as officers learned the new strategy of continuous warfare.³⁵⁵ The navy remained a divided institution, however, each fleet being independently maintained, trained, armed, and even financed. Simple inertia within the naval administration reduced the fleet's ability effectively to apply power, or to deter or even combat enemies. The bureaucracy was still divided by the various *cortes*, each of which had to approve the taxes to

³⁵³ Corbett, *Sir Francis Drake*, pp. 138, 141, 151.

³⁵⁴ John Hawkins helped naval architects eliminate the castles previously built on the bow and stern of warships, enhancing their seaworthiness and efficiency. Their increased sailing speed led to the nickname "race-built" ships.

³⁵⁵ For instance, eliminating 'castles' on ships forced a change in battle tactics from board and capture to broadside gunnery.

pay for such expensive defences.³⁵⁶ Felipe III, on the advice of Baltasar de Zúñiga and his nephew the Count of Olivares, renewed the effort to modernize and expand the ocean fleets in 1620, despite serious financial difficulties.³⁵⁷

Specifically, they learned the hard way that Grotius was correct, in that legal edicts to the contrary, armed fleet escorts could control only a specific route during a specific point in time, but could not impose Spain's claim of *mare clausum* or control the sea. Prior to the Bourbon reforms of the XVIII century, Spain did not have a cohesive naval force under a single administration. As Hannay notes, its navy still consisted of "a batch of squadrons working side by side, or even wholly apart from one another."³⁵⁸ There was little coordination of forces or even capabilities between the various naval commands, often to Spain's detriment. Dutch Admiral Maarten Haopertszoon Tromp's defeat of the Spanish fleet in the Battle of The Downs in 1639 preceded by only months a similar outcome between Admiral Willem Conreliszoon Loos and a large Spanish fleet commanded by Admiral Fernando de Mascarenhas near Itamaracá in Brazil. These two catastrophes effectively ended Spain's reputation of naval supremacy, and from that point on it was forced to be constantly on the defensive, and especially so in the Caribbean.³⁵⁹

Nevertheless, when required, Spain was always capable of massing naval power into a single, cohesive unit. Kelsey noted that the 1588 *Armada Invencible* clearly demonstrated Spanish experience with large formations (300, in this instance), whereas England could seldom manage to coordinate more than 17 ships in formation. This capability resulted from long experience with command structure and organization, something lacking in the English

³⁵⁶ Lawrence V. Mott, "Iberian Naval Power, 1000-1650," in John B. Hattendorf and Richard W. Unger, eds., *War at Sea in the Middle Ages and the Renaissance* (Rochester, NY: Boydell Press, 2003), p. 118.

³⁵⁷ David Goodman, "Armadas in an age of scarce resources: Struggling to maintain the fleet in seventeenth-century Spain," *Journal of European Economic History*, vol. 28 (#1, Spring 1999): 53-4.

³⁵⁸ David Hannay, *The Navy and Sea Power* (New York: Henry Holt and Company, 1913), pp. 35, 60.

³⁵⁹ Goslinga, p. 249.

navy. Hawkins' pay system, for instance, was based on prizes, and led to serious breaches of discipline among the ship captains, because of their eagerness to capture enemy ships.³⁶⁰ The *Armada* was defeated more by its own poorly defined strategy, mismanagement, inferior technology, and weather, than by enemy action.³⁶¹

The convoy system was begun in 1521 in answer to the French piracy rampart in the Caribbean. Royal warship protection was financed by the *avería*, a tax on a percentage of the value of goods shipped. The *avería* paid the cost of outfitting the warship escorts, but also reimbursed individual shippers for losses caused by weather and piracy. The convoy system became the model for all future defensive projects designed to defend the choke-points and ports considered vulnerable to attack. An additional benefit to this system was that the structure could be used to enforce the monopoly of commerce imposed on the Americas.³⁶² There were several components to the convoys: the *Armada del Mar Océano* escorted the merchant ships from Cádiz to the Canaries; from there the merchant fleet sailed with its accompanying warships, the *Armada de la Carrera de Indias*, to the Caribbean, where the *Armada de Barlovento* escorted it into port. For the return trip, the convoy congregated at Habana, sailed to the Azores where it once again met the *Armada del Mar Océano* for escort through the remainder of the trip, the point of highest danger.

The use of escorted convoys was the tactic designed to provide safe shipping lanes between the specific ports in the Indies and Sevilla, and was possible because Spain could better afford a larger navy than could its European rivals. The Spanish navy had only to defend its ports and sea lanes to retain ownership of the new territories at a time when its rivals could only send private forces to the region. Thus, Spanish officials could pretend their

³⁶⁰ Brian Turnstall, *Naval Warfare In the Age of Sail: The Evolution of Fighting Tactics 1650-1815* (London: Conway Maritime Press, 1990), p. 13.

³⁶¹ Harry Kelsey, *Sir John Hawkins: Queen Elizabeth's Slave Trader* (New Haven, Connecticut: Yale University Press, 2003), pp. 210-211.

³⁶² Pedro A. Vives Azancot, "Tres siglos de fortificación e infraestructura portuaria en la América española," in Mañas Martínez, *Puertos*, pp. 49-50.

colonial trade was a national monopoly, despite the immense distances involved and the obvious infringements.³⁶³

Few military strategists believed that naval power alone could defeat an enemy. However, experience has shown that naval power can be used indirectly by blockading and starving an enemy into submission. In such a situation even irregular forces could threaten large states. This was the case during the XVI century, when privateers and pirates from all over Europe ignored Spain's jurisdictional claims. They dispersed Spain's naval power, forcing heavy expenditures on fortifications and fleets to protect colonial interests.³⁶⁴ Had Spain been able to focus its military efforts on one security problem at a time, it could quite possibly have fielded stronger and larger armies in Europe to attain its strategic objective of hegemony over its neighbours. In other words, just as Spain's large navy forced England to pick and choose which target to defend, pirates and privateers did the same in the Spanish Caribbean, forcing Spain to pick which port to fortify.

The main naval force developed to defend the Caribbean from foreign incursions was the *Armada de Barlovento*. This fleet's primary mission was subverted from the very beginning by the need to escort the annual treasure fleets, and the port time required to repair and recover from the increased time spent at sea. The *Armada del Mar del Sur* was built and funded to protect the Pacific Ocean routes, though in practice it seldom consisted of more than two to three small ships.³⁶⁵ Spain's vast network of spies throughout Europe often proved a more valuable asset, warning often of planned incursions with sufficient time to alert the treasure fleets to be on the defensive. Goslinga's account of the Dutch efforts to capture the treasure fleets repeatedly notes how often Spanish commanders reacted by either

³⁶³ David Aldridge, "The Navy as Handmaid for Commerce and High Policy, 1680-1720," in Jeremy Black and Philip Woodfine, eds., *The British Navy and the Use of Naval Power in the Eighteenth Century* (Leicester: Leicester University Press, 1988), p. 74.

³⁶⁴ Padfield, pp. 8-10.

³⁶⁵ Gaspar Pérez Turrado, *Las Armadas Españolas de Indias* (Madrid: Editorial MAPFRE, 1992): 54.

remaining in port or returning to the protection of one of the principal fortifications. Most of these accounts end with the statement that “The Spaniards, learning of his [Peg-leg Jol’s] departure, sailed at once for Habana and from there to Spain in the following spring.”³⁶⁶

Naval Power in the Caribbean

Spain's primary vulnerability was the sea lanes of communication with the Indies.³⁶⁷ Along these lanes the merchant and warships were confronted by a myriad of individual ships conducting any one of many types of trading, military, or piratical operations. Fleet commanders could only react with the forces at hand, that being the government-issued or mandated military forces in the form of purpose-built warships, armed merchants, or, less frequently, private coastguard forces under license (the *corçó*). The structure developed to deter pirate or enemy action within the limits of these existing institutional preferences.³⁶⁸ It was a bureaucratically logical choice, but its implementation proved troublesome.

Coastal reconnaissance was the responsibility of the land-based *resguardo* reserve forces. Militias watched the coastline, and officers visited foreign ships in port on a daily basis, listening for intelligence on foreign ships. However, many troops were left in isolated regions near their homes, and thus were easily co-opted by generous bribes.³⁶⁹ There were two primary types of coast guard: private and royal squadrons. Private corsair forces tended to use cheap and small boats capable of chasing prey into the shallow waters where such business took place. Their primary drawback was their owners’ penchant for maximizing profits by reducing overhead, occasionally resulting in losses to the superior firepower of the smugglers. Smaller boats were preferred by the corsairs, as big ships were not manoeuvrable

³⁶⁶ Goslinga, p. 252.

³⁶⁷ Richmond, *Statesmen*, p. 8.

³⁶⁸ For a good description of the development of this defensive system, see Haring, *Trade and Navigation*, pp. 201-11.

³⁶⁹ Feliciano Ramos, *Contrabando inglés*, p. 295.

enough to pursue the smugglers, but there were geographical variations. Navy budget officers preferred standardization, preferring larger platforms that could be used throughout the various fleets.

Given the ease with which the Crown delegated commercial policy to the private sector, the concept of delegating or privatizing security was somewhat surprisingly rejected until late in the XVII century, when the first letters of marque were issued to Spanish ship captains in the Caribbean. Fernando IV prohibited the use of private warships in 1498; Felipe IV issued the first *corço* license in 1674.³⁷⁰ Corsairs were very effective because the incentives offered between 50 and 100 per cent of the prize, enough to entice many experienced seamen into effective pursuit of interlopers. Prior to this, governors in the Indies had occasionally issued *corço* patents under tight local restrictions.³⁷¹ The suggestion of arming a private fleet usually resulted from the recognition that there was no other way to effectively stop foreign incursions.

Pressure from the Sevilla monopoly through the Casa and the Consejo de Indias proved too great for the king to overcome in the search for effective security measures. All efforts were channelled through government forces, which were too poorly funded to be effective. A cynic might note that pressuring the king to rely on weak naval forces was in the Consulado's best interest, as it benefited most from the lax enforcement of tax and commercial policies. The Crown did not need much convincing, as it mistrusted any effort to remove military force from its control, fearing its potential for misuse as much as did the *Consulado*. This fear may have been well placed, as it was only 45 years after the first *corço*

³⁷⁰ Real Pragmática contra corsarios, de 12 de enero de 1498, signed by Fernando in Valladolid. "Documento: Ordenanza de S.M. para navegar en corso, firmada en El Prado el 24 de diciembre de 1621 por el Rey Felipe IV," *Revista de Historia Naval*, VI (#21, 1988): 117.

³⁷¹ The Crown's fear of private use of force was well placed, as there are many instances of Spanish privateers abusing their authority, resulting in diplomatic complaints. Klooster, pp. 45, 141-2.

law was issued that allegations of abuse contributed to a devastating war with England in 1739.

There is little consensus among historians over the legalization of private naval forces by Spain: specific prohibitions predated the XVI century. Feliciano Ramos states that the use of *corço* licenses in the Indies began in 1570, responding to foreign smugglers by establishing coast guards to patrol near the principal trading nodes along the Spanish coast. A secondary objective was to foster the construction of warships and cover the gaps in maritime commercial cargo capability the royal naval forces were unable to provide.³⁷² Garzón Pareja wrote that the first *Ordenanza de Corso* was issued in 1621 and published three years later under a new title (*Ordenanza de S.M. para navegar en Corso*), which formed the basis for two more laws published on August 27, 1623, and September 12, 1624. Felipe IV issued licenses to arm a privateer coast guard in 1674, when it had become all too apparent that the official naval forces were too expensive and overextended to fill the many tasks assigned. A new *Ordenanza* was issued in 1718 detailing the rules for *corço* against Turks, Moors, and other enemies of the Crown in the Mediterranean; not until 1779 was a more generalized order issued for the Indies.³⁷³ It appears that the Crown sought to postpone its use, but acceded to specific requests in limited conditions when other options were first exhausted. The generalized use of *corço* did not begin until after 1702, when the Bourbon regime sought to use all possible means of reinstating Spain's power, wealth, and

³⁷² Feliciano Ramos, *Contrabando inglés*, p. 15.

³⁷³ Spanish *corço* ship owners became very wealthy very rapidly, which caused much concern (not to mention jealousy) in the court, so the Casa president was ordered to reform the rules in 1729, though he could not deal adequately with the one underlying problem: the profitability and demand for goods unavailable legally. "Documento: Ordenanza de S.M. para navegar en corso, firmada en El Prado el 24 de diciembre de 1621 por el Rey Felipe IV," *Revista de Historia Naval*, VI (#21, 1988): 117. Real Ordenanza of December 24, 1621, August 27, 1623, and the amplification on June 12, 1624, Biblioteca Nacional (Madrid), Caja 147-99; Real Ordenanza of 17 November 1718, A.G.I., Biblioteca, 302/15; "Real Ordenanza of 1 July 1779," A.G.I., Biblioteca, 302/27, in Manuel Garzón Pareja, "El 'riesgo' en el comercio de Indias," *Revista de Indias* (Madrid), 35 (#139-142, 1975): 190-191.

prestige. However, governors in the Indies had occasionally issued *corço* patents under tight restrictions since the early 1500s, revoking them if the Crown learned of their existence.³⁷⁴

The legal basis for issuing letters of *marque* to find foreigners smuggling in the Caribbean was the monopolistic concept of ownership Spain sought over the Indies. Foreign presence there was considered a hostile act, an attack on Spain, and thus the authorities felt justified in giving license to private individuals to pursue the smugglers. These licenses were considered a dangerous tool primarily because of the example set by England in the 1500s; Spanish monarchs wanted no part in sponsoring piracy or of subverting their complaints against English privateers. Thus, when first issued, the licenses contained strict restrictions on the type of action allowed, the rules of confiscation, punishments and rewards to be granted, and were generally restricted to the seas near Europe. Indies governors had fewer qualms, however, and took advantage of the new authority, seeking the dual benefit of sharing prizes and reducing competition in the smuggling business. In exchange for a share of the prize, the licensee was allowed to build or purchase a ship, crew, supply and arm the ship to patrol specific areas or against specific targets.

One problem with the use of private forces related to the myriad regulations on how the prize was to be disbursed. In general, the profit allowed to be taken from captured smugglers was high: after deducting court and accounting costs, the king received five per cent of the total prize, and one-eighth was to be given to the responsible *Almirantazgo*.³⁷⁵ The balance was shared by the authorizing officials and the privateer crew. In 1757, the viceroy of Nueva Granada elaborated new rules for dividing prizes, noting that the previous law of August 29, 1522 (designed for use in the Mediterranean), eliminated all incentives by requiring that illicit goods be burned. More recent legislation allowed for deducting a four

³⁷⁴ See footnote 264, above. Klooster, *Illicit Riches*, pp. 45, 141-2.

³⁷⁵ Feliciano Ramos, *Contrabando inglés*, pp. 273-276.

per cent *alcabala* from the gross of the captured goods, then deducting court costs, after which the rest was divided equally among the participants, the normal division of prizes. Another method was to deduct the tax for the *Naos Reales* from the gross of the goods only, then the costs, and divide the rest by sixths among the Viceroy and any other participant. A more common method was for two thirds to be given to the king, dividing the balance into sixths among the informant, judges, and royal officials. The problem was a lack of consensus because the precedent allowed for anyone with authority to seek a portion of the prize, and all sought to exclude the rest, including royalties.³⁷⁶ There was also ample evidence that officials colluded with privateers, often offloading a significant portion of the goods prior to reporting the prize to the courts.

Royal coast guard forces normally used large boats with heavy firepower, even using galleys of 120 rowers to sail into the wind or in calm seas, pursuing the sailing hulls used by smugglers. Viscainos were highly sought after as crewmen as they were considered Spain's best seamen. Occasionally the coast guard forces used brigantines or frigates to patrol coastlines, but most captains considered them "fundamentally useless."³⁷⁷ Some captains adopted military engineer Bautista Antonelli's original concept of a strong fort supporting a small fleet, and began using the larger boats as escorts to protect the smaller units, a practice today referred to as mothership tactics.

Though the *corço* and *guardacosta* forces did not stop the smuggling, their documentation does provide a data point for measuring the volume of this trade. Spain's efforts did not stop or diminish the number of complaints by the English merchants, though Donoso states that these provided a steady stream of diplomatic discrepancies between Madrid and London over the issue of smuggling. English ship owners complained that

³⁷⁶ A.G.I., Contaduría, II-1440, 1719 al 1789, "N.^o J.^o. Informes dados por la Cont.^a gral de Ynd. sre diferentes comisos y presas echas en el Puerto de Cartagena de que dieron Cuenta el Gov.^{or} y otr^s D.^s"

³⁷⁷ Feliciano Ramos, *Contrabando inglés*, pp. 280-283.

Spanish privateers were too interested in prizes, not their legal capture, leading to frequent violations of normal shipping and navigation traditions. Spanish diplomats replied that neither royal nor private forces could keep up with the volume of illicit trade, and besides, the Royal Navy frequently protected it, on orders from the local governors.³⁷⁸ Jamaican and Barbadian merchants soon began complaining to the Home Office that many Spanish privateers pushed the limits of their commission, capturing legitimate trade in English waters. When the complaints became diplomatic *démarchès*, the Spanish King ordered that all prizes must be validated in Spain. The British ambassador in Madrid, Benjamin Keene, requested that the *corçò* be ended, and that only Spanish Navy ships patrol and take prizes, but Minister of the Navy Carbajal responded that the English Crown had long used privateers to punish smugglers in his English colonies, and Spain would be content to follow that precedent.

Sea Lanes. Throughout most of the 1500s, the Crown saw little need to expend funds on defence and port infrastructure in the Indies, and provided few assets to patrol the sea lanes of communication between them. Such lack of control first became an issue when French pirates captured a large quantity of the Aztec treasure sent to Carlos V by Hernando Cortéz in 1520. Graham wrote that Spain's rivals began violating its claims after Columbus's first trip, though no one challenged Spain or Portugal's claim to a monopoly for over a century.³⁷⁹ By the XVII century, treasure came from the Indies, money Spain needed to pay its armies, finance its empire, and build its fleets.³⁸⁰ To confront the threat to its trade routes, Spain designed a system of fortified nodes connected by a convoy system, the fleets of merchant and warships carrying the treasure and trade.³⁸¹ Enemies tried to cut Spain's power by all

³⁷⁸ Donoso Nuñez, 24-27.

³⁷⁹ Gerald S. Graham, *The Politics of Naval Supremacy: Studies in British Maritime Ascendancy* (Cambridge: University Press, 1965), pp. 10-11.

³⁸⁰ Walton's estimates vary from 16 per cent in the mid-XVI century to 20 per cent in the mid-XVIII. Timothy R. Walton, *The Spanish Treasure Fleets* (Sarasota, Florida: Pineapple Press, 1994), pp. 27, 72, 144, 178; Kamen, *Spain*, pp. 86-9, 164-5.

³⁸¹ "Nodes" are, in modern naval parlance, fortified points along the coastline, at the end of sea lanes of communication. Spain fortified nodes in Puerto Rico, Cartagena de Indias, Portobelo, San Juan de Ulúa, and Habana.

available means, using licensed pirates, privateers, prohibitions on trade – especially in war matériel, and the attempted destruction of the *flotas*. Nevertheless, the protection provided by the convoys ensured a high level of success throughout the system's existence.

Commerce – legal and otherwise – was a major means of extracting treasure from the Indies. John Hawkins first tried to trade slaves for hides, sugar, gold, silver, pearls, a clear differentiation between merchant and pirate: “Thus, to not pay attention to the importance of commerce and trade during the early period would be a grave error, though in comparison with the period after 1660, pirates and corsairs were in first place” in terms of economic damage.³⁸² TePaske is the only one making this analysis; most historians agree with contemporary accounts that Hawkins, Drake, Frobisher, Ducasse, Hein, and other lesser-known interlopers caused serious damage to Spanish trade and treasure, but in reality losses to storms and weather were just as significant.³⁸³

On a more significant note, however, the Drake raids challenged the Crown's assumptions on defence. The occupation of Hispaniola in 1585 and Cartagena de Indias in 1586, both situations considered threats of a strategic nature, demonstrated the enemy's capability to threaten larger population centres, and led to a 15-year effort to fortify the colonies. Spain's defensive strategy was early on recognized by its rivals. Graham wrote of the semblance of coordination visible in the Elizabethan attacks in the Spanish Caribbean, in that the pirates and privateers did not just attack every port in the Caribbean, but targeted those principal nodes where the treasure fleets landed, or choke points such as the Mona Passage or the Bahamas Channel. In other words, they attacked the places known to have treasure or strategic value.³⁸⁴

³⁸² John Jay TePaske, "La política española en el Caribe durante los siglos xvii y xviii," in Acosta and Marchena, *La influencia*, p. 65.

³⁸³ Fernández Duro, p. 172. García Baquero states that weather and accidents accounted for over 65 per cent of all ship losses, and cites Chaunu's statistic that the probability of a successful return trip from the Indies was 25-30 per cent. García-Baquero González, pp. 381, 393.

³⁸⁴ Graham, p 12; Harman, p. 2.

The justification for this strategy was the reliance on the Indies primarily as a means to finance the hegemonic wars in Europe. In Gaspar Pérez Turrado's words:

Many years passed and many assaults and sackings were tolerated before the Spanish authorities decided to put an end to it, because what really interested the authorities before and after the formation of the Armada, the object of our study, was the safe and timely arrival of treasure to Spain, and it was believed this was guaranteed by providing protection to the galleons transporting the treasure.³⁸⁵

In this regard Felipe II merely continued the commercial and economic policies he inherited. Future monarchs continued the same practice. This practice was well known to Spain's rivals, and many attempts were made to reduce Spain's ability to fight on the Continent by attacking the flow of silver from the Indies. Samuel Blomaert, director of the Dutch West India Company, wrote of Admiral Cornelis Corneliszoon "Peg-leg" Jol's campaign in 1638 that:

It [the capture of the treasure fleet] would not only have strengthened the company to fight the next year against the King of Spain with more power in the West Indies and elsewhere, but the King of Spain would have been brought to his knees because the war that is fought here in Europe he fights with the huge treasures from the West Indies, and if that root is cut off from him so that he cannot grow any longer, then some peace would come to the whole Christian world and his so-called monarchy would receive a heavy blow.³⁸⁶

When the "reformed" pirate John Hawkins became treasurer to Elizabeth I's navy, his reports of capturing Spanish "plate" ships opened naval leaders' eyes to the concept of interdicting Spain's trade routes and reducing an opponent's military might by cutting its purchasing power.³⁸⁷ This was a change in naval strategy, at the very least from defensive to offensive operations away from England's coastline.

Though the Crown delegated commercial policy for the colonies and contracted for many commercial ventures, it systematically safeguarded its right to monopolise force both

³⁸⁵ Pérez Turrado, p. 13.

³⁸⁶ "Blommaert to Oxenstierna, Nov. 13, 1638", in Goslinga, p. 248.

³⁸⁷ "Plate ships" refers specifically to the ships carrying Spain's *plata* (silver). Graham, pp. 10-11.

on land and at sea, as mentioned earlier. Spanish private *corçó* ships were too few to deter incursions and the fact that mainland ports were only occasionally sacked by pirates seeking treasure and seldom occupied longer than needed to extract ransom, proved the Crown's accurate premise that territorial integrity was not at risk. But the cost of defence always interfered with efforts to increase security, with neither king nor merchant wishing to finance the effort.

One of the earliest defensive plans was developed by Núñez Vela, who in the 1540s recommended that forts provide local defence only, with funding based on the town's ability to provide a garrison that could hold off an enemy long enough for reinforcements to arrive from Spain.³⁸⁸ The Crown preferred that *casas fuertes* be built under license by individuals at their own expense, but retained the right to monitor these activities and to approve all architectural drawings prior to construction. Those towns outside the principal routes were enjoined to fortify, and were also ordered to raise the funds locally to pay for it. As a result, few substantial fortifications were built prior to 1630, evidence that the colonists' perspective on security differed from that of the Crown. Most simply hid their valuables and fled when pirates approached, or accepted subsequent losses. Many colluded with the foreigners, taking advantage of the opportunity to trade.

These early fortifications were designed primarily to prevent attacks by local natives, though some thought was given to repelling pirates. However, when pirates – supported by their monarchs – threatened the flow of treasure in 1542, Carlos V ordered the fortification of several ports, paid for by the Crown. To enact a later plan to defend his income, Felipe II commissioned Italian engineer Juan Bautista Antonelli to design a passive system of fortifications based on the principal trade routes actively patrolled by naval squadrons.

³⁸⁸ Three hundred years later British military strategists developed an identical concept for defending their Caribbean colonies, assuming also that the home country would know its enemies' intentions prior to any attack. Hoffman, p. 19.

Antonelli conducted a tour of the region, and his 1587 report on the defences, possibly using Núñez Velez's ideas, became the blueprint for a string of fortifications encircling the Caribbean.³⁸⁹ These became strategic nodes protecting the sea lanes of communication over which passed the empire's lifeline, the treasures of Potosí and Zacatecas. There had been no specific plan until this time: "There is no discussion of the overall defence for the New World ... Only when the garrison is vital for the flow of metal is this assistance increased noticeably, or [the Crown] takes over the garrison."³⁹⁰

Antonelli's network of forts was the most visible result of the empire's presence, protecting the ports on which depended the colonial trade and the Crown's treasure. However, it looks more effective on a map than along the coasts. Many ports were situated to fulfil a bureaucratic need such as access to the interior, rather than defensive capability, often ignoring geographical reality. As a result, some ports and fortifications were built in places remote from trade routes, population, internal cities, or other lines of communication. Early explorers sought protected bays or points of entry, rather than good harbours that might facilitate commerce to the interior, the entry along the north coast of Tierra Firme being the most significant example.³⁹¹ The absence of good ports along the Caribbean and Gulf coastlines reduces the importance of this observation; there may have been better routes between the coast and the interior population centres, but these did not lead to ports adequate for handling or protecting the fleets.

The concern for reducing costs meant that Spain built only a part of the passive defensive system – the fortifications – with only occasional attention paid to the active

³⁸⁹ The forts at Puerto Rico, Santo Domingo, Habana, Veracruz, Cartagena de Indias, Santa Marta, Nombre de Dios, Panamá, Portobelo and Chagres, and San Agustín. Marchena Fernández, "La Defensa del Caribe en el Siglo XVII: Ingenieros, Soldados y Presos," in Acosta and Marchena, p. 38. Santo Domingo was eventually relegated to a second-class port when it became obvious that no more treasure was forthcoming from Hispaniola, though it had a high level of prestige as the first capital city of the Indies. Gutiérrez Escudero, p. 147.

³⁹⁰ *Ibid.*

³⁹¹ Vives Azancot, pp. 47-48.

element, the coast guard or naval squadrons. The colonists understood the need for naval forces, knowing that forts alone were insufficient to defend them, but were unable to convince the Crown to provide the necessary funding. Despite the grandiose plans, the system finally constructed was based on a passive strategy of waiting for enemy forces to attack and subsequently be repelled. Flanks were often ignored, areas not covered by the sea lanes or fortified points were left undefended, and few forts were built along the entire Pacific coastline. All major forts initially faced the sea, based on the idea that they would thus confront enemy forces, and many fell to enemies who landed, marched inland, and attacked from behind. Small coastguard or corsair squadrons escorted the Peru to Panamá trade lanes, and coast guard forces occasionally were assigned to Cartagena de Indias, Habana, and Santo Domingo. All initiative was left to the enemy, who invariably sought to exploit such weaknesses. Nature occasionally caused problems by sinking or ships or entire squadrons regardless of nationality, and diseases killed many of both defenders and assaulting forces.³⁹²

By 1551, the Crown began increasing expenditures for coast guard forces, but the colonists' plea for local defence was undermined when such forces were promptly moved elsewhere, usually assigned to provide convoy escort duty in the Atlantic triangle area or along the coastlines. As mentioned earlier, the basic imperial defensive assumption was that no enemy could or would invade the main Spanish colonies, and thus almost no thought was given to defending the goods or people after the fleets left for Spain.³⁹³ Many pirates and corsairs, confronted with newly built or improved forts, altered their tactics, attacking coastal shipping as goods were distributed to smaller ports. This did little to reduce the confidence in the passive theory of defence, however. Luis de Velazco, the Viceroy of Perú, "adduced that distance, ignorance and danger provided an increasingly insuperable trilogy," apparently

³⁹² Fernández Duro, *Disquisiciones Náuticas*, p. 172.

³⁹³ Hoffman, p. 21.

ignoring the obvious fact that the assumed conjunction of forts and fleets almost never combined adequately when needed and almost never worked to more closely monitor compliance with fiscal laws.³⁹⁴

In the end, the imagination of both pirates and colonial Spaniards produced many unexpected effects on the history of the region; “in numerous cases better intelligence would have been worth its weight in gold.”³⁹⁵ TePaske notes that throughout the XVI century, the cost of defence in the Indies, the lowest item on the Spanish budget, was less than the budget for the court in Madrid or the Mediterranean fleet, and represented only a tenth of the cost of the wars against the Dutch. A century later the expenses on defence tripled, but this still was not the largest expense of the empire.³⁹⁶ Such analysis speaks volumes about the Crown’s emphasis on defending its colonies on the cheap; the high number of incursions shows the result of such decisions.

Other European nations caught gold fever and set out to find their own *el dorado*, seeking to colonize areas abandoned or unexplored by the Spanish *conquistadores*.³⁹⁷ In naval strategic terminology, this followed the concept that the need for large numbers of ships can be overcome by building forward bases, as did Spain’s enemies throughout the Caribbean:

The English, French, and Dutch, at the beginning of the XVII century, needed bases for operations against the Spaniards, against its ships or Caribbean towns where they could most likely find bullion. Their new colonies in the Lesser Antilles served well to this end.³⁹⁸

Geopolitical writers note that weakly defended areas of an otherwise strong state prove vital to that state. In geopolitical terminology, “it is in these situations where borders

³⁹⁴ Pérez Turrado, p. 51.

³⁹⁵ Kris E. Lane, *Pillaging the Empire: Piracy in the Americas, 1500-1750* (New York: M.E. Sharpe, 1998), p. 7.

³⁹⁶ TePaske, “La política española,” pp. 67, 70.

³⁹⁷ Artíñano y de Galdácano, pp. 36-8.

³⁹⁸ TePaske, “La política española,” p. 64.

should be sufficiently solid to resist the pressure of stronger foreign forces, allowing sufficient time for the ‘heartland’ to develop and for the State to acquire sufficient power and solidity.”³⁹⁹ In the absence of state presence, other nations may seek to infiltrate a territory for their own, as did the XVII-century English smugglers and pirates who established beachheads in Balis, Moskitia, Jamaica and Barbados; Dutch incursions in Brazil and Curaçao; French pirates and planters who settled Guadeloupe, Panzacola (in today’s Louisiana), and western Hispaniola, areas Spain left open to hostile forces.⁴⁰⁰ Having been built for one specific objective, the state forces were too low in number and organizationally too inflexible to cope with the new tasks of chasing pirates, defeating foreign colonization efforts, or even hindering the sizeable number of smugglers entering the porous borders of the empire.

The link between national power and economics was certainly known at the time. Fernández de Navarrete wrote that Spain’s empire was so geographically spread out that only a strong navy could have kept it together, if only because of the commercial links. Industrial power and commerce were related to maritime trade, and, given the use of merchant ships as naval platforms when necessary, the navy depended heavily on maritime trade.⁴⁰¹ Capmany stated that the empire’s strength was related to its trade, as naval might could not exist without the maritime might of a merchant marine.⁴⁰² The Spanish Crown’s continual financial shortages meant that even small raids could seriously hinder the war efforts in Europe. For instance, Francis Drake’s theft of silver in Panamá in 1585-6 prevented General Parma from paying his army, thus temporarily derailing Spain’s war strategy in the

³⁹⁹ Pinochet Ugarte, pp. 197, 200.

⁴⁰⁰ Mission creep is the term used by the military to describe the process by which politicians gradually add responsibilities to the security forces, often without adding resources or funding to adequately manage the new tasks.

⁴⁰¹ Pedro Fernández de Navarrete, “El sosten de guerras,” *Conservacion de Monarquías y discursos políticos sobre la gran consulta que el Consejo hizo al Señor Rey Don Felipe Tercero*, (Madrid: en la Imprenta de Don Tomas Alban, fifth edition, 1805), p. 53, cited in Artíñano y de Galdácano, pp. 39-41.

⁴⁰² Capmany, V. 1 part 2, p. 2., cited thus in Artíñano y de Galdácano, pp. 46; Reynolds, pp. 2-4.

Netherlands. The 1590 capture of the Spanish fleet by Frobisher and Hawkins forced Spain to forego the planned invasion of France for over a year.⁴⁰³

Spain's maritime and naval strategy developed erratically. Few if any of the military leaders during the XVI and XVII centuries were naval experts capable of assimilating the rapid changes in naval technology or adapting them to the Crown's objectives. Ships were expensive, and the high cost of altering or retro-fitting existing vessels was a factor in the Crown's reticence to finance new technology. To some extent this reflects how Spain developed its naval power on two coasts, the Mediterranean and the Atlantic, where sailing requirements were very different. Iberian shipwrights became acquainted with many types of ship designs, traditions, and methods, reflecting the varied nature of their geographical locations and experiences. The seaports north of Portugal had greater commercial links to the northern European nations, their trading habits, and large ships capable of handling the heavy seas in that area. But the fact was that these developments were accepted by the merchant marine, not the Crown's forces. Thus Spain's navy did not adopt new ship designs or tactics, as did all its rivals. England, France, Venice, the Low Countries, Portugal, and the Ottoman Empire were no less reticent, but they relied on private ship owners through letters of patent or marque – which Spain did not – as an inexpensive way to acquire the latest naval technology. Because of the overlap between differing maritime experiences and acquaintance with different cultures and ways of doing things, the sailors and shipbuilders adopted technological changes more easily than did their counterparts elsewhere. Individual businessmen learned that flexibility was required to stay afloat commercially, adapting to new tactics or different methods as needed to maintain their profitability. But when the state took over the initiative from private enterprise, this ability to adapt to new technology and tactics dwindled as the decision-making process was taken over by committees or non-

⁴⁰³ Graham, p 12.

specialist bureaucrats heavily influenced by social status, tradition, or budgetary requirements.

Spain's naval requirements in the Caribbean of the XVI century would demand that shipbuilders design warships capable of chasing 50-ton smuggling sloops in shallow water, pursuing 100-ton pirate brigantines around the Bahamas cays, capturing 250-ton privateer frigates on the open sea, battling English or Dutch first-rate warships, or attacking Ottoman fortifications throughout the Mediterranean. Obviously this was an impossible request, given the current state of metallurgy, naval architecture, and propulsion systems, and, more importantly, the state of Spanish naval expertise. In fact, no one seriously objected when the king ordered the naval commanders to use ships already in existence, despite their shortcomings in many naval missions.

Furthermore, Spanish military strategists, working primarily within the bureaucratic environment in the various Councils and Ministries, were so pressured by conflicting requirements that defence suffered in measurable terms. There was no counterpart to John Hawkins of Elizabeth's navy, nor was it even possible for such a commander to emerge. That is not to say that capable men of the sea did not exist: Alvaro Bazán, the Marquis of Santa Cruz, was a very capable admiral, as was Admiral Andrea Doria, but they were so because of a personal interest (their holdings were along the coast and thus subject to foreign seaborne attack), rather than by their positions in the court. Most naval decisions were made by committees of officials appointed to the Navy Council by the Crown for political reasons. As a result, the development of naval strategy or technological capability was often delayed by the very men charged with crafting them. Usher notes that the use of committees to standardize ship design led to a dramatic reduction in production and innovation during the XVII century. The goal of standardization – settling on the galleon design for all naval

platforms – was rational, but the authoritarian nature of the bureaucracy put a low priority on the variety and quality of the ships , or naval stores produced.⁴⁰⁴

This is not to say that logical or even common sense processes were not employed. It simply means that the objectives sought and the criteria imposed by bureaucrats often differed from that required by those actually carrying out the defence policies.⁴⁰⁵ In 1612, Governor Diego Fernández de Velasco of Cartagena de Indias asked permission to stop financing two galeras. A debate waged in Madrid for nine years, resulting in a Royal Order to maintain the boats. Seventy-five years later the same argument broke out again, over what platform would best defend the port. Studies were commissioned from several naval and military officials on the merits of building corvettes, frigates, brigantines, or even galleys to be based in Cartagena de Indias. Few of the participants had even been to the Indies or had experience in shipbuilding or sailing, so the discussion was attuned more to court rivalries than to the reality of deterring Caribbean smugglers. After ten years of debate, the ships were never built. In 1721 a new governor requested funds to build ships to protect Cartagena de Indias; it appears that after another lengthy process almost identical to the previous one, no ships were ever built at the Crown’s expense for this specific purpose.⁴⁰⁶ In both cases, the logical elements of ship size, strength, and speed were discussed, but mostly in terms of what best fit the mission of apprehending enemy smugglers, rather than of what ship design was best for patrolling the specific sea conditions in the area.

⁴⁰⁴ Abbott Payson Usher, “Spanish Ships and Shipping in the Sixteenth and Seventeenth Centuries,” in Arthur Cole, *Facts and Factors in Economic History: Essays by Former Students of Edwin Francis Gay* (Cambridge: Harvard University Press, 1932), pp. 197-9.

⁴⁰⁵ The *situado* was an accounting procedure used to transfer funds from one finance center to another, usually from a wealthy area to one with insufficient income to fund the government. Antonino Vidal Ortega, “Circulación de capital y circulación comercial en Cartagena de Indias 1580-1640: una aproximación desde las Cajas Reales,” *Historia y Cultura. Revista de la Facultad de Ciencias Humanas Universidad de Cartagena*, IV (#4, December, 1996): 110-111.

⁴⁰⁶ Feliciano Ramos, *Contrabando inglés*, pp. 280-285.

A main point of agreement throughout the debate was that only two units needed to be built, though the number of smugglers purported to be in the area was not mentioned. In reality, this latter number should have been a more critical factor to the discussion. Ship size and strength are important at the tactical level in individual combat, but of little import if the ships are too expensive to build in sufficient numbers to show up at critical times at the required location. Large, heavily armed ships – corvettes or frigates – with a deep draft would have been useless in the shallow coastal waters they were expected to patrol, and small, light sloops may not have carried sufficient armament. In the end, no ships of any size or cost were ever built to defend Cartagena de Indias from either smugglers or pirates, despite a debate and in-depth analytical studies lasting a century. The bureaucratic requirements for perceived action and budgetary caution won out over more credible and threatening issues experienced by the commanders in Nueva Granada.

A more pointed example of a bureaucratic reaction was the effort to expel Patterson's 1698 Scottish New Caledonia Enterprise from the Darién. After Henry Morgan's attacks on Panamá in the 1680s, the Spanish Crown had ordered increased naval support and the deployment of salaried soldiers, though the implementation was less than optimal. The task of expelling the Scots was assigned to Pedro Fernández de Navarrete, and he set about to equip a squadron. However, the Scots surrendered in 1701, a full year before Fernández sailed from Spain.⁴⁰⁷ Understandably, building and arming the requisite number of ships takes time, but three years is excessive even for XVIII century Spain, and it is doubtful there were no ships available when the orders were first issued. Fernández was apparently forced to compete with all other commanders seeking naval assets to carry out their assigned missions, including all ceremonies surrounding the death of Carlos II and the crowning of

⁴⁰⁷ Fernández' squadron consisted of 4 galleons, 2 frigates, 2 urcas, 1 naveta armed with 528 artillery pieces and 4,790 soldiers, and cost 1.5 million *pesos*. Juana Gil Bermejo García, "La Iglesia y defensa de las Indias," *Anuario de Estudios Americanos*, 38 (1976): 350-1.

Felipe V. Fernández probably also had to seek the new king's approval for the project, adding further delays. Here again it appears the bureaucratic apparatus interfered with an assigned naval objective.

From this particular view of military strategy, the fact that Spain retained control over its colonies for over three centuries was quite extraordinary. Spain had a much larger share of the globe to protect, and thus was forced to choose when and where to concentrate its efforts, and this justified its posture statement. There was never a serious threat to the political or territorial control over the main portions of the empire. Spain had a larger naval force than did England or France, and its capacity to overcome losses was consequently much greater. When the Elizabethan adventurers exposed weaknesses, counter-measures were instituted, often quickly. During England's concerted efforts to interrupt the flow of silver and gold, it was logistically impossible to blockade Spain for the six to twelve months necessary to ensure its defeat, and Felipe II could launch a treasure fleet from Habana that England could not confront or delay, knowing it could arrive safely at some point in the future. This latter action was, of course, a theoretical argument, as the Spanish monarchy was chronically underfunded and seldom delayed the silver shipments. During 1588-1603, more treasure arrived in Spain than during any other comparable timeframe in the history of the colonies, despite the efforts of Frobisher, Drake, Hawkins, and the most serious naval losses Spain had ever suffered.⁴⁰⁸ The monarchy's grand strategy emphasized territorial integrity in Europe; this was extended to include the Indies, though there was insufficient funds to defend it all.

Spain's overextension through conquering an empire on which the sun never set has been analysed and discussed extensively. In terms of productive capability and military force projection, it is a valid argument. Vives Azancot writes that a defensive system can only

⁴⁰⁸ Paul Kennedy, *The Rise and Fall of British Naval Mastery* (London: Allen Lane, 1976), pp. 18-19, 29.

develop to the capacity of a state to maintain it. In this sense Spain did overextend militarily in the Indies, in part because of the empire's strategic commercial and industrial weaknesses, exacerbated by the economic effects of the cascade of silver and gold from the Indies. As an example, he notes that forts were designed to be bases for offensive as well as defensive operations, but on many occasions proved incapable of being either. In part, it was the Crown's inability to fund an adequate defense, and in part, this reflected the lack of any serious threat perception among the colonists:

“[f]urthermore, it was not clear – throughout the XVI to XVII centuries – that the Spaniards in the Americas felt so threatened from outside as was thought in the European centres of governance; none even felt the danger of doctrinal contagion, and almost no one thought about the trials and tribulations that a hostile invasion might bring.”⁴⁰⁹

The emphasis on expelling foreigners from the colonies was no longer justified through religious zeal. Spain had always sought to enforce a commercial monopoly over its colonies, a rationale that remained foremost in the efforts to expel foreigners.

Rivalries in Europe were always a determining factor in defensive strategy. As these rivals began to acquire colonies, English, French, and Dutch wars had a major impact on the Indies. A secondary impact was the maritime expansion and control over the regional sea lanes of communication. French forces under Francis I went to war against Carlos V (1530-55) in Italy, but also attacked Habana (1554-5), with plans to take over Santo Domingo and Tierra Firme. Spain reacted by strengthening the defences of the forts. The effort was partially successful in that the territorial and political control was retained, but foreigners began to exert growing control over the commerce and trade routes. This loss of total control was to increase over the course of the next century as Dutch incursions in Brazil and Guyana (1630) helped wrest control of the sea lanes to the Spanish Main, and English colonization in Barbados and Jamaica (1633, 1665, respectively) resulted in English control of the trade

⁴⁰⁹ Vives Azancot, p. 50, 54.

routes throughout the Caribbean, and especially around Cuba, Hispaniola, and Cartagena de Indias. In other words, Spain concentrated on its grand strategy objectives, but economics and commerce were not on that list.

Spain's dedication to its defensive plan is illustrated by its commitment to defend San Agustín and control the Bahamas channel at any cost. Spanish Florida was a strategic chokepoint along the fleet's return route to Spain and as a defensive barrier to English expansion from the north. It was primarily a military post of a size and strength large enough only to obstruct an enemy force from occupying the area, but had almost no offensive or power projection capability, and depended on coast guard forces or the *Armada de Barlovento* to prosecute any violators. Spain exerted great efforts in maintaining this garrison, because of its strategic potential as a staging point for enemy action. Efforts to retain a presence along this hostile coastline included the extensive *situado* from Mexico City and Habana, the frequent rotation of men to replace those lost to disease, the construction of the forts, and diplomatic pressure on England.⁴¹⁰

Lack of a coordinated and coherent plan was perhaps the worst problem for Spain's defence strategy in the Indies. Regional commanders never consulted each other when developing counter-smuggling plans, despite frequent communication on other issues – there is little evidence in the archived correspondence indicating that operations were discussed at any level other than general orders issued by the Crown. The *Armada de Barlovento* was charged with combating pirates and smugglers, and small *guardacostas* were established, but there was no regional coordination among the various fleets or commanders. In part, this reflected Crown objectives, which meant that European projects always came first.⁴¹¹

⁴¹⁰ Marchena, pp. 91-92.

⁴¹¹ Sanders, p. 78.

However, the passive defence strategy proved incapable of deterring either colonist or foreigner from illicit contact and trade. Spain's successes were against nations, not individuals. Spain viewed foreigners as an extension of their national origin, as a component of a national power. Defensive strategy was developed to repel foreign powers, a strategy that worked well. But the underlying assumption was wrong, in that individual merchants came on their own to trade and barter. Sending the Spanish fleet to confront these incursions proved to be a failure.

Governance

How the Hapsburg kings structured the government reveals part of their grand strategy. To maintain the moral philosophy of government, the king had to control and regulate even the most minimal details of the social and commercial life of the empire. This was done through the appointment of government administrators imbued with legislative and judicial authority, arranged in a pyramid of tribunals: municipal *cabildos*, guilds, and special courts administered by royal officials.⁴¹²

In general, the structure developed from the pre-existing system of administration, the *cortes* that served as the primary contact between the monarch and the lords they ruled, powerful bodies that approved all taxes requested by the king. Carlos V and Felipe II worked hard to undermine that authority, imposing a system of functional councils overlapping geographically-based ministries, including one charged specifically with raising funds to finance the government.⁴¹³ Ministers were appointed to multiple councils, often with overlapping duties, so they could be aware of what was happening in other branches of

⁴¹² Francisco R. Calderón, *Historia económica de la Nueva España en tiempo de los Austrias* (México: Fondo de Cultura Económica, 1988), p. 12.

⁴¹³ There were seven major councils: Consejo Real of Castille (divided into seven sub-categories of Cámara, State, Indies, War, Finance, and Works and Forests); Inquisition; Orders; Crusade; Aragón (divided into Aragon and Italy); Portugal; Flanders.

government with similar responsibilities.⁴¹⁴ Spain's fractured conglomerate of inherited monarchies caused many divisions in the bureaucracy governing the semi-independent entities of Castilla and León, Aragón, Portugal, Flanders, Austria, northern Italy, Sicily, and the Indies, making it impossible to create a single policy to cover all contingencies. In theory these were united under one monarch, though each retained a great deal of autonomy.⁴¹⁵

The primary unifying factor was the king as the source of authority. Ministries and councils were responsible for sifting through all government paperwork, making recommendations to the king, and implementing approved programs. Strict rules regulated their responsibilities, and overlapping duties ensured that the king was consulted frequently. The War Council, for instance, dealt with all issues concerning the armed forces in Spain, the Council of State decided military issues in the Netherlands and Italy, and the Council of the Indies regulated the militias and navies in the Indies. Budgets were produced in the council of Finance, but all major decisions relating to war or military expenditures required the king's direct authorization. Further division was added by the viceroys, governors, and ambassadors who could provide input without consulting any of the councils.⁴¹⁶ The obvious rationale for this organization was to centralize decisions, so the king could impose his will on the bureaucracy, and especially so on those individuals who advised the king. As part of this effort to centralize power, the Indies were designated as integral to Castilla, not a separate kingdom. Carlos V wrote of the Indies as being inseparable from the principal administrative units of his possessions. Felipe II referred in 1556 to "the kingdoms of Castilla and Leon and those areas annexed and dependent on them, in which are included those states in the

⁴¹⁴ Parker, pp. 23-5.

⁴¹⁵ Kamen, *Spain*, pp. 85, 164.

⁴¹⁶ Parker, pp. 20-3.

Indies.”⁴¹⁷ In their minds, their rule was absolute and homogenous, not fractured by artificial internal barriers.

There were problems, of course, such as when council secretaries or ministers sought to hinder the flow of information or slant the presentation to their own benefit or to upset a rival. To ameliorate this, Felipe II encouraged everyone, from ministers to commoners, to write directly to him, if they thought the matter too confidential to trust to royal officials or a council.

Both Carlos V and Felipe II attempted to use all the various parts as a whole, depending on all to support their ambitions. Felipe II understood this concept of being aware of and using all the assets available to him, as demonstrated in his many projects surveying and analyzing the various regions, seeking commonalities, usually in relation to finding additional income. Such projects included *visitas* (inspections) of the Italian provinces; the approval of Juan de Ovando’s topographical and geographical analysis of the Indies in 1567; and the compilation of a legal code relating to the Americas, the *Nueva Recopilación*, published in 1573. In keeping with the Crown’s fiscal emphasis, such studies provided a credible idea of what was available for taxation, specifically to fund the increasing cost of defence: “You are well aware,” Felipe declared, “that my treasury is exhausted ... sustaining large armies and navies for the defence of Christendom and of my kingdoms, and for the conservation and upkeep of my states and lordships.”⁴¹⁸ Felipe II proceeded to impose new taxes so that all Spanish, mestizo, mulatto and free black subjects throughout the Indies could help shoulder the cost of their own defence. But the constant and immediate need for money often hindered such efforts as the Crown sold commercial privileges for ready cash or rewarded favours with licenses to bypass commercial rules. Thus, services or donations

⁴¹⁷ “Los reinos de Castilla y León y lo anexo y dependiente a ellos, en que se incluyen esos estados de las Indias.” Calderón, p. 118.

⁴¹⁸ Parker, pp. 8-10.

(*beneficios*) to the Crown could earn permission to take, for instance, one ship with 200 tons of goods to sell in the Indies either as part of the annual convoy or independently, a practice known as a *nao de permisión*. The money raised in such fashion helped cover cash-flow shortages, but over time caused serious difficulties, when the privileges were given to foreigners and thus undermined Sevilla merchant's profits.

Instead of promoting local industry in Spain or the colonies, bureaucrats often made detailed and calculated projects designed to raise immediate cash. A particularly disastrous example was the production of artillery. High-quality cannon could be purchased cheaply in Antwerp, where labour was less expensive and metallurgical quality better than in Spain, so the decision was made to purchase all from the Low Countries. When Antwerp fell to the Dutch rebels in 1572, no alternative source for cannon was available, as domestic capacity had evaporated. Even after the Duke of Parma re-captured Antwerp in 1580, Spain still faced a shortage of guns and powder because the Flemish gunsmiths had emigrated (forcibly or through enticements) to Sweden and England. By 1578, the need for artillery was so desperate that Spanish agents successfully evaded Elizabeth's prohibitions and surreptitiously bought cannon in England, despite the exorbitant prices.⁴¹⁹ In this instance, efforts to unify the empire's resources backfired. That is not to say that relying on Castilian founders and gunsmiths would have been any better, since the poorer quality ores and fabrication processes available to them might not have yielded superior results on the battlefield. The decision-making process was logical and sound, but the result of the acquisition process failed because it assumed that high-quality cannon would always be available from Antwerp, and that the

⁴¹⁹ Padfield, pp. 123-4. Technical improvements and better metallurgy made English artillery cheaper: Spanish bronze cannon, considered the best, cost 16 ducats per hundredweight, where English cast iron cost 5 ½ ducats per hundredweight. Ordnance exports from England were strictly controlled, but a Plymouth merchant sold guns, shot, carriages, and ladles in San Sebastián in 1577. There were reports of high quantities of English munitions being sold in Spanish ports, though many agents used La Rochelle as a transfer point. East coast ships sailed directly to Andalucia to sell English ordnance, Welsh producers shipped from Bristol on German or Dutch ships, and sales of lead, gunpowder, tar, ropes, and cables were often shipped via St. Jean de Luz, even in 1587 when knowledge of Felipe II's *armada* was common. Pauline Croft, "Trading with the Enemy, 1586-1604," *The Historical Journal*, 32 (#2, 1989): 293-294.

city would never fall into enemy hands. By the end of the XVI century, Spain depended heavily on her enemies – England, Sweden, Germany, the Low Countries – for gunpowder and ordnance, which often meant illegal or clandestine purchases at substantially higher prices.⁴²⁰ Spain's ability to keep such purchases hidden from public view kept up the façade that her navy was as strong as always and her treasure inexhaustible. But such examples – and there were many – demonstrated how bureaucratic decision-making, with its often convoluted objectives, actually raised the cost to the Crown of governing the empire.

Developing ideas for government policy proved problematic to a bureaucracy steeped in class consciousness, attention to form, and burdened with overlapping responsibilities. This problem plagues all bureaucracies, especially those based on authoritarian hierarchies that tend to resist merit-based solutions or those offered from outside the power structure. Artíñano y de Galdácano described how Juan de Austria once suggested to Felipe II the creation of a 300-ship fleet funded by tax income generated through commercial enterprise in the Mediterranean as a means to end the threat of Ottoman and Barbary piracy. The Council of War answered that if such a project were convenient the king would already have put it into action. Juan de Austria was not yet a respected military expert, and his opinion was not considered weighty enough to influence government policy; Felipe II also could not afford to give his half-brother too much credit or prestige. The fact that he recommended a military strategy based on commerce further doomed the proposal. The Hapsburg monarchs only dealt with commerce from a fiscal perspective, with little or no thought to long-term effect or profitability. The value of commerce was acknowledged in theory, but in practice its primary function was as an immediate source of tax revenue. Any investment in commerce required monies Felipe II preferred to spend on other projects.⁴²¹ The anecdote is illustrative of the

⁴²⁰ Ibid., pp. 167.

⁴²¹ Artíñano y de Galdácano, pp. 44-5.

Spanish bureaucracy, intent on satisfying the requirements of a single powerful individual, where appealing the king was more important than successful policy.⁴²² All decision-making processes were adverse to risk, designed to protect the status quo, to not counter bureaucratic stability, even if it reduced efficiency and increased cost.

There were few differences between the government structures imposed on the American colonies and those of the Iberian Peninsula, making it difficult to discern evidence of grand strategy in the former. The most significant difference was the effort invested to prevent signeurial nobility – the feudal lords that limited the Crown’s power in Spain – from taking root in the colonies. Thus two conflictive branches of government emerged, with the viceroy or governor in charge of the daily operation of the government, and the *audiencia* or *cabildo* to oversee his rule. The governors represented the king’s absolute authority; the *cabildos* at first attempted to establish a hereditary military aristocracy. The 1524 *Leyes Nuevas* were issued to strengthen the nascent colonial bureaucracy in the colonies, and the 1568 *Junta Magna* established a political system designed to impose the absolute power of the Crown, thus ending the political ambitions of the conquistadores and their descendents, the *benemeritos*.⁴²³ As mentioned earlier, Felipe II expanded his personal authority by encouraging all his subjects to write directly to him on any issue, using this as a mechanism to gather intelligence on how his representatives went about imposing his rules.

The structure of government in the colonies emphasized the absolute power of the Crown. Political and territorial hegemony was imposed through military power, and then used to introduce religious unity into the region. Economic hegemony was claimed, but

⁴²² More examples of bureaucratic mindset can be found in Goodman, pp. 49-77. In relation to commercial policy, Trevor-Roper notes that one significant difference between England and Spain was the divorce between the arbitristas and the crown in the latter, but none existed in the former. The Spanish crown ignored trade except when it needed taxes; the English crown listened to its merchants’ suggestions, even allowing some imposition of a mercantilist system, but stopping when pressure was exerted by those dislocated by the program. Hugh R. Trevor-Roper, “The General Crisis of the 17th Century,” *Past and Present*, #16 (November 1959): 59.

⁴²³ Céspedes del Castillo, p. 30.

proved much more difficult to achieve. The administration of commercial policy was delegated to the various regional *consulados*, and regulated through the *Casa de Contratación* in Sevilla. This centralization of power made it easy to ignore the basic needs of the population, or to assume these were handled properly by the king's deputies. When the system failed, individuals sought to meet their needs elsewhere, or as cheaply as possible. The result was smuggling on a scale that defies the imagination, and even royal officials charged with stopping the smuggling participated and profited from it.

Delegation of Government Authority

One unintended consequence of Spain's constant effort to reduce the cost of government was the high level of corruption, and the extent to which it permeated the entire system: *fraude* permeated the colonial administration as efforts to reduce costs increased. The Spanish government constantly sought to reduce bureaucratic or administrative expenditures in the Indies, primarily by relying on private individuals, local political elites, or non-government groups. The Crown allowed merchant guilds (*consulados*) to operate through their own court system to adjudicate cases and enforce rulings in situations relating to their members.⁴²⁴

The largest private organization was the *Casa de Contratación* in Sevilla, which evolved into a huge bureaucracy managing more than just commerce, staffed primarily by merchants of the *Consulado de Sevilla*. This institution provides an example of Isabela's effort to monopolize Indies trade, which began as soon as Columbus returned from his first voyage across the Atlantic. As noted previously, on February 14, 1503, Isabela issued a *Real*

⁴²⁴ Terradas uses the term privatization when referring to this situation, though the term has taken on a different connotation in the XXI century. "Farming" does not apply directly to this case, as that term more closely approximates the Spanish "asiento." This study will refer to the use of private entities to carry out government functions as delegated authority. Terradas, p. 42.

Cédula to Sancho de Matienço in Alcalá de Henares establishing the *Casa de Contratación* in Sevilla to direct, control, defend, and organize trade and migration to the Indies through a royal monopoly. When it became obvious that this would be impractical, a monopoly was given to the *Casa*, a private organization established on the queen's authority. Reflecting the medieval viewpoint of economics, the *Casa* represented an effort by the Crown to delegate its commercial control to a private group, because the Crown did not have the necessary personnel, expertise, or funds required to manage such a vast project. Over time, the venture changed in nature and power, but retained the form of a private organization operating in the role of a government agency. As commerce grew the *Casa*'s jurisdiction increased, to the point in 1539 where it had jurisdiction over all maritime and judicial issues in the Indies.⁴²⁵ Because it was a private, for-profit organization, the *Casa* frequently sought to profit from its position, purchasing benefits and rights often, to the Crown's detriment.⁴²⁶ All ships, in convoy or *suelto*, were required to obtain a license from a *juez oficial* Sevilla, after he had inspected the empty ship, recording data on its tonnage, age, condition, and rigging. Subsequent inspections produced reports on the cargo before and after loading, and the actual departure timing of the ship, as witnessed by the judge.⁴²⁷ Such regulations sought to monitor all commercial transactions in minute detail, seeking to evaluate how much tax income could be extracted.

⁴²⁵ José Martínez Gijón, "La jurisdicción marítima en Castilla durante la baja edad media," *Historia*, 8 (1969): 310-311. That a law prohibiting ships from doubling their transit time by sailing from Callao to Nicaragua via Acapulco indicates the profitability of the illicit trade between Acapulco and Callao. Antúnes y Acevedo, *Memorias*, pp. 51-52, p. 86. On 20 January 1503 the *Ordenanzas* of the Catholic Monarchs to the *Casa* were issued. Later were added "elección de navíos, la preparación de vigilancia y visita de las flotas, la inspección del estado de sus naves, de sus tripulantes, de sus bastimentos, y armamentos, todo la policía de ella," to be conducted personally by the judges of the *Casa*. They were even charged with looking for blasphemers, bettors, drunks, and other petty criminals. Artíñano y de Galdácano, *Historia*, pp. 51-59.

⁴²⁶ An example is the *donación* granted by the *Casa* to Felipe II in exchange for the right to use *fardos cerrados*, sealed shipping containers designated for specific products. Both parties knew this would lead to massive smuggling, but the cash offered in compensation was too tempting for the king to turn down, and low enough that the merchant guild's profits easily covered the cost of the donation.

⁴²⁷ On 14 August 1535, a *Cédula Real* set the cost of a license at 2 *ducados* per ton on ships to Habana, Campeche, Honduras, Gibraltar, and the Guajira; 1.5 *ducados* for Margarita, Cumaná, Nueva Córdoba, Rio de la Hacha, and Santa Marta; 1 *ducado* for Santo Domingo and Puerto Rico. Antúnes y Acevedo, *Memorias*, pp. 51-52.

The *Casa de Contratación*'s use of this delegated authority expanded quickly. Efforts to participate by ports other than Sevilla and the *feria* sites in the Indies failed in the face of the *Casa*'s political power. By 1529 Carlos V had closed all ports on the Spanish mainland except Sevilla, ostensibly to prevent tax fraud. As Vives points out,

Thus it was that throughout America the mercantilist imagination prevailed, willing to cover costs and gather up the highest possible number of even the smallest benefits, together with the hegemonic ability to invest in costly permanent infrastructure projects of negligible value outside of their specific strategic considerations.⁴²⁸

The Crown retained political and religious control – elements of grand strategy – but even these were occasionally undermined by the *Casa*'s economic power.⁴²⁹ In addition to regulating and taxing commerce, the Crown originally intended to assist in the expansion by fostering maritime arts and technology. But by the mid-1500s, this role had evolved into one of monitoring compliance with the rules imposed on all colonial merchants.

The Sevillian monopoly guarded its privileges jealously. The Canary Islands obtained the right to participate without first shipping goods to Sevilla, but this was not a guaranteed right, and was frequently challenged through the courts and by appeals directly to the king. In the Indies, inter-colonial trade was either prohibited or tightly restricted. The only coastal shipment allowed was that required to transport *flota* goods from the principal nodes to remote areas, and to take locally produced goods to the principal *ferias*.⁴³⁰ When it benefited its members, however, ships were often given waivers allowing them to leave for the Indies from Cádiz, thus avoiding the sandbar at the mouth of the Guadalquivir River; rules of inspection and licenses were often relaxed in exchange for donations.⁴³¹ But the changes

⁴²⁸ Vives Azancot, p. 50.

⁴²⁹ *Ibid.*, pp. 51-2.

⁴³⁰ No trade was allowed between Jamaica and Cuba except for foodstuffs required by the *flotas* or the San Agustín garrison. Cabotage (coastal shipping) between Callao in Perú and Nicaragua could not enter the port of Acapulco, to prevent transshipment of goods from the Manila galleons. Trade between Honduras and Lima was suppressed so as to protect Sevillian trade through Panamá. Artíñano y de Galdácano, pp. 68-70.

⁴³¹ Changes in ship design traded draft clearance for freeboard stability; as a result, 500-ton capacity ships could no longer cross the sandbar at the Guadalquivir river delta while fully loaded. Castillero Calvo, p. 83.

always benefited the government and merchant guilds, seldom the colonists, and complaints began as early as 1509, when Antonio Serrano in Santo Domingo asked for a reprieve to supply the colony locally, because legal supplies were “scarce and expensive.” The Crown declined to allow a precedent so contrary to its intent and interest.⁴³²

Regional *consulados* wielded similar authority, sometimes well beyond their immediate geographical areas of operation. Mexico City’s *consulado* governed commercial activity throughout New Spain, the Philippines, and the Kingdom of Guatemala. Lima’s *consulado* controlled most of South America. It has been argued that Lima’s *consulado* undermined the Casa de Contratación’s power to such an extent that the latter became almost irrelevant, “puppets of northern European capitalism.”⁴³³ Garcia Fuentes’ reference to Northern Europe reflects the Sevillian *consulados*’ almost total dependence on foreign merchants for goods and capital. Spanish participation in the Indies trade was reduced to the role of *testaferros*, fronting for French, English, Dutch, and Italian merchant houses. It did so by violating the intent – though not the letter – of the law requiring all goods shipped to the Indies to be consigned by a member of the *Consulado de Sevilla*. The original plan was for residents of Sevilla, owners of businesses established and run in that city, to purchase goods for shipment to the Indies, to be sold in yearly *ferias* in Cartagena de Indias, Portobelo and Panamá, and Veracruz to the local guilds, Popayán, Lima, and Mexico, respectively, for distribution within their areas of operation.

Peruleros, as they came to be known, were factors from Lima merchant houses who established businesses and residences in Sevilla, in essence pretending to be independent merchants. Because of their direct links to the colonies, they had more detailed knowledge of what the Indies markets required, and had more capital available to purchase goods for

⁴³² Antúnes y Acevedo, pp. 4-6.

⁴³³ By the time studied by García Fuentes, Sevillian merchants had lost much of their power because of the economic crisis that all but eliminated Spain’s production capability. García Fuentes, p. 16.

shipment to those markets. Profits could also be maximized in Portobelo, bypassing the sales taxes imposed at the *feria*. Since they already owned the goods, there was no sale on which to impose taxes.

Consulados often made rulings in their members' favour, regardless of the law or the Crown's interest and intent, thereby influencing governance for private gain. An entire commercial system emerged, run by government officials imposing their personal interests. In one example, the *corregidores*, *alcaldes mayores*, and governors in Guatemala were "entrepreneurs who organized a variety of business activities that affected the economic integration of the whole of Central America."⁴³⁴ When market forces provided insufficient to achieve their commercial objectives, their political authority allowed them to coerce the population into compliance with their schemes. Primarily, these officials imposed themselves between producers and merchant competitors, and then took a lion's share of the commodities and profits. They colluded to fix contracts, excluded individuals from participating in the colony's trade, or superimposed sales on Indians for personal gain. Compliance was enforced through their positions as government officials.

In the 1670s Carlos II began selling offices, desperately attempting to extract as much income as possible from the colonies. The price of an office depended on the estimate of income the candidate thought he could earn from it. The office of governor in Chiapas, with its salary of 800 *pesos* per year, sold for 9,000 *pesos*; no one bid for the governorship of Costa Rica, so its salary remained higher at 2,400 *pesos*.⁴³⁵ In Caracas, officials paid the Crown to put their name on the *futura*, a list of future governors after paying a fee that varied from 16,000 *pesos* in 1692 to 6,000 *pesos* in 1718.⁴³⁶ Winning bidders were allowed to use their political power to recoup their investment, even if it meant putting private interests

⁴³⁴ Robert Patch, "Imperial Politics and Local Economy in Colonial Central America, 1670-1770," *Past & Present*, 143 (1994): 78.

⁴³⁵ *Ibid.*, pp. 80-84.

⁴³⁶ Aizpurúa, *Curazao*, p. 54.

above those of the Crown. One *visitador* noted that “[i]t is not easy, or even possible, to improve the local government of the provinces ... as long as its chief officials or *corregidores* are businessmen.”⁴³⁷ The system was designed as an ideal in which all officials were assumed to be honest, but in practice honesty was subverted by the process of buying influence. For every rule imposed there was a bureaucratic means of evading compliance or obtaining clemency if necessary. Smuggling was a primary means of recuperating the cost of purchasing an office in the Indies, as officials sold licenses, pardons, or co-opted businessmen into networks of illicit transactions, connecting foreign merchants to local markets, profiting personally while defrauding the Crown.

Conclusions

This chapter has reviewed the many components of Spain’s grand strategy, building on the definitions provided in the Introduction. Specifically, these include the concept of *monarchia universalis*, religion as the basis of governance; diplomacy, used to limit foreign powers from encroaching on the Indies colonies; international law, used for much the same purpose, adding legal restrictions on those foreign powers. The use of state violence was jealously guarded by the Spanish monarchs, in the form of maritime policies and defence policies that sought to fortify the routes of the silver and trade routes between the colonies and the metropolis. The final component of grand strategy related to the structure of the government, specifically that developed for the Indies. Much of the latter involved developing private-public institutions, to which the Crown delegated authority to govern specific issues.

⁴³⁷ A.G.I., Indiferente, 1713, “Informe no. 195, *visitador* general of Peru to secretary of the Indies (José de Gálvez), Lima, 16 May 1780,” in Patch, pp. 106-7.

The monarchs who succeeded Fernando, Isabela, Fernando V, Carlos V, and Felipe II continued the general principles of grand strategy developed in the early years of empire. No new elements of grand strategy were added to the basic objective of governance. Underlying all these was the component of *monarchia universalis*, which gave direction to medieval and early modern monarchies in Europe. By the 16th century, it is doubtful this concept was accepted any more – certainly the term was not used by then – but the religious rhetoric remained strong. If any of Spain's components of grand strategy changed, *monarchia universalis* was the one: the idea of any single European monarch unifying the continent proved impossible. By this time the concept changed in Spain, morphing into religious hegemony within the empire. After Felipe II the emphasis on the religious or theological issues declined, giving way to the more secular objective of power politics. Even the dynastic change in the XVIII century, when the French Bourbons replaced the Austrian Hapsburgs, did not change the components of grand strategy significantly, though a renewed effort was made to streamline the process of government – specifically the fiscal process – increase efficiency and maximise income, in an effort to recapture past glory, power, and grandeur. The dedication to religion, specifically Roman Catholicism, remained entrenched throughout the period of this study. It was a bedrock of the governance developed for the colonies.

Diplomacy and international law were used throughout the colonial period in an effort to keep foreigners out of the region. This built on historical practices of holding other monarchs responsible for the actions of their citizens, often demanding compensation for losses. Peace treaties often included minute instructions governing behaviour between the states involved; if Spain was a participant, the issue of trade with the Indies often found its way into the negotiations, if not always into the text. Spanish negotiators never wavered in their efforts to keep foreigners out of the Empire, intent on maintaining the territorial

integrity sought by their grand strategy. They not always succeeded, and other powers gradually gained a foothold in the Indies, usually in places the Spanish Crown was unable to defend, if only because of the lack of funds available. But in the process of negotiation, many international law concepts were established, based on the ideals of maintaining monopolistic hegemony over the Empire. Some were maritime, such as innocent passage, *mare clausum*, and contraband laws, which sought to limit foreign access to Spanish territories. Many new developments were military, likewise seeking to contain foreign contamination within specific resource constraints: the use of escorted convoys, uniform shipbuilding, coastal fortifications and fleet composition. Unlike its European rivals, Spain enforced a monopoly on violence, not allowing *corçó* licenses until late in the 16th century.

Pursuing such strategic objectives engendered conflict for Spain at a time when the Lutheran Reformation was spreading, and Islam was resurging under the Turks. Pirate and commercial raids increasingly violated the intended monopoly of sea lanes of communication between Spain and its territories in the Indies and Asia:

Historians have generally agreed that American gold and silver fanned the flames of Hapsburg imperialism, added to the zeal with which Spanish rulers defended the Catholic faith against Protestant and Mahomedan, furnished sinews of war, and, in short, constituted an important factor in Spain's aggressive foreign policy.⁴³⁸

These wars were costly – some historians argue they consumed up to 70 per cent of the Crown's income.⁴³⁹ The debate over numbers and percentages of income spent on defence is not over, and has produced many publications.

The Spanish Crown took seriously the threat to the flow of silver presented by foreign interlopers, and invested millions of ducats on the construction of fortifications, formation of

⁴³⁸ Earl J. Hamilton, "Imports of American Gold and Silver to Spain, 1503-1660," *The Quarterly Journal of Economics*, 43 (#3, May, 1929): 471.

⁴³⁹ Hamilton, "American Treasure and the Rise of Capitalism (1500-1700)," *Economica*, 0 (#27 (November, 1929): 340.

garrisons, and deployment of squadrons and *armadas* to patrol the surrounding seas. This defensive system was originally designed to enforce a policy that excluded the very presence of foreigners, and called for more fortifications, garrisons, and ships than were actually built. As the project was scaled down to reduce costs, many islands and mainland areas were abandoned because of their short-term indefensibility. For instance, protecting Campeche, the Bay Islands, Providence Island, or Bermuda potentially cost the Crown more than these areas produced. Here the picture was not so bleak, as Spain only lost areas not considered strategic or profitable, such as the Lesser Antilles, parts of Hispaniola, Jamaica, the Guyanas, and North America. From a strictly military perspective, this proved to be a crucial mistake, as it allowed rivals a foothold from which to launch attacks on other areas. The attacks were not military, however, they were commercial. The incessant need for ready cash, however, prevented Spain from even considering defence of these “unprofitable” regions. The system established to carry treasure to Spain over specific sea lanes between the treasure ports proved to be safe throughout the colonial period, with few notable exceptions – all in all, a remarkable record of success. As in most cases, success or failure of any national strategy depends on the mix of power, naval, military, or economic, and political objectives, in relation to the opposing states.⁴⁴⁰

Overall, the Crown’s assumption that mainland production centres would not be successfully threatened proved accurate, whether the deterrence came from military might or diplomatic strength, and thus Spain refrained from spending a great amount of money on defending the colonies. This assumption also underlined the use of diplomacy in the place of outright military might. Political and religious hegemony in the Indies, the primary elements of grand strategy sought by the Crown, was complete and free from all foreign menace. Territorial hegemony was not completely achieved, in part because it was not actively

⁴⁴⁰ Black, “Naval Power,” p. 94.

pursued everywhere, providing evidence that the strategic analysis of the threat was accurate in the long run.

Spain concentrated instead on protecting the flow of treasure across the sea, in essence ignoring the losses caused by devaluing the importance of commercial policy. Spanish forts were progressively rebuilt, and new ones erected employing fresh plans at three different levels of strategic rationale. First, the Gulf of Mexico was fortified to keep foreigners from raiding mainland Nueva España, the foremost seat of government for the entire region, and the centre for regional commerce and exports to Sevilla. On a second level, the Yucatán and Guatemala were fortified to hold pirates and smugglers at bay. Third, the Pacific coast was fortified to protect the Manila galleons.⁴⁴¹ Forts in Habana and San Agustín were re-built to protect the fleets' passage through the Bahamas Channel. As Marchena states,

The issue of defence is, without a doubt, one of the fundamental determinants of Spanish action in the Americas throughout the XVII century ... By the end of this century, the efforts to assault the Spanish defensive framework in the Caribbean acquired an authentically dangerous character for imperial integrity, above all because of the absolute dependence established between the metropolis and the Indies through the systematic shipment of precious metals.⁴⁴²

The Spanish monarchs knew how to use grand strategy. The reliance on armed forces to defend the Indies and its flow of treasure was based on sound principles, and the size and prestige of its forces, specifically its naval forces and fortifications. In retrospect, the grand strategy objective of territorial integrity worked well, as none of the areas deemed important were seriously threatened by foreign forces, either private or state-sponsored. In relation to smuggling, as will be analysed in a subsequent chapter, it made strategic sense to assign the task to the armed forces. Spain had all the requisite resources at its disposal. But the chronic lack of funds led to assigning the anti-smuggling task to the various naval or militia forces as

⁴⁴¹Calderón Quijano, pp. 34-35.

⁴⁴² Marchena Fernández, "Defensa," p. 37.

an additional tasking, to be carried out as funding was made available. The results were predictable.

A final component of Spain's grand strategy was the development of its government, specifically that of the Indies. Efforts to unify the various kingdoms outright failed in the face of tradition, but the centralized authority of government was strengthened in the process. In the colonies, the trend ensured that no nobility encroached on the king's authority. But, despite maintaining an absolute hold on political authority, much of the administration was delegated to private entities – *audiencias*, *consulados*, *assientos*, *rentas*, etc. On these rested much of the responsibility of administering the laws and regulations issued in the metropolis; from these also came much of the *fraude* to be analysed in the rest of this study.

The remaining elements of Spain's grand strategy are those involving economics and commerce; these will be the topic of the next chapter.

Chapter II

Economic and Commercial Policy

During the XVI century, the nature of European trade changed dramatically from its continental pattern, expanding toward the East and West Indies and Africa. One novel development involved re-exports, moving goods into a port before shipment to a third destination. Merchants had until then met in a series of *ferias* – domestic trade fairs and markets. New trade patterns crossed international borders, leading to international treaties and practices agreed to by all participants. Finances were increasingly handled through banks and security bonds, rather than on a cash basis. The use of insurance and of joint-stock companies began gradually, leading to regulations precluding fraud. Naval and trade traditions and commercial customs throughout the Mediterranean region was codified in the *Libre del Consulat de Mar*, an early version of today's United Nations Convention on the Law of the Sea, compiling all the known maritime traditions and agreements.⁴⁴³

Spain's colonization effort have been considered, at least by Spanish historians, superior to that of other powers because of its religious zeal, military prowess, administrative style, and cultural tenor. They also admit to a primary weakness in the economic sector, because the political and economic dialogue used to justify Spain's colonial expansion was metaphysical and theological, "rooted in medieval scholasticism, the theory of natural law [which] achieved its fullest expression in the Spanish 'School of Salamanca' during the sixteenth and seventeenth centuries."⁴⁴⁴ No European state was capable of the colonizing

⁴⁴³ Marjorie Grice-Hutchinson, *Ensayos sobre el pensamiento económico en España* (Madrid: Alianza Editorial, S.A., 1995): pp. 185-186; Jaume I of Aragon, *Libre del Consulat de Mar*, given at Barcelona on the twenty-sixth of August, in the year 1258.

⁴⁴⁴ José Peraza de Ayala, *El regimen commercial de Canarias con las Indias en los siglos XVI, XVII y XVIII* (Sevilla: Publicaciones de la Universidad de Sevilla, 1977), p. 11. The principal writers in Salamanca included Francisco de Vitoria, Domingo de Soto, Tomás de Mercado, and Francisco de Suárez. R. Douglas Cope, "Between Liberty and Constraint: Government Regulation of Petty Commerce in Mexico City, 1700-1780,"

projects undertaken during the age of exploration except Spain and Portugal; as the stronger of the two, Spain was the first to develop what is today called a political economy, policies designed to manage the empire's resources. The vastness of the area Spain controlled, the enormous labour pool at its command and the power of the local interests seriously affected the implementation of its commercial policy, and it rapidly deteriorated into the anarchy of unenforceable jurisprudence.

This chapter will examine the development of Spain's economic policies as they coalesced into what is today known as bullionism and mercantilism, in part by analyzing the writings of Spanish scholars who advised the various monarchs. This economic system sought to unify the empire administratively while extracting the necessary tax income to finance the empire's grand strategy. One unintended consequence of this process was a divergence from commercial reality that led to increased evasion of the law, primarily through smuggling, tax evasion, and outright fraud.

Spain's governing philosophy during the XV – XVI centuries relied heavily on the medieval concept of a theocratic government. In commerce, this primarily took the form of a theological condemnation on usury – defined as charging a price for the loan of money – using Christian, Jewish, and Moslem traditions of protecting the poor.⁴⁴⁵ In practice, the emphasis on ethics meant that small businesses found it difficult to invest or expand, and often faced bankruptcy unless they violated the law, so early economic theorists sought a rationale for protecting both merchants and the poor. The Crown cautiously supported efforts to allow the use of credit as a means to increase prosperity, seeking also to benefit materially from the resulting theories.⁴⁴⁶ The emphasis appears to have been on reducing risk to

paper delivered at the 2001 meeting of the Latin American Studies Association (Washington, D.C., September 6-8, 2001), p. 7.

⁴⁴⁵ Céspedes del Castillo, p. 29.

⁴⁴⁶ Grice-Hutchinson refers to these writers as “pre-Salamanca theorists.” Grice-Hutchinson, *Ensayos*, pp. 47-50.

individuals, businesses, and the kingdom, while conveniently ignoring the potential benefits that accrued from accepting risk.

Adam Smith wrote that a political economy has two basic objectives: to enable individuals to earn a living, and to supply revenue for the public service – in his own words, “it proposes to enrich both the people and the sovereign.”⁴⁴⁷ Though he developed his theories much later, the basic principles he described were true when Fernando and Isabela developed their state’s policies. European trade until then had been genuinely multilateral, that is, with few government restrictions or unifying elements such as, for example, a common currency. As wealth increased and technology advanced, merchants imported goods demanded by customers from increasingly distant production centres as far away as Asia. This required overcoming two problems: Spain’s prohibition on the export of silver, and the fact that Oriental merchants only accepted silver in payment.⁴⁴⁸ As international commerce increased in importance, it also came to the attention of the various monarchs, who sought to control or benefit from its spread. Spain thus found itself developing economic theory, as its merchants sought to exploit the increasingly bi-polar commercial structure (between Europe and Asia), while their rivals sought to evade or change Spain’s rules.⁴⁴⁹

As commerce expanded its reach, it encountered or developed new and occasionally unprecedented forces that ran counter to Spain’s efforts to subdue economic rules to its will. This tension created a rift between the gradually-developing political economy and the existing social order, a gap between ideology and reality which Terradas refers to as a liberal fiction.⁴⁵⁰ This fiction, as stated earlier, was based on Roman law, and is the dichotomy between the ideal way to regulate trade and the realities imposed by market forces. Spain’s

⁴⁴⁷ Smith, pp. 332-337.

⁴⁴⁸ Terradas, p. 41.

⁴⁴⁹ J.H. Dales, “The Discoveries and Mercantilism: An Essay in History and Theory,” *Canadian Journal of Economics and Political Science*, XXI (#2, May 1955): 143-5, 152.

⁴⁵⁰ Terradas, p. 41.

political economy developed as its monarchs sought to raise taxes and adopted a centrally-planned economy intent on financing imperial projects, even when these proved detrimental to productivity. As a result, the Crown's control over the colonies suffered for, as Izard points out, "Spain did not view its possessions in America except in regard to the utility produced to the Treasury; other powers later saw their colonies as a means to foster commerce and increase national prosperity."⁴⁵¹

Spain's global position as the sole source of bullion contributed directly to its adoption of nationalistic commercial monopoly.⁴⁵² Some elements of the new theories were actually quite old; Alfonso X had first prohibited the export of treasure in 1268, though the occasional re-issue of the law indicates it was not uniformly obeyed.⁴⁵³ Fernando and Isabela sought to keep the Indies treasure within Spain through legal restrictions on its use, but the prohibitions failed because merchants ignored or evaded them by simply plying their trade.⁴⁵⁴ In effect, the incredible volume of treasure from the Indies benefited Spain, though "Carlos I and Felipe II, models of absolutism with a feudal blindfold over their eyes, never comprehended, not even vaguely, the economic reality that slid past them."⁴⁵⁵ They, and subsequent kings, attempted to hoard treasure, while merchants used it as a means of facilitating trade. In doing so, the Hapsburgs essentially used methods they knew – writing more and more detailed law – and did not attempt to implement solutions that addressed problems underlying their chronic lack of income. The monarchs lost sight of the long-range problems, and never found the solutions.⁴⁵⁶

⁴⁵¹ AGN Diversos LXXII, 322-329, "Representación de Francisco Depons al Ministro Francés de Marina y Coloniales, 1801," in Miguel Izard, "Contrabandistas, Comerciantes, e Ilustrados," *Boletín Americanista*, 20 (#28, 1978): 56; Schumpeter, pp. 146-147.

⁴⁵² Dales, p. 152.

⁴⁵³ Hamilton, "Spanish Mercantilism Before 1700," in Arthur Cole, p. 216.

⁴⁵⁴ Smith, pp. 332-337.

⁴⁵⁵ Bagú, p. 96.

⁴⁵⁶ Rafael Antúnes y Acevedo, *Memorias históricas sobre la legislación y gobierno del comercio de las españolas con sus colonias en las Islas Occidentales* (Madrid: Imprenta de Soncha, 1797), pp. 130-131.

There has been a great deal of debate over the actual flow of Spain's treasure. Huet wrote that all the treasure went to Spain first; Hamilton quoted Colmerio as saying that the figure was between 83-87 per cent; Pombo put the figure at 50 per cent.⁴⁵⁷ In reality, the point is moot, as the treasure rapidly dissipated throughout Europe, the principal points of entry being Sevilla or Cádiz, Lisbon, London, Rouen, Antwerp, and Amsterdam. How much entered Spain directly is also irrelevant, as in any case much of it remained there only temporarily, being further disbursed throughout Europe by merchants, bankers, and even the Spanish armies that spent vast sums wherever they deployed.⁴⁵⁸

The Key Economic Factor

The Spanish monarchy's adoption of mercantilism as its economic and commercial policy was the single most significant cause of illegal commerce. Determined to maintain its self-appointed exclusive rights, Spain aggressively sought to enforce its policies by constantly attacking its European rivals' presence in the Caribbean. All else being equal, such aggressive defense of its policies might have worked, but of course all else was not equal. The cost of the hegemonic wars in Europe, migration to the colonies, and the complex procedures of acquiring and transporting the vast inflow of silver from the Indies, drained manpower and increased the cost of industrial production to the point where the economy stagnated and led to a lengthy period of depression. Before long Spain was no longer able to effectively supply its own citizens with basic goods, and much less so for its colonies. Local

⁴⁵⁷ Pierre Daniel Huet, *Memoires of the Dutch Trade In all the States, Kingdoms, and Empires in the World* (London: Printed for J. Sackfield in Lincolns-Inn Square, G. Davies under Sergeants-Inn in Chancery-Lane, and Sold by T. Warner in Pater-Noste-Row, 1718), p. 85; Colmeiro, p. 346; José Ignacio de Pombo, *Comercio y contrabando en Cartagena de Indias, 2 de junio de 1800* (Bogotá: Nueva Biblioteca Colombiana de Cultura, 1986), p. 21.

⁴⁵⁸ "In this way, the American continent, discovered, explored and colonized by Spain and granted to its sovereigns by Alexander VI by the Bull of 1493 for their exclusive benefit, became, in the end, an inexhaustible fountain of wealth for all the Western World, except for the [Iberian] Peninsula." Luis Chávez Orozco, *El contrabando y el comercio exterior en la Nueva España*, Colección de documentos para la historia del comercio exterior de México, 2nd series, volume IV (México: Publicaciones del Banco Nacional de Comercio Exterior, 1967), p. 29.

merchants imported goods when domestic production dropped, and often became front companies to foreign importers simply to stay in business.

Developments in technology created more efficient transportation, which allowed for collective efforts to suppress piracy and banditry, and led to international agreements expanding common custom and standardized products. All of these helped expand the reach and power of private commercial companies, which in time came to compete with governments in controlling commerce, though few were required to – or sought to – spend funds on destructive wars.⁴⁵⁹ When the English and Dutch entered the Indies trade, legally and illegally, it was done predominantly by small companies, individual ship captains and their partners who owned the goods on board. The increasing number of participants challenged the centralized *ferias*, while not at first affecting profitability, though before long they did.⁴⁶⁰ Large monopolies found they now competed with hundreds of small businessmen, all capable of moving goods cheaply and flexibly while still earning a profit, without requiring political force to do so.

Despite these treaties and international commitments, national interests took precedence when the Crown needed money. Monarchies sought to impose authority by requiring licenses of merchants involved in commerce across the globe, though merchants found they could evade such authority by ignoring it, for instance by sailing directly from Europe to colonies thousands of miles from effective state control mechanisms.⁴⁶¹ Many merchants (and their customers) operated on the fringes of state authority, ignoring all efforts to govern them. One blatant example is the early settlement on Tortuga Island off the north

⁴⁵⁹ The Spanish Crown spent up to 70 per cent of its income funding wars. Hamilton, “American Treasure,” pp. 340, 344.

⁴⁶⁰ The value of trade in these *ferias* increased six-fold per year, from 1 million pounds per year to about 6.5 million pounds. Approximately 60 per cent of English merchants exported parcels worth £50 or less, and over 40 per cent imported goods worth £50 or less. Nuala Zahedieh, “Overseas Expansion and Trade in the Seventeenth Century,” in Nicholas Canny, *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century*,” volume 1 of *The Oxford History of the British Empire* (Oxford: Oxford University Press, 1998), pp. 399, 404.

⁴⁶¹ Terradas, p. 50.

coast of Hispaniola, where over 300 people from France, England, Portugal, and the Low Countries ignored European rule and chose their own leaders and form of government, if only temporarily.⁴⁶² They ignored commercial rules as well, earning their livelihood from piracy and smuggling (as defined by Spain).

The colonies did not develop a centralized distribution system for consumer goods because of the long distances and natural obstacles to land transportation; the *Casa de Contratación* only directed that colonial merchants declare their goods at the time of the first instance where they proposed to sell the goods, in order to impose the appropriate sales tax. Markets developed regionally and locally, each with its own interests and tastes, a fact generally neglected or purposefully ignored by the Sevillian monopoly.⁴⁶³ Campomanes wrote that the effects of the monopoly were well-known among merchants at the time but ignored by the government, citing a study presented to Felipe III by scholars from the University of Toledo. He also noted that nothing resulted from their effort to enlighten the Crown.⁴⁶⁴ In essence, the Crown understood and benefitted from the guaranteed income offered by monopolies, and the merchants benefitted from the reduced risk inherent in the lack of competition. A large network of middle and upper level merchant houses and bankers developed to finance trade and the government, which may explain why there were few if any joint-stock companies in the Mediterranean area. The network included “marriages, family ties, friendships, and partnerships” stretching from Amsterdam to Lisbon, Venice and the Portuguese Indies. Nevertheless, states licensed and operated the largest entrepreneurial concerns of the century, such as the *Carrera de Indias*, the *Casa de Contratación*, the *Casa da India* (Lisbon), quasi-government organizations that quickly developed strict regulations

⁴⁶² Jenifer Marx, *Pirates and Privateers of the Caribbean* (Malabar, Florida: Krieger Publishing Company, 1992), pp. 138-131.

⁴⁶³ Slicher van Bath, pp. 3, 4.

⁴⁶⁴ Pedro Rodríguez, Conde de Campomanes y Sorriba [hereafter, Campomanes], *Discurso sobre el fomento de la industria popular* (Madrid: De orden de S.M. y del Consejo. En la Imprenta de D. Antonio de Sancha, 1774), p. 412.

and bureaucracies to enforce them. These structures became impediments to popular participation in commerce.⁴⁶⁵

Evolution of Secular Economics. As commercial activity expanded, scholars and practitioners (merchants) wrote of these experiences, describing new ways of conducting business, in the process following technological advances with a relatively new discipline, economic theory. Merchants were prohibited to profit from lending money, but were allowed a modest profit margin, which stifled any increase in commercial activity other than small, limited venues, led by those who had sufficient capital to do so. However, ways around the restrictions quickly emerged, disguising the transactions and their cost in many ways.⁴⁶⁶ Most of these involved re-naming the prohibited term “interest” as rent or a user’s fee, or by agreeing to share the profits resulting from of the borrower’s venture. A general division among bankers and merchants grew along religious lines, with Catholic and Islamic prohibitions dominating in Spain and the Ottoman Empire, while Protestant and Jewish merchants and bankers adopted the new practices of “renting” money, allowing the lender to profit from the benefit be provided his customers. Over time, Catholic prohibitions crumbled also. In Spain, government relaxation of usury rules led to bureaucratic regulation of the practice, allowing bankers to charge interest rates of up to 10 per cent. English, Dutch, and

⁴⁶⁵ Though the governments viewed these organizations as regulatory institutions and delegated regulatory authority to them, they were at their core entrepreneurial businesses with interests of their own which often differed from those of the states. The *Carrera de Indias* was a transportation guild formed by ship owners and captains who sailed in the convoys between Spain and the Indies. The *Casa de Contratación* and *Casa da India* were guilds formed by merchants involved in colonial trade with the Americas (Spanish) and India (Portuguese). Though all benefitted from the authority to regulate the businesses they controlled, they also sought to impose their own interest over those of the state. The Turkish Empire had various similar organizations, and later, France and England also tried to impose them. Fernánd Braudel, “The Mediterranean Economy in the Sixteenth Century,” in Peter Early, ed., *Essays in European Economic History, 1500-1800* (Oxford: Oxford University Press, 1974), pp. 23-27.

⁴⁶⁶ Grice-Hutchinson, *Ensayos*, p. 187.

Jewish bankers generally charged three per cent on loans during peacetime, and an additional one per cent during wartime.⁴⁶⁷

This belief that economic priorities were inferior to religious, political or military objectives created a contradiction between the absolutist state and the economic development it hoped to foster. Fiscal control over productive activity was possible primarily through monopoly, though this practice impeded the unfettered development of productive activities. At first glance the dichotomy makes sense, because political hegemony can be accomplished more readily by strengthening the absolutist nature of state regulatory powers than by liberalizing economic activity, especially in the absence of efficient fiscal controls. If the objective is only political hegemony, a monopoly provides the most efficient method of control. But if the objective is to produce tax income for the state, any system that fosters unlimited economic growth, production or trade proves more efficient over the long term. This free market concept was not unknown, but it was anathema to any monarch working hard to consolidate political power over an unwieldy empire.⁴⁶⁸

The nationalistic policies developed in Spain were justified as a means to unify the empire, making all commercial activity subject to the Crown's domain, regardless of its impact on the economy.⁴⁶⁹ Acceptance by the colonists of Spain's right to impose economic regulation was never questioned because the system generally ignored the changing economic conditions, though compliance quickly deteriorated. The resulting effort, while bureaucratically logical, was in fact an aggregate of errors, one Bagú called "a witches' brew of base instincts."⁴⁷⁰ Slicher van Bath illustrates this contradiction by noting that mining

⁴⁶⁷ Child noted that because of this disparity in interest rates, money was always so scarce the people in Spain were poor, despicable, and devoid of commerce, except what the Dutch, English, Jews, and Italians exported to them. Interestingly, he did not mention that France and Spain were major trading partners. Josiah Child, *A New Discourse of Trade* (London: Imprimator Edmund Bohun. December 24, 1692. Printed, and Sold by John Everingham, at the Star in Ludgate-Street, in the year 1693), pp. 8, 14.

⁴⁶⁸ Struzzi described the effect of free markets in 1624, basing his analysis on ancient writings on natural law. Struzzi, *passim*.

⁴⁶⁹ Heckscher, pp. 21-22.

⁴⁷⁰ Bagú, pp. 59-60. Slicher van Bath, p. 141.

provided the primary source of income in Perú, Nueva Granada and Venezuela until 1640, after which commerce became a more important source of income; in Nueva España, mining remained significant long after the Peruvian mines were exhausted. However, commercial and fiscal policies in these areas did not adapt to the new economic reality, because the bureaucratic requirements to alter the legal traditions were too cumbersome. Instead they sought to tighten control of the shrinking volume of legal commercial activity: “It is true that not all laws fit all the provinces, nor in all the times, nor in all transactions; and thus, according to the custom of the cities, and the mutation and variety of the times, and the circumstances and emergencies of businesses, the law was adjusted and measured.”⁴⁷¹ In the end, however, the policy objectives were too rigid to be applicable in vast regions of the empire, and over time led to overall failure.

Tratadistas

Outside of the academic and theological dialogue, an important debate took place among government officials, merchants, and university intellectuals. They became known variously as *tratadistas* or *arbitristas*, and their principal aim was to present a diagnosis of specific national ills and propose projects to cure them, seeking personal benefit in the form of a percentage of the savings earned by their proposals, though several became major contributors to the Crown’s policies over the years. Despite the debate over the impact of these writers, it is useful to understand the debate itself. At the very least, it demonstrates the depth of knowledge on the various issues involved, all available to merchants and the Crown alike. The breadth of information is impressive, as is the diversity of opinion on what the government could (or could not) do. In one sense, the debate resembles that of today, in the

⁴⁷¹ Jerónimo Castillo de Bobadilla, *Política para Corregidores y Señores de vasallos* (Amberes: En Amberes, en casa de Iuan Bautista Verdussen, Impressor y Mercader de Libros. Con Gracia y Privilegio, 1704; facsimile edition, Madrid: Instituto de Estudios de Administración Local, 1978), p. 317.

various writers' divergent views of how the Crown could control human behaviour or manipulate the empire's economy.

Many manuals and pamphlets appeared after 1540 suggesting ways merchants could earn profits without losing their souls to the devil. The debate covered all aspects of commercial life, hoping to temper the merchants' behaviour through education in law and ethics.⁴⁷² Because the dialogue was primarily theoretical and theological, there was little technical knowledge of commercial issues among the scholarly elites. Few merchants were sufficiently lettered to write economic tracts, and scholars thought more in terms of tables of figures than trade opportunity or maximizing profits. Merchants tended to use theories that reflected their interests, often learned from contact with counterparts in France and England, who were considered tainted or traitorous by the government.⁴⁷³ The *arbitristas* explained in simple terms the complex theories developed in academic treaties (frequently in Latin) by the scholarly theorists. Theologians believed that merchants often sinned through ignorance of moral mandates rather than by purposeful action, and such sins easily could be remedied by instruction on how to properly follow the Church's teachings.⁴⁷⁴ In essence, Spain's dialogue over commercial *activities* led to the development of economic *policy*. The dialogue was an effort to update medieval practices on the importance of using money as a measure of prosperity, including the protection of domestic consumers and producers from foreign competition, control of foreign trade, monopolistic exploitation of colonies and the idea of a nation's wealth as a sum of economies commonly available to the ruling power elites.⁴⁷⁵ This balance of moral teaching with commercial practices led, over time, to the political economy

⁴⁷² One example of a later tratadista is that of Pedro Rodríguez, Conde de Campomanes, written in 1762 by a minister considered to be one of the most influential in Bourbon Spain, though his work was not published for 226 years. Campomanes, *Reflexiones sobre el comercio español a Indias. En que se traen por menor las Leyes, e Historia de nuestro Comercio*, Vicente Llambart Rosa, ed. (Madrid: Instituto de Estudios Fiscales, Ministerio de Economía y Hacienda, 1988), p. 287.

⁴⁷³ Hamilton, "Spanish Mercantilism," p. 230.

⁴⁷⁴ Grice-Hutchinson, *Ensayos*, p. 189.

⁴⁷⁵ Larraz López, p. 35.

that emphasized the protection of national production and accumulation of treasure – the reduction of risk – an economic theory known today as mercantilism. But the constant admonition to “not exchange an iron law for one of lead,” that is, to not replace one practice for another equally immoral by altering the form but not the substance of commercial transactions, was indicative of the penchant among merchants to follow the letter, not the spirit, of such regulations. Most of these *tratados* were written by scholars more concerned with the process of commerce than with the substance of trade, that is, they studied the structures of commerce rather than practical issues such as reducing transaction costs or maximizing profits. Many wrote for the king, so their advice normally concentrated on policy, rather than on business and efficiency; others advocated for merchants, seeking better remuneration for themselves or their customers. As mentioned in the introduction, most scholars have been critical of these writers, though recent analysis has begun to revise that view. It makes sense that their efforts, much like those of today’s lobbyists and consultants, entered the political dialogue. Once there, ideas invariably created an impact, either positive or negative, measurable or not.

Larraz described two distinct groups of *tratadistas*, separated primarily by time. The first wrote during the time of the economic crises of the Hapsburgs, mostly arguing against the contemporary economic order to encourage efficiency. All opposed the accumulation of treasure as vanity, were uneasy with the high levels of income available from the Indies, disliked the overall commercial structure, and hoped for overall improvement to the government.⁴⁷⁶ The second group wrote during the early 1700s when the Bourbon dynasty

⁴⁷⁶ The principal protagonists included González de Cellorigo, Pedro de Valencia, Pedro Fernández de Navarrete, Caxa de Leruela, Tomás de Mercado, Alberto Struzzi, the Cortes de Castilla of 19 May 1653 (recorded by Pedro Fernández de Navarrete), Baltazar de Alonso y Barrientos, Pedro López del Reino, Luiz Ortíz, Sancho de Moncada, Martínez de la Mata, Juan Cano, and Miguel Alvarez Ossorio. Demetrio Iparraguire, “Los antiguos economistas españoles y el desarrollo económico de España,” *Boletín de Estudios Económicos*, 18 (#58, January-April, 1963): 100-101.

sought to strengthen the fiscal process inherited from the Hapsburgs, borrowing heavily from French scholarly theoreticians and royal advisors.

The faculty at the University of Salamanca led the effort to carefully balance natural law and universal principles by developing a theory of value based on the concepts of money and merchandise, linking price inflation in Spain to the flow of gold and silver from the Indies. This elite group of scholars overcame the theological problem of usury by developing a series of approved formal commercial practices, thus maintaining the authority of canon law while assuaging the moral condemnation of a merchants' ability to sell on credit.⁴⁷⁷ These ideas were often debated with the senior ministers and government officials, to include the monarchs, all of whom emphasized the spiritual nature of their authority as a condition for developing policies or adopting any policy recommendations. Spain's political economy throughout the colonial period emphasized practices based on very idealistic theories, seeking, in the words of Artíñano y Galcáñdano, to rule as it should be rather than as reality dictated.⁴⁷⁸

Francisco de Vitoria described a theory of value, noting that it was based on utility, and therefore was just and legal. The just price was determined by voluntary and common esteem, thus allowing people to differentiate between dissimilar items such as gold and cloth, or horses and pearls. Vitoria sought to explain the inflationary tendencies occurring in Spanish currency without condemning any benefit as sinful. He and his peers attempted to liberalize Catholic theology by offering moral suasion as the means for controlling transactions over private property, taxation, welfare, commerce, usury money, banking, and foreign exchange.⁴⁷⁹ In reality, economic concerns were secondary to most jurists, who wrote of the problems of decadence as a sign of imminent collapse of the empire. Foreigners

⁴⁷⁷ Cope, "Liberty," pp. 7-8; Grice-Hutchinson refers to this faculty as the School of Salamanca. Grice-Hutchinson, *Ensayos*, pp. 61-63.

⁴⁷⁸ Artíñano y de Galdácano, p. 130.

⁴⁷⁹ Vitoria's theory worked well for services as for goods. *Ibid.*, pp. 41- 81, *passim*.

were seen as a malevolent enemy intent on destroying the Spanish state. These writings supported the centralizing policies of the monarchs, creating a theoretical background to their mercantilist tendencies. A small minority advocated less state control over commerce, such as Albert Struzzi, who wrote that free trade for all individuals – regardless of nationality – was desirable, and indeed was the only possible means of stopping the clandestine entry of goods. He suggested that the efforts to prevent foreign participation in the Indies trade would not prevent them from doing so, and would stop the flow of silver to Spain by reducing the volume of legal trade from Spain.⁴⁸⁰

Many scholars sought to explain why goods in the Indies sold for a different price than in Spain, even after adding the cost of transport, insurance, and duties; why gold and silver had value that differed by region, country, and over time; why the king sought to control trade by writing laws and regulations; why those laws and regulations applied to all his subjects, and how; why in some areas people had to ignore the rules and regulations in order to survive. More importantly, they sought to develop ideas on how to close the gap between the king's rules and regulations and the reality experienced by his subjects in their daily lives.

The Spanish monarchs never directly elaborated their overall policy objectives publicly, to a great extent leaving the Spanish citizenry uninformed of royal intentions, though not of the law. This was true especially in economic and commercial issues, which made life difficult for merchants, as they were almost forced to abide by the letter of the law.⁴⁸¹ The lack of specific policy objectives strained the political system, exacerbating conflicting interests, as political leaders sought objectives that differed greatly from those

⁴⁸⁰ Ibid., p. 145, 194.

⁴⁸¹ Not until the 1820s was comprehensive commercial legislation written for its entire jurisdiction. Antonio Heredia Herrera, "Apuntes para la historia del consulado de la universidad de cargadores a Indias, en Sevilla y en Cádiz," *Anuario de Estudios Americanos*, 37 (1970): 325. Fisher lists high taxation, conspicuous consumption, ruinous international conflicts, a lack of entrepreneurial spirit, the influx of American silver and the rise in commodity prices. Fisher, p. 38.

who made a living through commerce. In fact, the Crown never came to terms with the market forces that confronted its commercial policy: “Philip II already wanted to divide the commerce of the Indies among the provinces of Spain, but his ideas on the invasion of England and animosity toward France kept him overly occupied.”⁴⁸² He and all monarchs before and after him believed the value of things could be dictated by royal fiat, and taxed accordingly. However, the focus on grand strategy distracted him from the issue of economic policy – which should have been an element of grand strategy – believing the former had a higher priority. The wars in the Low Countries, against the *Moriscos*, the Ottomans, the French, all drained the Crown’s coffers, causing an economic recession. Domínguez Ortíz wrote that if the Conde Duque Olivares, the Spanish Prime Minister, had not been so mesmerized by the issue of European hegemony he would have recognized that the Spanish government was not in any condition to achieve, let alone rule over, such an empire. Domínguez Ortíz thus noted that the Crown’s ambitious project, and especially as enunciated by the Conde Duque, was not in Spain’s best interest.⁴⁸³ By ignoring the political economy, the Crown lost the empire’s ability to achieve its political objectives. In Heckscher’s words, the “incessant rivalries of the seventeenth and eighteenth centuries, which degenerated easily into military conflict resulted from the use of commerce to enhance national power.”⁴⁸⁴ In other words, using commerce as a tool of warfare interfered with Spain’s imperial objectives.

Colmeiro's *Memoriales*, published in 1879, lists forty-nine *tratadistas* who had attempted to explain the monetary inflation caused by the flood of Indies treasure, and what to do about it: “almost every shade of opinion concerning monetary reform, from the wisest to the most inane conceivable, was included in these proposals.”⁴⁸⁵ By the 17th century,

⁴⁸² Campomanes, *Reflexiones*, p. 70.

⁴⁸³ Domínguez Ortíz, pp. 88-89.

⁴⁸⁴ Eli F. Heckscher, “Revisions in Economic History. V. Mercantilism,” *Economic History Review*, 7 (#1, November 1963): 48.

⁴⁸⁵ Colmeiro, *Biblioteca*, op. cit. Hamilton noted these pamphleteers had one point in common: they all hoped to be rewarded for their efforts. Hamilton, *American Treasure*, p. 102.

writers realized that the heavy export of treasure was linked to the now decreasing imports of treasure from the Indies, possibly aiding Spain's rivals by increasing their wealth. Felipe IV created the *Consejo* in 1619 to seek solutions, fostering thus another round of pamphleteering on political economy.⁴⁸⁶

One of the foremost and influential of these was Joseph del Campillo y Cosío, Minister of Treasury, Navy, War, and Indies (*Hacienda, Marina, Guerra, e Indias*) under Felipe V, who produced a work typical of these later *tratadistas*, a pragmatic study characteristic of the bureaucratic Spanish Enlightenment, which became the blueprint for Carlos III's reforms. His publication, entitled *Nuevo Sistema*, was a plan for the economic government of the Indies, widely circulated throughout the American colonies influencing the growth of the idea of free trade between Spain and her colonies.⁴⁸⁷ Campillo believed the Indies' should be developed as a market for Spanish goods only, thus seeking to increase domestic production. He estimated that consumers in the Indies imported only one twentieth of their purchases from Spain (which he believed was too low). The earlier exclusion of foreign merchants issued by Felipe II had been effective, according to Campillo, because Spain's sea power had been uncontested and domestic production could keep the Indies supplied profitably. High taxes had been tolerated until foreigners found the means to enter the commerce and undercut the legal market.

In this, he blamed nationalistic policies, because they ignored commercial practices, and bureaucratic regulations raised transaction costs higher than consumers were willing to pay. The result was lower income for Spaniards, bankruptcy, or a move to illicit trade. One

⁴⁸⁶ Hamilton, "Spanish Mercantilism," p. 233.

⁴⁸⁷ Free trade to contemporaries meant domestic trade free of government regulations relating to port of entry, though a few *tratadistas* (e.g., Alberto Struzzi) used the term in the modern meaning of international trade with low or no tariffs. Campillo wrote his analysis in 1743, though it was not published during his lifetime. Joseph del Campillo y Cosío, *Nuevo sistema de gobierno económico para la América con los males y daños que le causa el que hoy tiene, de los que participa copiosamente España; y remedios universales para que la primera tenga considerables bentaxas y la Segunda mayores intereses* (Mérida, Venezuela: Universidad de los Andes. 1971), p. 10.

major hindrance he objected to was the rigid system of sending merchants and their goods on a convoy system. By the XVIII century it became problematic because smugglers found out a year in advance when the Spanish suppliers were to arrive in the Indies, and thus flooded the markets prior to their arrival.⁴⁸⁸ Of course, the use of convoys was a practice developed to protect merchants from pirates: by Campillo y Cossíos' time, this was no longer a problem. Convoys existed primarily to ease the government's ability to control the trade and collect taxes.

Losses to the Crown's income due to heavy-handed regulations – and lax enforcement – were more apparent when comparing the volume of goods exchanged to their value. Taxes were imposed on the size of the container regardless of the content, assessed by the cubic meter, a practice known as *fardos cerrados*, encouraging merchants to deal in high value goods catering primarily to a wealthy clientele. Despite its profitability, this was a minor sector of the market, leaving most colonists open to contraband supplies, though even smugglers did not cater to the entire market. Campillo wrote of Indian villages in the interior that maintained textile *obrajes* or manufacturing centers because they could not afford to purchase goods provided by the legal trade system and were not well-served by the coastal smuggling trade.⁴⁸⁹ Such native factories had been legalized by the Crown in previous centuries in order to reduce unemployment and reinforce Indies compliance; now they filled gaps in the monopoly offerings.

Campillo noted that forcing merchants to use Spanish fleets might help individual ship owners, the merchant guilds, and provide some value to Spain, but profits on goods produced in London eventually returned to London, no matter who carried them and what routes were used. He wrote that arbitrary regulations raised the price of goods to over 100

⁴⁸⁸ Ibid., pp. 70-74.

⁴⁸⁹ Ibid., pp. 75-76.

per cent over their actual value, which was the same as prohibiting their sale, though he failed to note that until the XVII century, prices were arbitrarily raised to such levels and no one considered this a prohibition. He firmly believed that this was “a method that has reduced to almost nothing a commerce formerly as great as that of America, and has transferred the treasure of Mexico and Peru to Spain’s enemies, which cannot be a good thing; precisely the opposite appears best, that which has made those countries who follow it commercially profitable.”⁴⁹⁰

This analysis differed from most *tratadistas* by recognizing that commerce answered to its own rules and organized itself naturally. Unfortunately, Campillo never analysed those rules, and his primary recommendation was the idea – already attempted by Carlos V – of opening all Indies ports to all Spanish ports. Coupling this opening with lowered tax rates, he argued, would encourage more people to participate, increase trade and tax income, in the process removing the reason for illicit trade with foreigners.⁴⁹¹ Again he failed to analyze the idea to any depth, or he would have realized that few Spanish ports had the infrastructure necessary for the Indies trade. Most ports had links to specific foreign ports, trading in specific goods. Adopting what was then referred to as free trade (the right to ship goods to any port to another) under Carlos V might have worked as Campillo thought, but doing so in 1730 would have required decades of work to rebuild the system and establish trade relationships. Only Cádiz and the Canaries Islands were well suited for the Indies trade.

Not all *tratadistas* confined themselves to economic themes. González de Salcedo wrote an in-depth history of laws (until his publication date in 1654) prohibiting smuggling in a study commissioned by the Conde-Duque Olivares for the Council of the Indies.⁴⁹² He

⁴⁹⁰ Ibid., pp. 146, 153-154.

⁴⁹¹ The manuscript of Campillo’s *Nuevo Sistema* was written in 1743; it was first published in 1779 by Bernardo Ward, who incorporated it into his *Proyecto económico* (without attribution). Ten years later it was published under Campillo’s name. Miguel Artola, “Campillo y las reformas de Carlos III,” *Revista de Indias* XII (#50, 1952): 692, 705-711.

⁴⁹² Gonzalez de Salcedo, op cit.

viewed smuggling as a great threat to a state's sovereignty and ideology because it was an ethical transgression, a violation of a legitimate prohibition on commerce with foreigners. Such violations disrupted a nation's law and order.⁴⁹³ Legal foreign commerce in moderation was beneficial, but the licenses Carlos V had issued to foreigners created a greed for foreign products among Spain's enemies and allowed them to remove wealth from the country. González also commented on national security, recommending a prohibition on all hostile foreigners from entering the country, in order to reduce spying and prevent exposure to foreign religious doctrines.⁴⁹⁴

Over time, the *tratadistas* liberalized their analysis, admitting that long-held policies did not necessarily work as planned. Pedro Rodríguez, the Conde de Campomanes, wrote on how the Crown's strategy affected the economy: "During those times economic principles were not well known: Europe was submerged in ruinous wars, hoping to establish control over the German territories, and specifically the hereditary northern areas rather than elected states."⁴⁹⁵ By preventing any efforts to use the Indies treasure from fostering production and industry, these wars exhausted Spain's treasury. The price revolution of the early colonial days made Spain's goods too expensive to compete on the domestic or international markets. Without specifically stating it, Campomanes' analysis showed how little planning supported the Crown's economic policies, and how these resulted in an accumulation of tactical decisions not answering to a specific strategy.

Campomanes wrote extensively on quantitative theory, coinage and its value, population and its employment, agriculture and the liberalization of the grain markets, popular industry, guilds, transportation, and the use and value of colonial markets. His writings covered every aspect of government, which justifies his reputation as one of the

⁴⁹³ Ibid., p. 9.

⁴⁹⁴ Ibid., p. 13.

⁴⁹⁵ Campomanes y Sorriba, *Discurso*, pp. 409-410.

strongest influences over Spain's political economy. However, his studies on eliminating smuggling failed as spectacularly as had those of previous *tratadistas*, royal officials, and all the laws they produced, because like them, he dealt primarily with the effects of market forces, not with the forces themselves. In other words, he suggested continuing more of the same, seeking primarily to increase efficiency and effectiveness, in addition to the need for more honesty among government officials.

One of the most notable of the later mercantilist thinkers was Gerónimo de Uztáriz y Hermiaga.⁴⁹⁶ He worked ardently to reorganize Spain's productive capacity, seeking to achieve the mercantilists' dream, a positive trade balance. His recommendations relied heavily on the writings of French economic minister Jean-Baptiste Colbert, suggesting that commerce should be "large and useful," at least large enough to finance the cost of government. The objective was to lower duties on all imports of raw materials used for domestic production, combined with restrictions on the importation of finished goods and the elimination of internal tolls. Uztáriz believed that laws prohibiting fraud and smuggling seldom worked, regardless of penalty, unless enforced adequately. This was a perennial problem: even if honest royal officials even existed, it was impossible for them to be everywhere all the time.⁴⁹⁷

Don Bernardo Ward, minister of the *Real Junta de Comercio y Moneda* under Carlos III, wrote his *Proyecto económico* to explain how government regulations damaged the

⁴⁹⁶ Grice-Hutchinson traced Adam Smith's ideas on reducing sales taxes to Uztáriz' works. Grice-Hutchinson, *Ensayos*, p. 195.

⁴⁹⁷ Uztáriz quoted Sancho de Moncada's, *Tratado*, (1619), discurso 3 capítulo 1, noting that between 1492 and 1595, Spain imported two billion gold *pesos* [3.53 billion *pesos*] from the colonies, and another 2 billion in unregistered gold *pesos*; by 1619 there was less than 200 million *pesos* in gold coin [35.2 million *pesos*] in all of Spain. Worse yet, only about one fifth of the gold mined in the Americas reached Spain, though the mine output exceeded 20 million *pesos de oro* [3.52 million *pesos*] per year over the past 232 years. The English could not be blamed for smuggling, he wrote, because a majority of the Indies trade was based in Jamaica, where about 6 million *pesos de oro* [10.56 million *pesos*] were exchanged per year with Spanish colonists for smuggling goods. In 1722, Jamaican merchants sent 30 ships to England with a higher value than Spain's trade. Sancho de Moncada, *Restauración política de España y deseos públicos que escribió en ocho discursos* (Madrid: A costa de Francisco Manuel de Mena, 1619), in Gerónimo de Uztáriz, *Theorica y Practica de Comercio, y de Marina* (Madrid: Imprenta de Antonio Sanz, 1742), pp. 3, 6, 33-4, 408-410.

commercial system.⁴⁹⁸ He was one of the first to write on how goods in the colonies cost up to 200 per cent more than in Spain, imposing a prohibitive barrier on domestic trade that foreign smugglers easily overcame. By adding another 40 per cent duty on all foreign goods shipped through the legal trade system, Spain in essence made it attractive for foreigners to ship goods directly to the Indies, who in the process also evaded paying taxes.⁴⁹⁹ Ward wrote that during the reign of Felipe II, Spain had produced sufficient goods to supply Europe and the Indies, and the income supported the world's strongest navy. There was no credible competition then, naval or commercial, so Felipe could create a monopoly and imposing high taxes. However, when conditions changed, government regulation should also have changed: "the the lack of compliance to these laws, and the negligence of not having later adjusted the government's outlook and response to the changes in times and circumstances" led to economic chaos. Because it ignored this process of give and take in commercial transactions, Spain's colonial government became "totally corrupted, and to such a degree that neither ability, zeal, nor the dedication of some Ministers, nor their hard work, or even all the authority of the King could remedy in this century the damage and disorder caused by historical antecedents."⁵⁰⁰ To a great extent, this happened because monopoly merchants, rather than statesmen, had written the rules. In other words, the colonial trade laws were set up to benefit a specific group of merchants, not the state, the Crown, or the citizens.⁵⁰¹ Theodoro Ventura de Argumosa y Gándara agreed with Ward's analysis that Spain's economic woes resulted from a government that ignored the general interests of its population.⁵⁰² Governments could tax or regulate commerce, but no law could alter market forces. As did most *tratadistas*, Ward believed that reduced taxes could help re-energize

⁴⁹⁸ Ward was Minister of the Royal Committee on Commerce and Coin, and advisor to the Spanish Crown under Carlos III and Felipe IV. Ward, op cit.

⁴⁹⁹ Chávez Orozco, pp. 30-31; Terradas, p. 60.

⁵⁰⁰ Ibid., pp. 129-130.

⁵⁰¹ Ibid., p. 233.

⁵⁰² Bitar Letayf, p. 111.

Spain's economy, re-impose Spain's hegemony, and also supplant the smugglers in supplying the Indies.⁵⁰³ This advice was never heeded.

Foreign Tratatistas. Foreigners analyzed Spain's economic policies, sometimes as political treatises advocating specific policies; often these writings were guides on how to best take advantage of Spain's commercial system.

Josiah Child's writings fall into the latter category. He noted that Spain charged 10-12 per cent customs duties: "The greatness of the *Customs in Old-Spain*, for undoubtedly *high Customs do as well dwarf Plantations as Trade.*"⁵⁰⁴ Spain's colonists concentrated on extracting wealth from mining (in other words, they produced treasure as a commodity), and thus Child believed that colonists were hindered from other traditional ventures such as agriculture, and as a result the economy suffered because so much money was spent on importing clothing and foodstuffs. But the transaction cost imposed by the Crown in the form of royalties, taxes, and customs was the primary culprit in hindering the economy. Child's recommendation was fairly obvious: English merchants should take full advantage of Spain's commercial weaknesses, bypassing the formal trade system and taking goods to trade directly with the Spanish American colonies. Doing so would realize the concern expressed by Carlos V over a century previously, that the Spain's treasure would slip out of its grasp and serve to strengthen its enemies.⁵⁰⁵ His analysis, however, ignored the fact that agriculture had overpassed mining in most of the Indies. But this did not affect the conclusion that smuggling was more profitable than legal trade.

Huet wrote during the same timeframe as Child, describing how trade moved naturally to where it had greater safety and profit: "It is certainly the Interest of Princes that

⁵⁰³ Ward, pp. 119-120, 230.

⁵⁰⁴ Child was Director of the South Sea Company and Ambassador to Spain. Child, p. 193.

⁵⁰⁵ Ibid., p. 14.

Commerce should flourish in their Dominions; for never were greater things performed by Sovereigns than when the Trade of their Subjects has afforded them the Means to put them in Execution.” He voiced the oft-repeated analysis that the world’s greatest source of gold and silver constantly had to import foods and goods because trade and manufactures were neglected.⁵⁰⁶ This situation fostered fraud:

“Only the *Spaniards* can Trade to the *West Indies*, and that all Nations else are forbidden on Pain of Death to trade thither, either directly or indirectly -- However, by means even of the *Spaniards* themselves, they have found out the Secret to send to those Parts all sorts of Merchandize on their own Account; the Method is to find out some *Spaniard* of Worth and Probity, and entrust him privately to sell your Goods in the Indies in his Name, who will certainly do it for you, and return you faithfully your Profits. This indirect Way of Trading to *America* is very frequent in *Spain*, and it was scarce ever known that a *Spaniard* betray'd his Trust. The Court of *Madrid* is not unacquainted with these Practices, but Policy makes her connive at them ... The Merchants of [Cartagena] have a very good Understanding with the *Dutch* whom they furnish with the Merchandize of the Country, and carry their Goods even a-board their Vessels while they lie at Anchor in some convenient Place near the Coast; and in exchange receive from them the Merchandize of *Europe*.”⁵⁰⁷

Not all writings were negative or sought to subvert Spain’s political economy.

Antony Sherley and Tommaso Campanella assumed that Spain was politically coherent and self-sufficient, if not completely homogenous, a situation other European states sought to emulate. Sherley was a mercantilist, and wrote of the economy’s ability to unify diverse talent and interests into creating a peaceful world community oriented toward spiritual issues. Campanella went even further, noting that Spain fostered scientific research to improve its ability to achieve its universal destiny, particularly through sea power, certainly a situation to be envied.⁵⁰⁸ Spain’s economic might was greatly admired throughout Europe.

⁵⁰⁶ Huet, pp. 13, 17.

⁵⁰⁷ Ibid., pp. 89-90.

⁵⁰⁸ Robert. A. Stradling, *Europa y el declive de la estructura imperial española 1580-1730* (Madrid: Ediciones Cátedra, 1992), pp. 87-8.

Economic Nationalism

The Crown relied on existing economic practice, expanding its scope to include the increasing size of the empire. The pattern followed that of a feudal holding supporting a knight and his castle in exchange for safety and prosperity, transposing it to replace colonies with serfs and the monarch, the knight. The Crown's interest was primarily fiscal: the first economic regulation was the *Real Cédula* signed in Burgos on May 6, 1497, wherein the Catholic Monarchs declared all commerce to the Indies to be free of taxes, by which they meant that the taxes of Castilla and Leon did not extend to the colonies; duties and customs were levied on trade instead.⁵⁰⁹ This precedent fell by the wayside when the first royal officials dispatched to the Indies turned out to be tax collectors instructed by the Crown to make the Indies pay for their governance.⁵¹⁰ They were to assume everyone held the Crown's interests paramount – an erroneous concept, as it turned out.

Spain was the first state to elaborate a nationalistic economic policy, in response to the flood of gold and silver that flowed from the Indies.⁵¹¹ Historians and economists are divided on whether Spain was a mercantilist economy, the primary point of contention being how detailed should be the list of required characteristics. Proponents of a short list generally believe Spain had a mercantilist economy; those who prefer a longer list disagree. Céspedes del Castillo was among the latter:

Mercantilist colonial policies were not implemented in the Indies, although Felipe II's financial difficulties led him to try ... After 1560, with the Memorial of Luis Alon Ortiz, many *arbitristas* proposed a change in policies in favour of the Peninsula and subordinating the interests of the Indies. Felipe II was inclined to adopt such, but neither he nor his officials in America modified their

⁵⁰⁹ The law stated that the Indies were free of all *derechos* and *gabelas*. Artñano y de Galdácano, *Historia*, pp. 35, 36.

⁵¹⁰ Ots Capdequí, "Consideraciones," pp. 177, 180; Haring, p. 4.

⁵¹¹ Bitar Letayf argues that mercantilist ideas appeared first in Spain in 1450, and were consolidated by the establishment of the Casa de Contratación in 1503. Bitar Letayf, *Economistas*, pp. 3-5. Grice Hutchinson notes that commercial law was first codified in Italy in manuals of Amalfi and Pisa, but secular economists first wrote economic policy in Spain in the late XV and early XVI centuries. English economic (not commercial) laws appeared in 1571. Grice-Hutchinson, *Economic Thought in Spain: Selected Essays of Marjorie Grice-Hutchinson* (Aldershot: E. Elgar, 1993), p. 185.

behaviour. Not until the second half of the XVIII century were mercantilist policies adopted.⁵¹²

One reason some scholars deny that Spain was mercantilist relates to inconsistencies in the application of commercial policies. Customs duties, for instance, were primarily used for income rather than to regulate trade or protect domestic production. The Crown knew and acknowledged the value of commerce, but in practice, it only perceived a source of tax income.⁵¹³ Imports were sometimes encouraged to control inflation, and restrictions were seldom absolute. By the XVIII century the Indies trade was too complex for mercantilist regulations, as it involved exchanges in northern Europe, English North America and Caribbean colonies, intra-colonial networks, and the Asian markets, in other words, a global economy.⁵¹⁴ Committees in Madrid proved incapable of planning and managing such a vast and complex system. The effort to impose a single-solution legal regime on a global market system was insufficiently flexible for application at the local level.

One mercantilist economic assumption held that wealth and power were linked to the number and welfare of the subjects; the accumulation of treasure was evidence of wealth, though not necessarily wealth itself. Commerce was not considered as a means to gain wealth except as it circulated money earned from agricultural and industrial production. The goal was to produce and export goods in order to obtain wealth; imports drained wealth, and were to be minimized.⁵¹⁵ Most *arbitristas* believed that a positive balance of treasure required the state to organize industry, commerce and navigation in order to increase population as a productive labour pool; keep production costs down through low salaries; create jobs and increase production; eradicate laziness and idleness; give tax incentives to

⁵¹² Céspedes del Castillo, pp. 31, 61.

⁵¹³ Artíñano y de Galdácano, *Historia*, p. 45.

⁵¹⁴ Leví Marrero y Artiles, *Cuba - Economía y Sociedad: Del monopolio hacia la libertad comercial (1701-1763)* (San Juan, Puerto Rico: Editorial San Juan, 1972), pp. 90-1; Carlos Martínez Shaw, "Comercio colonial ilustrado y periferia metropolitana," *Rábida*, 11 (1992): 64.

⁵¹⁵ Inés Restrepo de García, "El ataque a Cartagena de 1741: una lucha de mercados," *Boletín de historia y antigüedades*, 64 (#719, Oct.-Dec. 1977): 589-599.

those who produced export goods, and tax imports heavily. Colonies were to be treated as a source of basic goods as well as markets for manufactured goods. In essence, mercantilists sought to manage the states' economy to reduce risk to the lowest possible level.

Perhaps the most limiting factor was the view of commerce as a zero-sum game, in which a gain by one meant a loss to another. Merchants and bureaucrats believed trade was inelastic, that there was only a certain amount of wealth available, so an economy could expand only at the expense of a neighbouring country. This view developed gradually after 1450 in Spanish universities, the first time an economic issue was discussed outside of the realm of theology.⁵¹⁶ Given that Spain's primary production during the colonial period was silver and gold, Blitz notes that a theory of accommodation could have developed instead, based on the concept that the sum is not zero, but rather the aggregate of all trade, including specie. In other words, "the silver- (or gold-) importing countries ... have favourable balances without the silver-exporting countries having unfavourable balances."⁵¹⁷ This concept is, of course, a counterfactual argument based on hindsight but difficult to apply because of the nationalistic mindset of all European policy makers during the XVI through XVIII centuries. It is simply not possible to envision any policy that advocated trade free of national regulation – such as those advocated by Struzzi – being adopted, though the merchants themselves would have instinctively understood the substance of Blitz' theories. They dealt on a daily basis with the individual decisions of value and cost that in the aggregate make up the basis of market supply and demand. That is why many resorted to smuggling.

Following the principles of mercantilism, the Spanish government developed an obsession for regulatory domination over the commerce of its colonies, even when it was

⁵¹⁶ Bitar Letayf, p. 5.

⁵¹⁷ Rudolph C. Blitz, "Mercantilist Policies and the Pattern of World Trade 1500-1750, *Journal of Economic History*, XXVII (#1, March 1967): 41.

apparent that the rules could not be met. The prohibition on foreign hulls joining the *Carrera de Indias*, even if owned by Spaniards, presupposed that Spanish shipyards were capable of keeping up with the need, and that Spanish crews would be available. Neither assumption proved correct.⁵¹⁸ Colonial production had to complement Spain's production, by producing metals, sugar, cacao, coffee, indigo, tobacco, cotton, and leather, all goods that did not compete with production at home. The treatment of Indian labour, for instance, included lists of property they could own, down to the number of pigs and chickens per family. Of course, such regulations led to a great deal of evasion, if only because economic reality blended more forces and conflicting interests than is normally assumed, government legislation and diplomatic history notwithstanding. Crown and private interests, foreign and homeland markets, the local labour pool, native traditions, colonial governors and military officials all contributed to define the commercial and economic life of the colonies. Government regulators seldom considered the interests of the average citizen, but merchants had to.

Commercial Warfare. For mercantilist theorists, the state was the final authority over everything, so it made sense that trade issues became part of the states' overall governing philosophy, linkable to other issues such as foreign or defence policy. Spain's efforts to restrict foreign access to commerce surpassed what is today called protectionism; the Crown treated the issue as commercial warfare.⁵¹⁹ The idea of hurting enemies by cutting off trade came naturally to the king, his advisors, and military thinkers of the largest economic power in the world at the time. Unfortunately, the areas where this economic warfare was to be applied (the Low Countries, Milan, or the Caribbean) were not areas conducive to such hostile action, and the intended targets were seldom affected sufficiently for the effort to

⁵¹⁸ Ibid., pp. 16, 41-44.

⁵¹⁹ Harman argues that Spain's prohibitions on trade should not be categorized as protectionism but as commercial warfare enforced by military power. Harman, p. 4.

succeed. Spain, with its less-developed industrial economy, needed commerce more than did the other nations:

[i]f Europe needed our silver, we needed also some of the products manufactured in the enemy nations, and from this situation emerged fraud, complicity, and tolerance, as direct or indirect relations with them could never be broken.⁵²⁰

Felipe II's linkage of policy to foreign trade was not irrational, in that it relied on political objectives rather than economic principles. Trade patterns at the time worked on two principal axes: Baltic producers sent grain, fish, timber, metal, and naval stores to Northern Europe; North Sea producers sent fish and manufactured goods south toward the Mediterranean; the return trip carried wine, wool, salt, fruits, sugar, spices, dyes, and bullion, used to purchase Baltic goods. The Dutch carried the bulk of this freight, and as long as they controlled the sea lanes, had free access to both ends of the 'trunk lines' of trade. For a long time Felipe did nothing to limit trade with the Dutch, despite being at war with them: "It is a curious fact that during the first two decades of the war against the Dutch, except on one notable occasion, continued to trade unmolested in the Iberian Peninsula."⁵²¹ In other words, Felipe followed the dictates of market demands, and the Dutch financed their war effort through this trade, and Spain needed the war matériel and foodstuffs they carried. But from the political perspective, Spain's alternative was to trade with France and England, an infinitely worse alternative. Because political objectives were more important, trading with rebel Dutch shippers became the rational option.

Tax Policy. The government structure developed for the colonies sought to avoid some of the traditional limitations on royal authority in Castilla and Aragón, by ruling the

⁵²⁰ Dominguez Ortiz, pp. 71-72.

⁵²¹ Engel Sluiter, "Dutch-Spanish Rivalry in the Caribbean Area, 1594-1609," *Hispanic American Historical Review*, 28 (#2, May 1948): 166-167.

colonies as the personal property of the Crown. This came with a price, however, because the absence of *cortes* meant that the king could not seek direct taxes in the Indies. Crown income was available from eminent domain and duties, exchanging these for privileges or concessions of authority. It has been argued that the Americas enjoyed the lowest tax levels of all the European kingdoms or colonies at the time, though the indirect taxation in the form of onerous duties and restrictions made up much of the difference.⁵²² Until 1596, trade between Spain and its colonies was considered free trade, a legal term indicating that no local taxes were imposed, and merchants from Spain could participate, so long as they shipped through the Sevillian *consulado*. Colonial governments had no right of *almojarifazgo*, customs, *almirantazgo*, *portazgo*, *alcabala*, or any other form of direct taxation.⁵²³ As demands for Crown income increased, specifically to fund the growth of government in the Indies, this precedent was changed. Import duties had always been assessed, and efforts were made to increase efficiency.

Castilla bore the brunt of the king's demands for income. Over time, various schemes were elaborated to spread the responsibility to other components of the empire, so that, in the words of Fernández Navarrete, “not all the weight and load should fall on a subject so thin and emaciated, as if no efficient remedy be applied, it is at the point of falling to the ground ... something that breaks and wounds one’s heart just to hear it.”⁵²⁴ Fernández Navarrete stated that one of the main reasons Castilla could not meet its economic and productive potential was the high level of taxes, “because from these came poverty, and from it has emerged the impossibility of many vassals to sustain the load of this matrimony, without its

⁵²² Céspedes del Castillo, “La organización,” p. 31.

⁵²³ *Almojarifazgo* was a type of property tax right inherited from the Moorish monarchs; *almirantazgo* was a fee charged to finance the maritime administration units that coordinated navigation and routes; *portazgo* was a similar fee charged for portage services; *alcabala* was a sales tax based on the value of the transaction. Specified in *Real Cédula* 6, issued during May, 1479. Antúnes y Acevedo, p. 2.

⁵²⁴ Pedro Fernández Navarrete, *Conservacion de Monarquías*, Fifth edition (Madrid: en la imprenta de Don Tomas Alban, Año de 1805), p. XV.

shackles and ties most could with ease live from their lands.”⁵²⁵ As the number of tax-paying subjects dropped, the load on the remaining taxpayers increased. This was exacerbated by exemptions built into the tax laws, benefitting the nobility, religious orders, and guilds.

Taxes had to be raised outside of Castilla so the king could maintain and defend the entire realm, not just its individual components: “it is a divine and natural law that the king and the kingdom be harnessed to work together: the kingdom by bearing with patience its just tribute, and the king feeling their pain, by shouldering more than his share.”⁵²⁶

Tratadistas blamed Spain’s excessively high tax levels for the economic depression suffered during the XVII century. The Crown’s finances were constantly in a dreadful state and mortgaged for years to come, but the most prevalent recommendation was to reduce the tax levels throughout the empire, not just in Castilla and the Indies, thus spreading the pain across a wider base. The exact impact of high taxes is difficult to gauge because the effect varied from place to place; for instance, the Indies seldom suffered economic depression, despite the high tax burden. The flow of illicit trade made up the difference, as colonists ignored the highly regulated formal economy in favour of foreign smugglers. The contradiction between official figures of the Casa and the real trade figures demonstrates the system’s deterioration, and how little Spain controlled the region’s commerce.⁵²⁷

Campomanes justified the taxation level by stating that it represented one of the principal ways in which a monarch could to impose his authority on commerce. On the other hand, high or excessive taxes damaged industry by making it difficult to compete with foreign merchants, thus resulting in bankruptcies that reduced the Crown’s income, in the process also damaging the government’s authority. This led often to clandestine commerce,

⁵²⁵ Ibid., pp. 100, 102. Moncada wrote that many taxes, such as the *sis*a and *servicio de millones*, affected small businesses and low income population the most, as most of their discretionary income went to paying such taxes. Moncada, p. 188.

⁵²⁶ Ibid.

⁵²⁷ Martínez Shaw, pp. 55, 58.

undermining royal authority and incomes, also damaging the government's authority.

Campomanes advocated searching for a balance between the two extremes, maximizing both private profitability and government power.⁵²⁸ Castellero Calvo concurs, listing the ways in which taxes raised prices artificially:

The fiscal load was converted, in effect, in one of the more onerous loads imposed on the empire's commerce. *Avería, unión de armas, almojarifazgo, alcabalas*, other innumerable taxes, which are not necessary to list here, flattened as would an unsupportable weight all the goods carried on the Carrera de Indias, making them more expensive artificially, often scandalously, and devouring the margins of profit.⁵²⁹

García-Baquero writes that any estimate of the tax rates demonstrates the code's confusing detail. A ship captain paid a minimum of ten different impositions before arriving in the Indies, all based on specific rates and measures that varied by product, destination, type, and license. There were few fixed rules, with little justification for most taxes other than the overarching need for royal income, and consequently merchants had a great inducement toward fraud.⁵³⁰ The cost of enforcement is seldom mentioned in the archives, but increased regulations must have increased the bureaucracy required to monitor them, further adding to the merchant's overhead costs.

In Tierra Firme, more than 30 different duties and surcharges totaling 35 per cent or more were assessed on the transport of goods across the isthmus, and further taxes and duties charged in Lima.⁵³¹ Rules regarding the *Registro de China* ships were tightened by

⁵²⁸ Campomanes illustrated his argument with two products in Buenos Aires. An arroba (28 lbs) of washed wool sold for 5 or 6 *reales de plata*; any level of tax imposed made the wool too expensive for textile factories in Spain, because they could not sell woolen goods competitively. Tallow from cattle fat sold for 6 or 7 *reales de plata* per barrel of 12 arrobas, a price similar to that in Spain. Because of taxes, tallow was too expensive to ship to Spain, damaging the shipbuilding and candle industries. Campomanes y Sorriba, *Discurso*, pp. 332-334.

⁵²⁹ The *avería* was a fee imposed on goods shipped on Carrera fleets to finance the naval convoy escorts. The *Unión de Armas* was an effort by Felipe II to get all his various kingdoms to finance an empire-wide defensive system. Alfredo Castellero Calvo, "La carrera, el monopolio y las ferias del trópico," in Castellero Calvo and Kuethe, p. 94.

⁵³⁰ García-Baquero González, p. 194.

⁵³¹ Of these, nine taxes were imposed on goods from Portobelo to Panama alone: *almojarifazgo de entrada, alcabala, camajares de Cruces* and *Chagres, sisa de Panamá, unión de armas, avería del Boquerón, piso de camino, escolta*. If the goods continued on to Lima, there was an additional *almojarifazgo de salida*, and import

restricting all trade between Nueva España and Peru to two ships per year and to a specific list of goods.⁵³² The monopoly merchants did not directly feel these costs, as they were passed on to the local distributors and consumers, and thus saw no need to complain.

Colonial merchants, on the other hand, were irresistibly tempted to evade the taxes by using alternative sources, despite the risks and inconveniences.⁵³³

Tax income was raised from myriad sources: *tributo* payments imposed on all Indians, free Negros, Mulatos and Zambos; the *quinto* or *diezmo* (tithe of 20 per cent) on noble metals and treasure; the *almojarifazgo* customs duty; the *alcabala* sales tax; and the *dos novenos* ecclesiastical tithe. Other income came from indirect taxes such as the sale of *papel sellado* (the Crown monopoly on official paper required for all legal transactions), the *derechos de ensayo* on metals, the *amonedación* on coinage, the *media annata* income tax raised from all royal officials' salaries, and a plethora of other fines, impositions, and monopolies developed over the years. *Toneladas* were collected to maintain port authorities, and *extranjeros* taxes on foreign merchants. Sales taxes on slaves shipped to the Indies began in 1516. Campomanes used this last tax as evidence that the Crown's primary interest in the Indies was extractive: "this tax demonstrates the idea held from the beginning of benefiting from everything in the Indies, without considering the consequences."⁵³⁴ One consequence was the increased cost of labour, which in turn raised the cost of everything else.

duties at the other end of the trip. And, of course, there were freight costs: *fletes* on the maritime trip, unloading from Perico to Panamá, warehousing in the city, *fletes* overland to Cruces, *derechos de camaraje* in the customs house, *fletes* to Chagres, and customs fees at the mouth of the river. Goods arriving at Portobelo paid warehousing, *fletes* on the Chagres, the *Derecho de Aduana* in Cruces, *fletes* overland to Panamá, warehousing, *fletes* to Perico, and maritime *fletes* to wherever the destination along the Pacific they were destined to. Castellero Calvo, "La Carrera," p. 94.

⁵³² The *Registro de China* was the annual fleet that sailed between Acapulco, Nueva España, and Manila, Philippines, also known as the Manila galleon. Manila was the port where all trade with China and Japan concentrated prior to sailing to the Indies and on to Spain. Alsedo y Herrera, *Aviso Histórico*, p. 110.

⁵³³ Alsedo y Herrera wrote that the overland isthmus route imposed such high costs and hardships that seldom made the trip worthwhile. French and English traders paid local factors to use the *Assiento* trade to hide smuggled goods. In the Far East, smugglers bought *papel sellado* (official paper and seals) to forge licenses. *Ibid.*, pp. 96-97.

⁵³⁴ The tax in the 1500s was 30 ducats per *pieza de India*, plus 20 reales in customs duty. All ships entering Indies ports were required to hire a co-pilot in Sevilla, and this law provided an allowance for slave ships sailing

Some historians have argued that the royal treasury did not benefit greatly from its American colonies because “the Crown granted its Indies Kingdoms great and lasting tax extensions, designed to stimulate its economic development.”⁵³⁵ This argument may hold true in specific instances, such as the effort to stimulate cacao production in Venezuela or for income from individual royal monopolies. Mining was regularly favoured by reductions in royalties, to stimulate production. However, but it would be difficult to argue that Crown income from silver and gold mining was not a significant portion of the king’s budget, as high as 15 per cent of the Crown’s tax income. It also requires a narrow definition of the term tax, excluding the cost imposed by government regulations, restrictions, duties, royalties, and other forms of raising income.

Arbitrary Value. Value and cost in commerce are normally established by a voluntary agreement between a buyer and a seller; the aggregate of all individual transactions provides the indicators known as market value, and the continual validation of value is referred to as market forces. Government regulation and imposition of taxes do not “control” value or commerce, though they do forcibly increase the cost of each transaction, thus providing incentives or penalties for specific behaviours. Bagú analyzes Campomanes’ writings from this perspective, noting that commercial activity naturally develops its own values and traditions, based on consensus over the costs and value of any given item. Spain’s colonists had a steady supply of gold and silver to pay for the goods they desired, and were willing to pay high price to get them, within limits. Campomanes’ described the discrepancy between market forces and government regulations by noting that Spain’s commercial policy was dictated by taxes and security, and ignored supply and demand.⁵³⁶

directly from Africa, requiring a payment of 40 ducats and 30 *reales* for the exception. Campomanes y Soriba, *Reflexiones*, pp. 307-310; Bitar Letayf, p. 47.

⁵³⁵ Céspedes del Castillo, p. 35.

⁵³⁶ Campomanes y Soriba, *Reflexiones*, pp. 307-310; Bagú, pp. 339-241.

The method used to price goods at the trade fairs in Portobelo and Veracruz shows how policy ignored market forces and the colonist's needs. Prices were established by a committee in which the commanding general of the fleet presided over (and negotiated between) the presidents of the *consulado* the local *audiencia* and the governor. Traditionally, the commanding general represented the Crown's interest, and he informed the merchant guilds how much the Crown required of them in tax income. That figure was divided by the negotiated tax rate, after which the prices for each type of product could be set by dividing the total net profits on a percentage basis, thus allowing for the different volume of each type of product on board. With this figure, prices at lower levels could be set by dividing the overall cost of, say, a bottle of Rioja wine by the number of bottles or *pipas* shipped. Market demand, consumer needs or wishes never entered into the equation.⁵³⁷ Additional fixed taxes were also imposed after establishing the equation described above, to pay for specific issues, such as the *alcabala* and *almojarifazgo*. The *habería* tax rate had been negotiated prior to departure from Sevilla, but was usually collected after merchants liquidated their assets.⁵³⁸ Changes were made over the centuries, but the process appears to have remained on the basis of arbitrary value throughout the *Carrera's* life.

Spain's system of *consulados* developed as merchant guilds seeking to maximize benefits obtainable from the Crown, and profits with minimal effort. Colonial merchants repeatedly protested the commercial system developed to benefit Iberian merchants, though political considerations gradually overcame these objections. From the Crown's point of view, *consulados* provided *donativos* and *prestamos* upon demand, helping to overcome cash-flow shortages as if they were national banks, a demand that colonial merchants could

⁵³⁷ Vila Vilar, "Ferias de Portobelo," p. 308.

⁵³⁸ The *alcabala* and *almojarifazgo* were set at two per cent for exports to the Indies and five per cent for imports to Spain. Alsedo y Herrera, *Aviso Histórico*, p. 109.

seldom oppose.⁵³⁹ The Crown gave the *consulados* monopolistic authority over specific commercial functions, though a system of inspections was imposed to monitor compliance with government regulations. This arrangement, which originally presupposed that the delegated authority of the state would not be abused, became a long-range obstacle to the expansion of Spain's commercial activity. The *consulados* gradually excluded increasing numbers of merchants from the Indies trade, thus hindering the colonists' access to legally-obtained goods and services.⁵⁴⁰ Over the long run, the Crown's interests were ill met by the system established by Isabela in the early 1500s by excluding popular participation in the Indies commerce.⁵⁴¹ Of course, foreign interlopers provided an alternative.

Alsedo y Herrera wrote an in-depth analysis of Indies commerce, emphasizing the illicit part, seeking to convince the Crown to again direct all royal officials to refuse even the most casual contact and trade with foreigners.⁵⁴² Everyone, from the Viceroy down to *alcaldes*, should be required to read these laws to the public, so that no one could argue ignorance of the king's laws. It was assumed that everyone had the king's interest at heart, and would willingly comply with all laws, if only they were honest and acquainted with these. Many reports on commercial activities noted that the king's orders were to a great extent ignored, citing officials' greed and collusion with foreign smugglers as the cause.⁵⁴³ It is not surprising that the king's solution was to re-issue laws and re-read them in public,

⁵³⁹ *Donativos* and *Prestamos* were forced donations and loans (often repaid in *vellón*, the artificially valued copper coinage). Allan J. Kuethe, "El fin del monopolio: los Borbones y el Consulado andaluz," in Vila Vilar and Kuethe, eds., p. 35; Araúz Monfante, pp. 109-110.

⁵⁴⁰ Bagú, p. 242.

⁵⁴¹ Only Consulado de Sevilla merchants could participate: men of at least 25 years of age, married or widowed, residents of Seville. Foreigners, servants, scribes, and owners of "tienda pública de oficios" were excluded. García Fuentes, *El comercio español con América (1650-1700)* (Sevilla: Escuela de Estudios Hispanoamericanos, 1980), p. 24.

⁵⁴² The *despachos* from the king dated 3 December 1720 and 31 October 1722, citing Leyes 2^a lib. 9. tít. 27, and 8^a lib. 3, tít. 13. A.G.I., MP-Libros_Manuscritos, 26 [microfilm, roll 29] *Reales Órdenes del Señor Don Felipe V* [Bound manuscript, dated 8 May 1762.], pp. 2-3.

⁵⁴³ *Real Despacho fechado en 30 abril de 1730, por Don Francisco Diaz Román para el rey en Soto de Roma*. Ibid.

again hoping that the same greedy officials and ignorant colonists would come to their senses and comply with the Crown's wishes.

In the end, the structure of government accurately reflected the underlying fiscal policy of doing whatever was necessary to obtain ready cash to meet immediate demands or crises. This mode of operation interfered with any professed economic objectives such as the systematic creation of wealth or the collection of taxes, by creating shortcuts to fraud. Tax rates rose to such levels that merchants found it more profitable to smuggle and pay bribes to avoid prosecution or purchase pardons to escape punishment altogether. Campillo y Cossío wrote that:

our system of government is without a doubt totally corrupted, and to such a degree that neither ability, zeal, or application by some ministers, nor their constant watch, nor all the authority of the kings has throughout this century remedied the damage and disorder of the preceding, nor will it ever be remedied, until a government is established over those dominions based on different principles than have been followed until now.⁵⁴⁴

Colonial officials colluded with this system, mediating between the need for royal authority and popular demand.

Further evidence of the overriding concern for ready cash taking precedence over an efficient colonial administrative structure can be seen in the practice of granting commercial monopolies to favoured ministers and contracting government services to individuals or guilds. These practices – *rentas* – were used extensively throughout the Indies, especially in commerce, defence, and the collection of Crown monies, and over the short term undeniably produced significant amounts of money. However, as the contracting agents seldom kept the Crown's best interest ahead of their own, it can be safely assumed that in the long run this proved detrimental to the *Real Hacienda*. This fact was recognized at the time, and these practices were cited frequently by *tratadistas* as one of the primary causes of *fraude* and

⁵⁴⁴ Campillo y Cosío, *Nuevo Sistema*, p. 68.

smuggling, with the subsequent loss of income and authority to the Crown.⁵⁴⁵ The *assiento* system of selling contracts for specific services to the Crown added a layer of quasi-bureaucratic regulation by exchanging centralized control over specific services to private entities, often small businesses with questionable capacity to deliver the required goods or services. This method of delegated government was ostensibly designed to increase the Crown's income while simultaneously reducing the cost, a good intention to be sure, but one seldom achieved.⁵⁴⁶ *Assientistas* and *rentistas* usually sought to maximize their own profits, not those of the Crown.

The legal system was not completely inflexible; under heavy pressure, the Crown could accommodate changes, recognizing that a strict interpretation could upon occasion be detrimental to its interests. An example can be seen in the rules governing foreign immigration. On September 17, 1501, *Comendador Fray Nicolás de Obando*, the governor of Tierra Firme, was ordered to ensure that no foreigners were allowed into the region under his command. By 1506 the rules had changed, requiring that only natural-born Castilians could receive licenses to ship goods to the Indies. Carlos V considered granting open access to the Indies in a *Cédula Real* of January 15, 1529, but yielded to intense pressure from the *Casa* to maintain the prohibition on foreigners to travel to the Indies. Prohibitions were re-issued regularly – an indication they were not effectively enforced. Occasionally, laws designed for Castilla were extended to the Indies, such as a *Real Cédula* signed on February 21, 1562, allowing foreigners who had lived in the Indies for 10 years or had married to a natural-born citizen to attain citizenship. Laws prohibiting commerce with foreigners were later codified in international treaties such as the Peace of Münster (1648) and the Treaty of Breda (1667).⁵⁴⁷

⁵⁴⁵ Artíñano y de Galdácano, p. 65.

⁵⁴⁶ Vives Azancot, p. 50.

⁵⁴⁷ It was assumed that the resident would be a Roman Catholic. Antúnes y Acevedo, pp. 2, 10, 42, 268, 274, 291; Artíñano y de Galdácano, p. 124.

Merchants frequently offered to manage various government functions, proposing to increase income to the Crown, though few such offers were accepted if these antagonized the established power structure. In 1669, a Cádiz businessman named Arzu y Zuzuárregui proposed to run eight frigates as corsairs in the Caribbean against foreign pirates, in exchange for being allowed two register ships of 400 tons each per year outside the purview of the *Casa*. Arzu ventured the opinion that his eight ships could keep most of the pirates at bay because their ships were too small to challenge any well-armed Spanish ship. The answer was an emphatic refusal, as the Crown jealously guarded its authority over armed ships in the Caribbean. But the more important rationale was commercial, and answered to the *Casa*'s political pressure: Arzu y Zuzuárregui's proposed licence ships would have too high a profit advantage over the *flota* ships, and could foster discontent by showing the colonists how much they were being gouged by the monopoly. Further, merchants such as Arzu y Zuzuárregui would be tempted to smuggle through contact with foreign ships.⁵⁴⁸ The arguments brought together all the elements of Spain's commercial system: delegated royal authority, monopoly grants; fraud and collusion to undermine both; and the Crown's constant need for money. In the end, however, political considerations overcame commercial reality, so Arzu y Zuzuárregui's proposal was refused.

Conclusions

This chapter reviewed those components of grand strategy relating to the economy and commerce, and how these were used by the Spanish Crown. The underlying principle was that of a nationalist economy, known today as mercantilism, developed as policy together with the efforts to centralize political power in the hands of the monarchs. In

⁵⁴⁸ Cádiz had the advantage of being easier for smuggling with foreign merchants than was Sevilla. *Ibid.*, pp. 63-5.

essence, the economic policies developed as a means to control the nation's productivity and commerce to its maximum advantage. There were many forces at play, such as the expansion of commerce into the new, global empire; a new dynasty taking the reins of power and seeking to consolidate its position through centralized authority; the lack of any commercial model on which to base new regulations; the lack of sufficient income to adequately finance the expansion of government presence; the Roman law basis of jurisprudence and its idealistic expression, the great distances involved, linked to the lengthy time required to communicate with distant officials; and, not least of these, the strong belief that the king's subjects would comply with royal edicts if they were properly promulgated and explained.

The starting point was theology, if only because economics as an academic discipline did not exist as we know it today. The educated elites involved began the debate by discussing the morality of using money without losing one's soul, in keeping with the principles of the legal system, a guide to the nation's salvation as elucidated by its monarch. Merchants had been using "secular" commercial practices for centuries, and initial efforts at the various centres of learning sought to develop a theoretical underpinning to such activity, but in harmony with the theological basis of the law. Chief among these was the faculty at the University of Salamanca, where a workable theory of value first arose, and subsequently the idea of "renting" money for profit, today known as credit, thus getting around the Biblical prohibitions on usury.

The debate was taken up over the decades by various individuals, some educated elites, some consultants for merchants or their guilds, or government bureaucrats at the behest of their specific office. Known variously as *tratadistas* or *arbitristas*, they produced a wide array of studies, most of these published as pamphlets, disseminating their view of how specific economic, commercial, or bureaucratic problems could be resolved. Opinions varied over time and were based on the problem at hand; reading them shows the wide

understanding of the intricacies of governance and economics available to the Spanish Crown, on which to base policy decisions.

For the most part, the Crown used commercial policy for two principal aims: to develop tax policy, and to wage economic warfare on rivals or enemies. The former for the most part sought to maximize income, almost with no regard for the impact on the empire's economy.

The absolutist tendencies of the early Hapsburg monarchs hijacked the process of policy development, and *derecho indiano* assumed a "regulative minuteness" designed to keep all reins of government in the hands of the Crown. The Crown "understood the difficulties this tendency offered, and, moved by a lack of confidence in the colonial officials, multiplied the instructions and complicated extraordinarily the bureaucratic and administrative requirements."⁵⁴⁹ Royal attention focused primarily on the *real hacienda*, and relied on the advice of *tratadistas* to maintain a strong ethical stance in commercial law. The efforts to maintain political control and raise as much tax income as possible limited their view of the potential of the colonies, and in the end developed fiscal policies that limited their ability to take advantage of that potential. Later monarchs did not change this policy, even when the volume of commerce grew to the point where market forces overwhelmed their mercantilist intentions.⁵⁵⁰

In the Indies, most of the tax policy was administered through delegated authority, through the trade guilds and monopolies over specific products or industries. The ponderous regime of taxes and regulations emphasized the process, and for the most part ignored the role of the consumer. Seeking relief from such fiscal pressure, colonists turned easily to smugglers. The legal system, with its built-in flexibility and appeal process, facilitated the

⁵⁴⁹ Ots Capdequí, pp. 11-18.

⁵⁵⁰ John Lynch, *Bourbon Spain: 1700-1808* (Oxford: Basil Blackwell, 1989), p. 116.

decision to evade the taxes and regulations, and provided a means to negotiate a settlement for those caught by government forces.

The bureaucratic policies through which grand strategy principles were applied in the colonies were not developed to undermine the empire; quite the opposite. Struzzi wrote that the apparently chaotic system followed a logic, one where everyone profited. The Crown regulated trade, benefitting from the tax income it produced; *consulado* merchants profited from the artificial value imposed through the *ferias*; small merchants exploited the discrepancy between the *ferias* and market forces through illicit trade. The king prohibited foreign participation, but issued exemptions, and profited from the fees imposed; the colonists benefited from the interlopers, who provided access to goods otherwise unobtainable, and the foreigners profited from that business. Struzzi suggested that royal laws should not violate natural laws, and these exemptions brought Spain's onerous regulations more closely in alignment with God's "natural" principles.⁵⁵¹ However, the governing philosophy held that laws could profoundly transform social and economic realities, even those structures inherited or developed over centuries. The empire's economic policies sprang from this line of reasoning, decided entirely to the Crown's advantage and implemented with little regard for its detrimental impact on the colonies and homeland. The king's subjects refused to acquiesce quietly to such commercial strictures, after learning that his authority was easily evaded.⁵⁵²

This minute regulation of commerce was not always detrimental, given the process of its development. As the rules were written in Sevilla by authors who knew little of the geography of the Indies, market distribution was tacitly allowed to develop on its own. The *Carrera* merchants sold in the first instance to local guilds, who then carried the goods to

⁵⁵¹ Struzzi, p. 3.

⁵⁵² Terradas, pp. 50, 54.

population centers for the second or third instance sale. For much of the XVI century, there were few if any rules governing secondary markets.

The second aim of Spain's economic policy was commercial warfare. In this regard, mercantilism lent itself easily, linking itself readily to the state's military power. The emphasis was on maximizing national resources, on the rationale that improving these would somehow reduce those of rivals or enemies. Here again can be seen the principal use of grand strategy, as Spain sought to achieve objectives in Europe, with the colonies at a secondary level of interest. In the Indies, this meant protection of the source and flow of bullion, primarily by keeping foreigners out of the territory, and providing armed escorts to the ships carrying treasure between heavily fortified ports.

When Spain produced the goods needed in the Indies, such policies worked well enough. But when the flow of silver began its inflationary processes, the cost of producing those goods became prohibitive. Economic warfare aimed at European rivals was the last thing Spain's colonies needed; they needed goods, regardless of nation of origin. The political economy developed in Madrid often produced unintended consequences.

Why Spain adopted mercantilism as the preferred method to govern its colonies is a more difficult question to answer. All the European monarchies used commerce as a means of imposing the royal will in some form or another, and with various degrees of success. Spain, however, from the beginning of its colonization efforts acted on the belief that its laws, designed in accordance with God's will as interpreted by the divinely-appointed king, could alter or modify any situation in its favour. This attitude did not change over time. Martínez Shaw noted that XVIII-century reformism was convinced that laws could impose profound realities on a society, including the economic structures inherited and developed over time. It followed, then, that all the government need do is find an honest man to develop the correct blend of rules and regulations, the independent variable on which a solution could be built.

By mid-XVI century, a new player had appeared along the sea lanes of communication between Spain and its colonies: the smuggler. A vast number of laws and provisions were devised by the Crown to combat this spectre, but the inherently bad idea took hold, that of beating it into submission:

The ghost fled at the sound of the first cannon shot, and returned immediately, wrapped in a fog, to penetrate all the pores of the colonial organism ... and at the end of the day, no one refused to be an accomplice: the consumers, who preferred the smuggled goods because of their higher quality and lower price; the authorities, who almost always allowed themselves to be bribed by these untraceable ghosts.⁵⁵³

Every seaport in the Indies was the scene of anecdotes that, over time, make up the history of the contest between the colonial monopoly of Spain and the commercial capital of the rest of Europe. The Crown continually sought to defend its interests in the Indies from this threat. The colonists in Guatemala, Campeche, or Nueva Granada often fought the foreigners directly, but the Hapsburgs primarily dictated *cedulas reales*, advising the colonists of the dangers and authorizing them to defend themselves on their own. Even the Bourbon reforms produced few effective measures to stop the smuggling.⁵⁵⁴

The effort to subordinate economics to political and military priorities failed because it was not based on market forces. Because it forced a specific and arbitrary value on those goods, smugglers intervened to re-impose reality – today referred to as a market correction – and the monopolies found they had to tighten the legal restrictions or risk losing control.⁵⁵⁵ Such regulations from Spain were frequently ignored in the colonies: “From Spain news arrived occasionally. A small boat [arrived] with some arrogant bossy rule, in reality ... written as if on water.”⁵⁵⁶ But the effort to regulate continued unabated, and the closer to the seat of government, the more minute the effort to control: “Almost every article of

⁵⁵³ Bagú, p. 121.

⁵⁵⁴ Chávez Orozco, p. xlv.

⁵⁵⁵ Terradas, p. 51.

⁵⁵⁶ Arturo Ariel Betancur, *Contrabando y contrabandistas: historias coloniales* (Uruguay: Arca, 1982), p. 11.

commerce in colonial Mexico City was carefully supervised as to price, weight, and often, amount and quality.” Committees of judges and *regidores* held hearings to fix the price scale and merchants were expected to use it, even if it bankrupted them.⁵⁵⁷

In the end, there was a divergence between the idealistic laws and commercial reality, which led directly to evasion of the law, through smuggling. The following chapter will describe how Spain’s efforts to tax its colonies in an attempt to finance its grand strategy led to smuggling on such a massive scale that it defeated the monarchs’ efforts to implement their grand strategy.

⁵⁵⁷ Chester L. Guthrie, “Colonial Economy, Trade, Industry and Labor in Seventeenth Century Mexico City,” *Revista de Historia de América*, 7 (December 1939): 104.

Chapter III

Dimensions of Smuggling and *Fraude*

It is difficult, if not impossible, to quantify the extent and volume of smuggling. One method is to study the archives and glean from them information about how far the problem penetrated the colonies. But illegality, while having a geographical component, is more related to the society and its government, so this chapter will study some of the results of Spain's political economy, in relation to how it permeated its colonies. The chapter starts with a brief examination of the empire's chronic lack of income (one of the principal causes of the chaotic fiscal system that led to illicit commerce). It then examines examples of that commerce from various geographical areas, most chosen as illustrative of how *fraude* penetrated not only the colonial government, but that of the Peninsula itself.

Chronic Income Shortage. The Crown failed to grasp the idea that the smuggling problem was an economic threat, not one that could be solved by military or diplomatic efforts. In part, this reflected the view of commercial activity as only a means for tax income. Even the *assiento* system became part of the financial administrative organization, evolving into an element of international negotiations, an essential component of the diplomatic relations between the maritime powers of Europe. The Spanish government used it as a source of ready income; Portugal, France, and later England, played along as a means of influencing the Spanish monarchy and earning a high income from the illicit trade possible through the distribution system.⁵⁵⁸

Spain was not a poor country, despite the long periods of economic depression. Its chronic budgetary difficulties therefore indicate a problem in the government's economic and fiscal policies, rather than with any structural issue of productivity. Unchecked spending was

⁵⁵⁸ Scelle, pp. 648-9.

a major source of the Crown's financial woes, a fact that demonstrates that the Crown's grand strategy was partially to blame for its penury.⁵⁵⁹ Though many *tratadistas* wrote of society's spendthrift ways, most of them pointed to government mismanagement of economic policy as the source of the problem. These may have been merely opposition to specific policies rather than structural issues, but they point to a generalized problem.

Much of the blame for this issue has been assigned to the desperate need for income, from whatever source possible. During the unification wars on the Iberian Peninsula and conquest of the Indies, a large portion of the country's income came from war booty. Efforts to collect that income grew over time, from four basic entities: Castilla, Aragon, the Church, and the Indies. Castilla paid the bulk of the taxes; Aragon normally provided a fairly low but steady income; the Church paid *tercias reales*, *subsidio*, *cruzada*, and *donativos*; the Indies "began to pour a torrent of bullion into Europe."⁵⁶⁰ During Felipe II's reign, about half of the Indies income came from the *quinto* tax; the *almojarifazgo mayor* introduced in 1543 brought in five percent of the Indies income, and the balance came from the *alcabala*.⁵⁶¹

Immediately after the conquest of the Americas, approximately twenty-five percent of the treasure extracted from that region went directly to the Spanish Crown as royalties from the licenses issued to the *adelantados* and *conquistadores*. The source of income changed as the Cortes authorized wider taxes and duties over commerce, in time reaching approximately eight percent of the total economic activity. The composition and source of the colonial commerce on which the Crown's income was based became a confusing mix of legal, illegal, foreign and domestic goods, on which some taxes and duties were paid. The volume of Indies treasure and income was staggeringly impressive. Between 1501 and 1650, Spain

⁵⁵⁹ Ivan Sánchez de Uribe, *Memorial y Discvrsio Politico de la moneda* (Madrid: 28 de Março de 1683), p. 7.

⁵⁶⁰ Kamen, *Spain*, pp. 88.

⁵⁶¹ The Church paid three taxes collectively known as the Three Graces, by the 1590s providing over 227,642 *pesos*, approximately half of the Church's income. *Ibid.*, p. 89. For a detailed analysis of the Crown's income, see Slicher van Bath, *op cit.*

imported 16,887 tons of silver and 1,813 tons of gold, according to official statistics – though much more entered surreptitiously.⁵⁶² By the middle of the XVIII century, however, duties and taxes on colonial trade raised only 16 percent of the Crown’s income from the Indies; the balance came from tribute and commercial monopolies.

The Hapsburg monarchs sought to make their colonies self-financing, a process that over time reduced the Crown’s income. TePaske and Klein show that 55 percent of the king’s Indies income remained in the Indies between 1611 and 1620, which rose to 79 percent between 1691 and 1700.⁵⁶³ This was used to defray expenses, which included salaries for officials and military officers, the infrastructure of buildings, roads, ports; defence expenditures for the entire empire, including fortifications and fleets; the cost of churches, schools, hospitals and the transfer of *situado* payments to less-profitable cost centres. In many cases, the Royal Treasury served as the central bank, private banking facility, and money centre, providing the coinage needs of the realm; it also served to collect church taxes.⁵⁶⁴

In Europe, Spain’s expenditures for diplomatic and military hegemony were high. During 1557-1651, approximately 45% of the Indies income paid for defence; diplomacy added a similar percentage.⁵⁶⁵ Such a burden proved too much, and Felipe II never succeeded in covering his expenses, and was forced to declare bankruptcy four times. Felipe

⁵⁶² During 1559-1598, the Crown’s income rose from about 487,805 to over 1,707,317 *pesos*, of which a quarter came from the Indies. García Fuentes, *Comercio* p. 414; see also Oliva Melgar, p. 41.

⁵⁶³ TePaske and Klein, 121-127.

⁵⁶⁴ Slicher van Bath, pp. 2-4.

⁵⁶⁵ The budget was divided among the war effort in Flanders and Germany (1,500,000 and 400,000 *pesos*, respectively), established embassies (107,100 *pesos*), and various diplomatic purposes (200,000 *pesos*, probably for espionage). Kamen cites A.G.S., CJH, leg. 885 and 1951 as the source of this data. Kamen, “The Decline of Castile: The Last Crisis,” *Economic History Review*, 2nd series, XVII (#1, August 1964): 64-65. Military expenditures were 1,125,000 *pesos* during 1557-1651; figures for diplomacy are harder to find, but in 1680, consumed 2,207,100 *pesos*. Oliva Melgar, p. 41.

V's expenditures on the army and navy were no less onerous, as reported by British Ambassador Benjamin Keene, consuming well over half of the Crown's income.⁵⁶⁶

At the same time, the *Consulado de Sevilla* increased its capacity to extract privileges from the king, in essence pressuring him to approve a system that reduced his own income. This pressure worked in more ways than one, however.⁵⁶⁷ As much as 2,500,000 *pesos* were paid to the Crown during the latter half of the XVII century in the form of *indultos*, undoubtedly to conceal a huge volume of fraud.⁵⁶⁸

Instead of easing the restrictions to help merchants increase their efficiency and income, the Crown delegated its authority to a merchant guild that sought first to protect its privilege. The inflationary forces of the treasure importation, however, made it impossible for merchants to produce the required trade goods, and the *Consulado* was forced to import all it needed. Don Francisco de Varas y Valdes, President of the *Consulado de Sevilla*, described how Spanish merchants gradually lost control of the Indies trade, to the point where by the XVIII century foreigners or colonists owned most of the goods involved.⁵⁶⁹ Much of the treasure or coinage likewise belonged to foreigners either directly or as payment of debts; private Spanish money was smuggled into Spain to evade the government's grasp. This situation was a constant throughout Spain's colonial experience, Varas y Valdés wrote, and because only a small portion went to Spanish merchants, farmers, manufacturers, or shippers serving as intermediaries to foreigners.⁵⁷⁰ Lynch described it as a monopoly that worked well, if seen as "a complex universe of Crown and private interests coinciding only

⁵⁶⁶ The army of 70,000 men consumed 8.7 million *pesos* per year, out of the Crown's annual income of 16 million *pesos*. Lynch, p. 125.

⁵⁶⁷ In 1692, for example, the *Consulado* offered an *indulto* of 2.5 million *pesos*, to prevent an inspection of the fleet's records, a much lower figure than the volume of fraud involved, no doubt. Oliva Melgar, p. 44.

⁵⁶⁸ Patch, p. 77. In 1557, 1560, 1576, and 1596. By 1565 the *juros* took up 84 percent of the Crown's income. Kamen, *Spain*, p. 167.

⁵⁶⁹ A.G.I. Contratación 5144, *Correspondencia de Juan de Varas sobre comercio ilícito en Tierra Firme, Carta de Don Francisco de Varas y Valdes al intendente, en Cartagena de Indias, septiembre 13, 1721*.

⁵⁷⁰ Another embarrassing fact is that, despite all edicts to the contrary, only 25 percent of the ships used in the *Carrera de Indias* were of Spanish origin. Martínez Shaw, p. 63.

on one essential point – to concentrate the colonial exploitation in one place and in the hands of only a few individuals” benefiting primarily those in power.⁵⁷¹ It could be argued that the ‘few individuals’ sometimes included the king himself.

There is no verifiable method of quantifying the volume of smuggling taking place in the XVI-XVIII centuries, but contemporary accounts indicate a high volume of treasure and goods leaving the colonies illegally. The most frequent mentioned figure was half of all production, as well as “most of the commerce.” A main concern related to mining, as it provided the commodity needed by the Crown to finance its projects of empire. Though silver mines provided the bulk of the treasure, gold was a much more valuable commodity, and profits from its sale were much higher. Losses of royalty and tax income from gold mines proved a serious problem, in part because of its method of extraction was geographically disperse, and thus more difficult to monitor.

Colmenares uses Hamilton’s figures for gold sales in Nueva Granada and Peru between 1531 and 1660 to illustrate the problem, showing a discrepancy between production reports and registry statistics in Sevilla of 18,187,870 grams. If the difference in the figures is attributed to smuggling, then the apparent explanation is that Hamilton's figures relate to the legal trade within the Spanish monopoly, and the discrepancy represents what Spanish colonists smuggled home to Spain or sold to foreigners. A further problem is the relation between gold production and gold registered prior to shipment. This figure during 1560-70 was negligible; between the years 1670 and 1690 the ratio of smuggled to legal gold was 2-to-1; after that it became 4-to-1. Apparently, the ready availability of gold was linked to its concealment, because the volume of smuggling increased as mining output rose.⁵⁷²

⁵⁷¹ Cited in Oliva Melgar, p. 45.

⁵⁷² Hamilton estimated that 162,324,550 grams were produced, but only 144,136,680 grams arrived in Seville. Cited in Germán Colmenares, *Historia económica y social de Colombia, 1537-1719* (Medellín: Editorial La Carretera, 1978), pp. 308-310.

In 1721, Antonio de la Pedroza y Guerrero, Viceroy of Nueva Granada, noted that a high percentage of the gold dust from Chocó was apparently being sent abroad prior to assessment for the *quinto* royalty. He sent more agents to the region to collect the Crown's portion directly from the miners in Quibdó and Nóvita. The effort apparently came to nought, as seventy years later Francisco Silvestre, former governor of Antioquia and secretary to the Viceroy in Santafé de Bogotá estimated that half of the gold production was exported surreptitiously.⁵⁷³

Despite the difficulties caused by labour shortages, transportation, and bureaucratic micromanagement, the Chocó miners still found their business profitable. The Viceroy estimated the profitability of slaves as a source of labour and concluded that it was difficult to "account for the region's acknowledged and heavy contraband trade in gold dust." In other words, the official statistics were probably incorrect, thus feeding his suspicion that smuggling was draining the Crown's income, as well as his own. More concrete evidence comes from court records of convictions against five governors for illicit trade in un-minted and untaxed gold.⁵⁷⁴ The structure of the gold production business itself created *fraude*. Though gold abounded, many of the mines belonged to absentee owners (primarily from Popayan) who moved little of their gold to the *Casa de Moneda*, preferring to sell it to foreigners, thus avoiding the *quinto* and other taxes or duties.⁵⁷⁵ Between 1680 and 1810, Chocó placer mines produced over 187.5 tons, of which over 90 per cent came from small mine owners. According to Restrepo's study, there was a discrepancy of 53 per cent between the official records and private sales receipts of gold from the Chocó region, to the Crown's

⁵⁷³ A.G.I., Santa Fe, 362, "Informe del Virrey Antonio de la Pedroza y Guerrero, Marzo 8 de 1721"; Francisco Silvestre, *Descripción del reyno de Santa Fe de Bogotá* (Bogotá: Ministerio de Educación Nacional, 1950), p. 73; Sharp, "Profitability," p. 489.

⁵⁷⁴ William F. Sharp, "The Colombian Chocó, 1680-1810: A Survey of Manumission, Libres and Black Resistance in a Tropical Mining Region," in Robert Brent Toplin, ed., *Slavery and Race Relations in Latin America* (Westport, Connecticut: Greenwood Press, 1974; Sharp, "Profitability," p. 489.

⁵⁷⁵ Restrepo Canal, p. 1008.

detriment.⁵⁷⁶ William Sharp confirmed Silvestre's estimate that as much as half of the gold production in Nueva Granada was smuggled out through foreign shippers. Humboldt wrote that smuggling cost the Crown about 300,000 *pesos* per year, though Viceroy Ezpeleta stated it was only 200,000 *pesos*.⁵⁷⁷ The figures and values, reported in various forms and currencies, makes it difficult to analyse the exact amount of treasure produced and reported to government officials, but an overall picture emerges nonetheless. According to official records, during several years of apparent low production, miners lost money or declared bankruptcy, though studies such as that of Sharp on slavery indicate that miners, merchants and slave dealers continually invested in the region. It is possible that bankruptcies merely masked the miner's efforts to evade tax collectors. The best conclusion supported by the evidence is that all miners and merchants profited throughout the colonial period from their illicit trade. Most mines provided between 1.5 and 50 per cent in profits; miners could add between 5 to 34 per cent to their profits by dealing with foreigners.⁵⁷⁸

Geographical distribution. Contraband was thought to be more prevalent in areas under-served by the formal commercial system, though the evidence indicates an even distribution, if all types of smuggling are taken into consideration. Areas with a lower level of government presence also had a lower population level, and thus required fewer goods to satisfy the markets, whereas population centres required more and more varied goods. Francisco Boulogny, a military officer, reported that only 6 or 7 legal ships – probably 100- to 200-ton schooners and brigantines – arrived in the lower Louisiana from Habana and Veracruz per year, though this accounted for about 15,000 *pesos* per year, not sufficient to fill

⁵⁷⁶ Vicente Restrepo, *Estudio sobre las minas de oro y plata de Colombia* (Bogotá: 1952), p. 104, cited in Sharp, "Profitability," p. 490.

⁵⁷⁷ Jaime Jaramillo Uribe, "La Economía del Virreinato (1740-1810)," in José Antonio Ocampo, ed. *Historia Económica de Colombia* (Bogotá: Siglo 21 Editores de Colombia, 1987), p. 55.

⁵⁷⁸ Sharp, "Profitability," pp. 470, 490-4.

their holds, indicating that their captains did not depend on the legal markets to fill their holds, or else all the cargo was not reported. Boulogny wrote that a constant stream of illicit shipping took place along the Mississippi River, providing 585,000 *pesos* in yearly profits, more than could be carried on the reported number of ships. The governor could do little to stop the foreign incursions, because resources for anti-smuggling or coast guard projects were unavailable.⁵⁷⁹

Official correspondence, specifically the annual reports, are a source of information on how smuggling affected the colonial finances. It could be argued that all governors sought increased funding for their area of responsibility, thus making this source of data questionable. But the continual reporting on lost tax income, the difficulty of interdicting foreigners' *extracciones*, the low levels of production all indicate a problem experienced by almost all royal officials throughout the colonies.

Puerto Rico is a good example, in that the island was good for agriculture, and thus not a major destination of interest to the official trade guild in Sevilla. As a result, colonists often abandoned all pretence of legal trade and adopted smuggling in order to survive. Everyone from the governor to the humblest peasant participated. In 1750, a new governor noted the apparently low productivity of the island, blaming it in part on the lack of opportunity for exporting goods. This is a late date, in relation to this study, but it was only the latest in a centuries-long series of similar correspondence. Despite the island's known agricultural potential, many Spanish merchants found they could not buy sufficient provisions for their ships except in the main port of San Juan. Most of the smuggling on the island involved slaves for the sugar plantations, and the governors frequently requested amnesties for smugglers of slaves, because the residents were in general too poor to afford slaves

⁵⁷⁹ Louisiana's *situado* of 110,000 *pesos* came from New Spain via Habana, but much of it was "borrowed" and its remittance delayed; only 60,000 *pesos* of the first installment arrived, and several months late at that. Jack D.L. Holmes, "Some Economic Problems of Spanish Governors of Louisiana," *Hispanic American Historical Review*, 42 (1962): 522, 526-7.

available through the legal market. Officials in Spain were baffled by the absence of legal commercial activity, despite reports that the island's ports were always full of ships loading or unloading goods. Illegal commerce explains both the presence of the ships and the otherwise unaccountable wealth.⁵⁸⁰

A similar situation could be found on Hispaniola, where the attraction of smuggling was so great that merchants had trouble finding beef locally because the price reflected demand for hides purchased by smugglers. Dutch smugglers paid 20 *peso* per hide; the *Consulado de Sevilla* fixed the price at ten *pesos* for *flota* buyers; locals paid one *peso* per hide. The choice was obvious, so meat merchants had to travel up to 60 *leguas* to the *Banda del Norte* to purchase carcasses after the smugglers slaughtered all the animals available. Baltasar López de Castro wrote to the Crown in 1598 that the Crown was losing 32,500 *pesos* per year in tax income from the such practices.⁵⁸¹

In areas where no merchant guild existed, merchants penetrated the administrative political system, seeking to use the governing structure to commercial advantage. This process became easier after 1599, when the Crown began selling offices. Guatemala provides an example of military governors reconciling the conflicting interests of implementing effective mercantilist policies despite the damage these caused to the local economy. When it became important to build up effective defences – which required a strong local economy – the governors were forced to seek political alliances with wealthy local merchants in order to finance the requisite defensive works or coast guard forces. Accommodation was found, and the governors agreed to ignore the source of many merchants' wealth – often illegal – in exchange for donations to political projects.⁵⁸²

⁵⁸⁰ Feliciano Ramos, "Comercio de contrabando," 82-84.

⁵⁸¹ Frank Moya Pons, *Historia colonial de Santo Domingo* (Santiago, Dominican Republic: Universidad Católica Madre y Maestra, 1977), pp. 115-116.

⁵⁸² Phelan, 47-65; Stephen Webre, "Política y comercio en Santiago de Guatemala en el siglo XVII," *Anales de la Academia de Geografía e Historia de Guatemala*, 43 (#1-4, January-December 1989): 19-28.

Guatemala's experience was by no means unique, because all local administrators learned to selectively ignore or apply Spain's myriad rules and regulations to best advantage.

Guatemalan merchants likewise diversified their production and markets. In order to increase their volume and profits, they did not rely on the official trade routes, though Habana and Veracruz provided access to trade goods from New Spain, Peru, and Cuba. But the highest profits came from the distribution of goods purchased from foreign smugglers, especially English merchants in Balis and Moskitia, which could be shipped overland as far away as Chiapas and Costa Rica.⁵⁸³ Over time, the suppliers consolidated in Kingston, Jamaica, developing strong ties between the two economies. Goods arrived overland from as far away as Nicaragua and Chiapas to be traded at Santo Tomás de Castilla for whatever the Jamaican merchants brought. Efforts by the Crown to establish an official point of entry in Omoa failed, primarily because merchants preferred this established link over anything that included the presence of tax collectors.⁵⁸⁴

Tobacco was a favourite product among smugglers, given its high profitability. Much of the tobacco cultivation took place in the Captaincy-General of Guatemala, Cuba, Hispaniola, and smaller Caribbean islands. It was subject to monopoly rules, through the Renta de Tabaco, and was a popular royal dispensation used to finance religious orders, specifically monasteries. Almost every tobacco cultivator evaded the Crown's rules, hiding the product inside containers of lesser value products, salt being a favourite because it was also a monopoly granted to convents, ecclesiastics, and Indian villages. Many of these used

⁵⁸³ José Manuel Santos Pérez, "Los comerciantes de Guatemala y la economía de Centroamérica de Centroamérica en la primera mitad del siglo XVIII," *Anuario de Estudios Americanos*, LVI (2, 1999): 464. See also Manuel Rubio Sánchez, *Comercio terrestre de y entre las provincias de Centroamérica* (Guatemala: Editorial del Ejército, 1973).

⁵⁸⁴ James L. Zackrison, "The Castillo de San Fernando de Omoa: The History of a Fiasco," unpublished Master's thesis, Loma Linda University (Riverside, California, 1985). See also Rubio Sánchez, *op. cit.*; Victor Cruz Reyes, et.al., *Fuerte de San Fernando de Omoa: época colonial*, Estudios Antropológicos e Históricos, v. 5. (Tegucigalpa: Instituto Hondureño de Antropología e Historia, 1985).

large merchant houses to ship their goods to Spain. Saavedra Fajardo believed the king was defrauded of at least 21,818,200 *pesos* per year.⁵⁸⁵

The attraction Habana held for pirates spoke of its wealth. Fleets and militias were sent to scare off the pirates and smugglers, financed by a one-*real* tax on each hide produced for export to Spain. The effect was to move the entire business of hides into the hands of the smugglers, and before long most of the island's commercial ties were illegal, increasing in volume and reach even after the 1580 decline of the formal market.⁵⁸⁶ Merchants on Trinidad and Jamaica established links with colleagues in Cartagena to smuggle noble metals and other goods, using up to 50 ships per year.⁵⁸⁷ The development of sugar plantations on the island fostered smuggling also, as English and Dutch merchants supplied slaves for the labour-intensive industry and purchased Spanish goods in exchange. The re-introduction of the *flota* system in the 1730s reinvigorated Cuba's economy, though in reality, two separate economies had long existed on the island: the legal, transitory, *flota*-related commerce based in Habana, including the development of a shipyard, agriculture, and mining; and the smuggling trade, which handled the bulk of the island's production from any other port.

Indies merchants adapted to the increased flow of smuggled goods. New Spain merchants regularly spent half their investment monies purchasing goods from Seville, reserving the balance for smugglers. Because of the latter's lower prices, the merchants could take home a larger volume of goods to sell, thus earning a higher profit. As this practice spread to all *ferias*, financial risk was thus increased for all *registro* merchants, many of whom often remained stranded in Cartagena, Portobelo, or Veracruz with unsold goods.

⁵⁸⁵ Saavedra Fajardo estimated 4 million smokers using 4 *maravedís*' worth per day; legal tobacco sold for 1700 *maravedís* per pound, smuggled tobacco sold for 68 *maravedís*. Diego Saavedra Fajardo, *Idea de vn Principe politico christiano* (Monaco: en la emprenta de Nicolao Enrico, 1 de Marzo 1640), pp. 21-22.

⁵⁸⁶ Drake first sacked Habana in 1586. Pérez Herrero, pp. 787-788.

⁵⁸⁷ Products included cattle, honey, sugar, slaves, hides, tobacco, salt, copper, *canafístola*, dyes, and manufactured goods.

Indies officials seldom reported this situation, hoping to avoid any detailed legal review that leading inevitably to increased anti-smuggling efforts.⁵⁸⁸

Any discovery of *fraude* was blamed on subordinates or superior officials for failing to provide the means to eradicate fraud. In one of his annual viceroyalty reports from Santa Fé de Bogotá, Eslava named the *Guarda Mayor*, the *Oficial Mayor*, and the *Escribano de Registro* in his government as corrupt, in that they built warehouses in Villa de Honda and Rio Tamaná in Chocó for storing smuggled goods for the gold miners. But the judicial and inspection systems hurt efforts to reduce corruption because governors continually denied licenses to small business shipping to the lesser ports, hindering the distribution of goods to places like Rio Hacha, or even Santa Marta. Eslava complained that when colonists found they could not obtain goods through the legal commerce easily, they bought from foreigners, and no one denounced it as a crime anymore, even when slaves were offered their freedom if they informed the authorities of illegal acts:

... and if punishment for this pernicious crime were abandoned entirely, it would be because the very judges surrendered to its effects, or for the almost complete impossibility to close the uncovered and isolated coastline, in the absence of coast guard forces and without the promised 50,000 men to patrol the region.⁵⁸⁹

In other words, it was no one's fault, and it was everyone's fault; there was nothing the viceroy could do about it because the king did not provide the resources to stop the corruption among his subordinates.

Areas not served directly by the *feria* system eagerly sought foreign trade. Smuggling in Rio de la Hacha rose to 20-30 sloops from Jamaica selling between 10 and 15 slaves each per year, traded for cacao, tobacco, tallow, hides, and dyewood. Maracaibo traded with Dutch "interlopers" on sloops, who traded slaves for coin, hides, cacao, tallow, tobacco, and

⁵⁸⁸ Juan y Santacilia and Ulloa de la Torre-Giral, pp. 199-202.

⁵⁸⁹ *Defensa del Gobierno del Virrey Eslava, hecha por el Oidor Eslava* (1751), in Colmenares, *Relaciones*, pp. 67-68, 73.

stockfishwood lumber (used in making red dye). On average, the Company sold 4,560 slaves on the Spanish Caribbean islands, accepting payment in gold bullion, pieces of eight, cacao, snuff, tobacco, sarsaparilla, balsam, sugar, hides, tallow, cochineal, indigo, and dyewood. The income from slaves produced a potential 135,000 *pesos* yearly in cash, though higher income was available if payment was in kind; the same number of slaves paid for in cacao could be liquidated in Veracruz for 1,263,000 *pesos*; trading the same number of slaves for mules later sold in Jamaica could yield 548,000 *pesos*.⁵⁹⁰ Higher profits could be had if the ship returned to Europe with specific trade goods, indicating that barter was a much more profitable means of supplying slaves.⁵⁹¹

A more significant smuggling threat was reported by Dionisio Alsedo y Herrera, president of the Audiencia of Panamá in the 1730s.⁵⁹² The situation he encountered took the form of an informal government, complete with administration, justice, and defence elements, based in the town of Natá. A large number of Panamanian merchants had allied with English smugglers to smuggle on a large scale. They occupied territory, controlled most of the trade across the isthmus, and counted on most of the colonies' principal residents as investors or labour. The president found he could not rely on local militias; Spanish troops were defeated twice before sufficient force was imposed to destroy the corporation, known as the *Apostolado de Penonomé*. Fallout from Alsedo y Herrera's effort led to his removal from office, because his attack on the smugglers affected so many of the colony's merchants. He succeeded in stopping the smuggling, but, as legal traders visited the ports so infrequently, shortages of food and clothes forced Alsedo y Herrera to petition the Viceroy in Santa Fé for

⁵⁹⁰ *Pieças de Indias*, the legal name for slaves, normally sold for 220-300 *pesos*; Company factors paid 7-10 *pesos* per *fanega* of cacao, shipping it to Veracruz and sold it at 40-70 *pesos*. Untitled document, *Shelburne*, 43: 1, 2.

⁵⁹¹ Mules cost 20-40 *pesos* per head, and could be re-sold in Jamaica for 64-80 *pesos*, or about £16-20. Dyewood sold in Caracas for 12-16 *reales* per 100 weight; tallow sold for 12-16 *pesos* per 25 pound; hides sold for 8 *reales* each. Tobacco prices varied by year and quality. The *Assiento* allowed the Company to ship two barrels of flour for each slave per year, ostensibly to feed the slaves, but flour sold very quickly and profitably at 20-25 *pesos* per barrel. Untitled document, *ibid.*, 43: 1, 2.

⁵⁹² Alsedo y Herrera, *Piraterías*, pp. 292-309.

permission to accept trade from Jamaica. In other words, from the very smugglers he had just defeated. Permission was denied, of course, but the effort to remove the governor included the return of illicit trade with foreigners.

The colonies were not the only location for smuggling. As will be discussed in chapter 4, many of the goods shipped on the trade fleets were not listed on the cargo manifests; smuggling to the colonies began in Spain. Cádiz was used by many English merchants as a quasi-legal venue for involvement in the Indies trade. English merchants sold goods to Spanish merchants, who then transhipped the goods on to the Americas, though there was always an alternative:

The only other way in which this rich market could be tapped by English merchants, and its gold and silver directly into English pockets, was by the risky smuggling trade which was constantly carried on through the English Caribbean colonies. For all its difficulties, the Cádiz trade offered greater security than this back door approach, at least for the merchant with sufficient resources.⁵⁹³

Crowhurst wrote that the volume of trade with Cádiz before 1713 was moderate, and grew dramatically afterwards, though the official statistics he used did not include the *Assiento* trade or any goods shipped illicitly from either the British Isles or the West Indies.⁵⁹⁴ In reality, England's trade with the Spanish colonies (routed through Cádiz) was always high, and increased dramatically during the period Crowhurst describes, though the trade directly with Spain dropped considerably.

⁵⁹³ There can be no doubt that the essence of the Wood's business was a massive smuggling trade with the Spanish American colonies. For the mechanics of this trade we have Thomas Wood's own testimony to the Board of Trade in December 1707. As related to the Honduras, for example, 'Mr. Wood added that he and Mr Galdy [another Jamaica merchant] keep two sloop continually employ'd in the trade to the Honduras; that, as soon as one came into Jamaica, the other is fitted out, and make about 4 voyages a year; each voyage they carry between 1,500 and 2,000*l.* [3,000 and 4,000 *pesos*] in goods in each sloop, and in the whole between 10 and 15,000*l.* [20,000 and 30,000 *pesos*] a year.' Treadwell, pp. 43-4.

⁵⁹⁴ Between 1713 and 1739, exports from the West Indies grew from £794,000 to £1,632,000 [1,588,000 to 3,264,000 *pesos*], of which 2.5 and 3.9 per cent, respectively, were goods sold in the Spanish colonies. However, imports dropped from £468,000 to £455,000 [936,000 to 910,000 *pesos*] during the same time period, of which 23.5 and 45.9 per cent, respectively, were goods from the Spanish mainland. B.R. Mitchell and Phyllis Deane, *Abstract of British Historical Statistics* (Cambridge: Cambridge University Press, 1971), p. 309, cited in Crowhurst, *Defence*, p. 59.

Foreigners had learned quickly how to do business in the Indies and the risks involved. Sebastian de Arancivia wrote of their impunity, noting it came from a lack of governmental presence: “it is to know how to trade and contract and smuggle in these islands cloth from their own country and to steal the ships they encounter on the high seas ... because they know there is no navy to offend them.”⁵⁹⁵ Most of the colonist also knew there was little risk in dealing with the foreigners, and reduced their expenses by “a great quantity of *maravedíes*, which fills the lands with clothes through this smuggling, which pays no duties from what is sold or purchased.”⁵⁹⁶ War proved not to deter smuggling either, according to Christellow:

"Some quantities [of smuggled goods], with official connivance, came from the sequestered stocks of the great English wholesale houses; others, from stocks held by the Irish who claimed British nationality (with all its privileges) in time of peace and Spanish nationality (with all its exemptions) in time of war and could therefore argue that their stocks were exempt from sequestration; while still others came in covered by faked marks and false manifests in neutral bottoms."⁵⁹⁷

Because the king did not adequately defend the coasts of his colonies, few of his subjects did so either, even if authorised to do so; when enemy ships showed up, the towns surrendered and arranged to trade with their captors. Merchants along the north coast of Honduras, for instance, refused to arm themselves against smugglers, preferring instead to profit from the sales of hides, sarsaparilla, and other locally produced goods.

Formalized Fraude. The practice of offering bribes to Spanish colonial officials led to almost total complicity in the smuggling, according to Juan and Ulloa:

The corregidores and royal officials know what is in their best interest, and thus, when smugglers arrive at their ports, they not only look askance, but on the

⁵⁹⁵ A.G.I., Indiferente General, 2661 / 1550-1599 / Ordenes y Expedientes sobre seguridad de puertos y flotas, "Discurso de la necesidad q tienen todas las islas de barlobento y costas de las indias que aya algunos navios de armada en el Puerto de la habana ... firmado por Don Sebastian de Arancivia, 18 octubre de 1595."

⁵⁹⁶ Ibid.

⁵⁹⁷ Christellow, p. 30.

contrary, they offer congratulations and gifts in order to entice them to return, guaranteed of a friendly reception.⁵⁹⁸

Officials actually sought smugglers and invited them to use their ports, in an effort to increase their income from bribes. Arrests were used to rectify contract violations and, in the contemporary language, did not offend the foreigners because it showed the viceroy or king that the local official is apparently honest, and thus allowed him to cover up even more smuggling.⁵⁹⁹ The higher the rank, the greater the corruption, according to Juan and Ulloa, who also noted that fraud reached its peak in Peru because of the higher number of judges and officials appointed to prevent corruption. Smuggled goods arrived at all hours of the day and night with little regard for authority or prohibitions, many times escorted by the guards appointed to prevent the practice: “the venality of the colonial officials and authorities contributed thus to the continued increase in contraband.”⁶⁰⁰

Spanish ports were not free of the practice, either. Antonio de Lerchundí, corporal on a royal treasury transport ship in the port of Cádiz, wrote to the President of the *Audiencia de Sevilla*, Don Francisco de Varas y Valdes, of an offered 1280 *pesos* from French smugglers. All they asked was that he leave his post for half an hour so that a portion of the silver could be moved to *La Tolosa*, a French warship anchored nearby. This was not the first time he had received such an offer, as the subsequent investigation revealed that Lerchundí had accepted similar offers in Portobelo. The 1721 *feria* had a higher than normal volume of tax money, and Lerchundí explained that the level of fraud was significantly higher than normal. A *descamino* prize⁶⁰¹ had been added to the normal *feria* goods, and Manuel Lopez Pintado, commanding general of the fleet, guarded it so closely he received threats against his life. Antonio Serrano, Chief of the Guards, had ordered Lerchundí to unload five cases of hats

⁵⁹⁸ Juan y Santacilia, and Ulloa de la Torre-Giral, p. 164.

⁵⁹⁹ Ibid., pp. 206-207.

⁶⁰⁰ Donoso Nuñez, p. 29.

⁶⁰¹ A *descamino* was a confiscation taking place at sea; if taken on land, the same load would be called a *decomiso*.

from the prize, probably to sell as contraband. Varas, writing to the king about the report received in Cádiz, noted in the margin of the letter of his belief in Lerchundí's honesty, primarily because the sailor was too poor to be corrupt.⁶⁰² Lerchundí apparently did not directly tell Varas y Valdes that he had not accepted the bribe, though he hinted that not taking it could be detrimental to a guard's life.

The bribers knew the intricacies of the process and considered it a part of the cost of doing business. Dennis Sassell wrote to the South Sea Company directors in London in 1738 to explain the expenditure of 3000 *pesos* on presents for "the governor, Bishop, Admirals, etc." His predecessors had expressly ordered such gifts because "it is highly necessary for the better facilitating the Company's affairs, that a good understanding & Harmony be kept up with the Governor & other Spanish Officers in Authority, we recommend it to you to promote the same on all occasions." Sassell cited articles 5 and 8 of his instructions directing him to "the keeping up [of] a good Harmony & Understanding with the Governor and other Spanish Officers in Authority." Most such gifts were considered a trifling courtesy, but failing to extend them resulted in a withdrawal of the host's protection and influence. Well-placed bribes meant that legal complaints would be decided in the Company's favour, quarantines would be excused, Ministers of the Inquisition would not harass them, and some ports – Santiago de Cuba and Puerto de Principe were mentioned – even suppressed customs duties. Sassell concluded by noting that the 3,000 *pesos* were not wasted, as they guaranteed a judgment favouring the Company by 24,359 *pesos*.⁶⁰³ The Company used bribery to achieve its ends and enjoyed the results. During February 1730, a representative was sent to Spain to "make private overtures to such Ministers of Spain as may be inclined to favour Y^e Comp." The target of this effort, Minister of the Indies and Navy José de Patiño, was known

⁶⁰² A.G.I., Contratación, 5144, "Correspondencia de Juan de Varas sobre comercio ilícito en Tierra Firme," "Carta de Antonio de Lerchundí a Juan de Varas y Valdes, octubre 22, 1721, en Cádiz."

⁶⁰³ "Answers made to the Objections made by the Hon.^{ble} Committee of Acco.^{ts}, dated 27th Jan.y 1736 N. 30th March 1738 to the Accot.^s of Nicholson & Sassell," *Shelburne*, pp. 155-157.

publicly as a man of exact honour, but South Sea Company Director Keene was instructed to deal separately and off the books with Patiño's brother Joseph Eyles and a merchant named Montijo to ensure that things could be settled satisfactorily.⁶⁰⁴ Keene argued that using the profits of smuggling to ensure continued access to the Indies trade was a good use of the Company's resources.

John Merewether provided details of the "private trade" of Jamaica to Mr. Burrell in 1736, and specifically of the various governments' involvement. Governor Molesworth legitimized the trade in goods, and Parliament sanctioned the trade in manufactured goods from the colonies, despite the Navigation Acts.⁶⁰⁵ The Governor of Jamaica often authorized the use of Royal Navy men-of-war to protect smuggling trips to the mainland regardless of affiliation with the Company. Factors were thus often advised to keep abreast of the trade, primarily to watch for competition when it took advantage of the Royal Navy's protection. There was little competition for slaves among the English colonials, however, as smugglers seldom dealt in high-priced Gold Coast slaves. Merewether opined that:

The Minister at Madrid may give what orders he pleases. If the Commerce at Seville may take their own Measures, but still a people who want goods will find out ways for a Supply And the advantage of this Trade is now chiefly enjoyed by the Spanish Buyers who have a Proffitt adequate to the Risque they Run Of this Illicit Trade the Dutch enjoy by much the greatest share, they employ Persons fitt for this Business, who the Traders here want. And this is in truth the Reason why this Island has no greater Share of this Trade, notwithstanding the clamour which our planters in generall make against us."⁶⁰⁶

Spanish efforts to interdict smugglers were seldom successful, because officials benefitted from the practice as much as did Spanish merchants. Route restrictions ensured that Buenos Aires merchants had trouble liquidating their goods unless slave traders arrived. The volume

⁶⁰⁴ Aiton, pp. 171, 2; George Nelson, p. 58.

⁶⁰⁵ PRO, CO I:44, No. 62, *Jamaica Council to Lords of Trade*, May 20, 1680; PRO, CO I:57, No. 67, *Molesworth to Lords of Trade*, March 24, 1685, in Nettels, "England," p. 14.

⁶⁰⁶ "Letter from John Merewether to P. Burrell, Jamaica, 6 January 1736," *Shelburne*, 44: 867-71.

was high: in 1733, a total of 380,818 hides were shipped to Europe, of which 184,505 were sold illegally.⁶⁰⁷

Commerce was not the only source of fraude: any excuse was used to cover illicit activity. A catastrophic fire in 1737 destroyed many Panamanian businesses, and, while the damage was great, many merchants reported a serious shortage of money, ostensibly because it had been destroyed in the fire. In reality, the gold and silver still existed, but could not be assayed or minted because the royal mint and its tax stamping equipment had been damaged. There was no credible means to prove or disprove tax payment on the treasure, so many merchants began sending their gold and silver abroad, fearing confiscation by the Crown.⁶⁰⁸ The Company's factors were reluctant to ignore such easy profits.

Insurance fraud was common, as merchants normally purchased premiums to cover the risk of shipwrecks, and agents were appointed to monitor the recovery of ships and goods. A frequent problem was that the volume of goods recovered often exceeded the manifest list. High risk and tax rates led to insurance fraud through the purchasing of several policies, and then attempting to collect on all the policies for a higher return than was available through the sale of the original goods. Some merchants routinely inflated the volume of insured goods, occasionally claiming partial losses to weather in order to fraudulently increase their income.⁶⁰⁹ Many reported losses were, in fact, ships diverted to ports other than those listed on the manifests, and the goods subsequently smuggled into the colonies.

Losses to storms were significant, though efforts were always made to recover treasure if at all possible. Such shipwrecks provided evidence of illicit shipping. Divers

⁶⁰⁷ Arthur S. Aiton, "The Asiento Treaty as Reflected in the Papers of Lord Shelburne," *Hispanic American Historical Review*, VIII (1928): 173-5.

⁶⁰⁸ "Letter from Jonathan Dennis and Mrs. Davison and Frances Humphreys, Panama, 15 February 1739," *Shelburne*, 44: 459-62.

⁶⁰⁹ Maria Encarnación Rodríguez Vicente, *El Tribunal del Consulado de Lima* (Madrid: Ediciones Cultura Hispánica, 1960), p. 232; Biblioteca Nacional, ms. 2987, fol. 336v, "Ordenanzas del 11 de julio de 1552 para la Casa de Contratación de Sevilla. Ordenanza núm. 161", in Garzón Pareja, pp. 192-193.

searching to recover treasure after a shipwreck off the coast of Zahara, south of Cádiz, in January, 1555, found 300,000 *pesos* of unregistered coins and 150,000 *pesos* in registered coins.⁶¹⁰ The Real Hacienda profited repeatedly from the imposed fines, indicating that the Crown realized it could not control the problem and preferred the income to the cost of enforcement.

In 1654, the *Capitana* of the *Armada del Mar del Sur* foundered and was beached near Chanduy, *en route* from Callao to Panamá with a load of silver. Efforts to remove the coin boxes proved difficult because the ship had been so overloaded that water covered the lower gun ports; the upper gun ports could not be used for access either, because they were blocked by containers. The salvage crew burned the bow and stern portions above water in an effort to enter the wreck, but found the holds also crammed with goods, including rock salt that melted in the water, further disrupting the salvage effort. The *capitana* was by rule only supposed to carry only gold and silver as cargo, and maintain in good order the guns to defend the fleet, but it had been loaded with “local stuff, *cordoban* cloth, bottles of wine, olives, and other materials.” The *fiscal* in Panamá noted that there were more unregistered goods and treasure on board than registered, especially the bullion: most silver they found had been mis-labelled on purpose. Boxes of 1000 *pesos* contained between 1,200 and 1,400 *pesos*, and those marked, 2,000 had been packed with coins worth up to 3,000 *pesos*. A further problem arose when the crew sent to request help from the convoy’s *almiranta* put to shore and fled, most likely because they were not sailors and had no intention of returning to a sinking ship, let alone of being arrested for being on board under false pretences. Signing merchants on as crew members was a popular ploy among ship captains, as they accompanied specific goods consigned to specific warehouses at the ship’s destination.

⁶¹⁰ Haring states the wreck took place along the coastline between Cádiz and Gibraltar. Haring, *Trade and Navigation*, pp. 64-65.

When listed as crew members, they could evade most of the required taxes or duties, which increased their profits; ship captains benefitted by accepting bribes for the subterfuge.⁶¹¹

In 1706, the *almiranta* of the *en route* to Cartagena de Indias sank with a significant loss of goods and life, including the senior naval officer, the Conde de Casa Alegre, *Almirante General* Joseph Fernández de Santillán. Command of the fleet was promptly assumed by *Almirante General* Don Miguel Augusto de Villanueva, who began a minute inspection of the manifest. The *almiranta*'s manifest – which should not have existed, given the prohibition on all cargo except noble metals – showed that goods worth 1,133,935 *pesos* had been loaded in Sevilla, not an overly large cargo for a ship of that size. Unscrupulous merchants, however, had loaded another 2,509,179 *pesos*' worth of goods illegally, in addition to 264,384 *pesos* of goods carried off-register.⁶¹² There were several unregistered loans made to the Admiral ostensibly to meet the cost of outfitting the fleet, but probably consisting of consignments for delivery in Cartagena de Indias, a popular means of smuggling money. The total tax liability for the fleet came to 581,643 *pesos*; a *donativo* of 60,000 *pesos* was offered to the king as payment for having attempted to evade taxes, and another of 13,201 *pesos* for the off-register goods. Both were accepted, and the king granted tax amnesty to everyone.⁶¹³

By 1685 the *flotas* had been reduced in volume and frequency to the point where they carried only one third of the market's demand for goods; the rest were supplied by the *suelto*s and smugglers. *Tratadista* Osorio y Redin wrote in 1686 that reported profits from the Indies totaled 20 million *pesos*, though "it was common knowledge" that the actual figure

⁶¹¹ A.G.I., Indiferente General, 2574, Ramo 1, "D. Pedro Vázquez de Velasco a S.M., Chanduy, 12 de febrero de 1655, in Serrano Mangas, pp. 140-141.

⁶¹² The ship's manifest was required to list all goods on board, or at least a list of the containers loaded in Spain. Exceptions had been granted since the early 1530s to merchants arriving too late for the formal procedures, allowing them to load goods off register and adjust accounts at the ship's destination, paying a small fine for the irregularity. Over time, it became a way to evade taxes such as the *avería* by not declaring them unless an inspector found them. Illegal goods were those belonging to merchants who had no intent of declaring them to the government.

⁶¹³ A.G.I., Contaduria, 1439, 1706-1709, "Caja de Cartagena. Dos libros sobre comercio ilícito."

was closer to 200 million *pesos*. However, the Crown only received tax income from the reported value, losing an estimated potential tax income on 180 million *pesos*.⁶¹⁴ It did not take long for the Casa's statistics to indicate a precipitous decline in shipping, though in reality the problem was in the statistics: because colonial wealth did not decrease proportionately with the data reported in the shipping records, the probable explanation is a great expansion in smuggling, both by foreigners and by Spaniards on the *flotas*.⁶¹⁵

According to Céspedes del Castillo:

[T]he system functioned, as a whole, in a very imperfect manner ... As taxes increased, the smuggling of unregistered goods developed, in both the ports of entry and departure, as well as in the *ferias*. Outside the system, smugglers added to the damage caused by smugglers who paid no taxes, thus offering goods at any point along the American coasts and ports more cheaply than could the legal merchants.⁶¹⁶

The extent of smuggling was demonstrated by the French and British ambush of the treasure fleet from Habana in 1702. The ships that evaded capture put into the nearest port, the Galician port of Vigo. Crown representatives arrived before the owners, and collected the largest tax ever imposed in any single year, assessed on the volume of goods inspected rather than the manifest reports. In addition, the Crown was able to confiscate a huge volume of goods and treasure carried off-register or on non-Spanish hulls.⁶¹⁷

Conclusions

Such levels of fraud and smuggling could only be achieved through collusion by local officials, on a grand scale: “the decision of the Austrians in the XVII century was to delegate

⁶¹⁴ The author tallied the profits from gold, gold paste, silver, pearls, emeralds, and other valuable fruits; he only counted treasure, not merchandise or goods. Miguel Alvarez Osorio y Redín, *Extensión Política, y Económica, y la mejor Piedra de Toque, y Crisol de Verdades, para descubrir los Tesoros que necesita esta Católica Monarquía* (Madrid, 11 October 1686), p. 23.

⁶¹⁵ Carmen Borrego Pla, “Tráfico,” p. 148.

⁶¹⁶ Céspedes del Castillo, pp. 36-37.

⁶¹⁷ Boxer, p. 212.

the power to the American elites in exchange for a minimal volume of the wealth generated in the Americas, and, above all, in exchange for their loyalty.”⁶¹⁸ Most successful governors opted for expressing political allegiance to the Crown while turning a blind eye to the often blatant examples of merchants ignoring commercial regulations. The Crown and its officials contented themselves with maintaining the appearance of political hegemony, paying for it by granting as many exceptions to its commercial hegemony as merchants were willing to buy. As a result, smuggling touched every port in the Indies, and most of the areas between. It permeated all commerce between Spain and its colonies, taking on whatever form was required to succeed. The volume was such that contemporaries firmly believed at least half their trade was illicit, and thus the Crown’s tax income was greatly reduced from its potential. It is also true that most such comments related to the formal trade, that carried through the *Consulado* fleets. If so, then “half their trade” ignores the high volume that left the colonies and bypassed the metropolis, making the distribution and impact of smuggling even greater than believed by contemporaries.

⁶¹⁸ Margarita Suáles, “Monopolio, comercio directo y fraude: la élite mercantil de Lima en la primera mitad del siglo XVII,” *Revista Andina*, Año 11 (#2, 1993): 497-8.

Chapter IV

How Smuggling Operated in the Indies

“The King understands that there are frequent incursions and illicit commerce of excessive magnitude and disorder in this jurisdiction of Nueva Granada and Cartagena, more than in any other part of His Majesty’s American dominions,” wrote Andrés de Res to Joseph de Patiño, Secretary of the Indies in 1721, “and well he should, particularly as the biggest excesses are at the hands of the Viceroy, Don Jorge de Villalonga, the Governor of Cartagena, his wife, the Sergeant-Major, the Royal officials, guards, and all government employees in that city and all areas covered by the Crown’s authority.”⁶¹⁹ Thus began one letter to the Crown’s principal officials for the Indies, complaining of pervasive fraud in Nueva Granada.

The denouncer described *fraude* throughout the region, giving specific instances. The new viceroy authorized shipping more than 300 bales of textiles worth over 130,000 *pesos* as part of his household goods during the trip to Santa Fé to take up his office. Most of the materials were subsequently sold on the black market. In Cartagena, the Governor’s wife peddled influence with her husband to the highest bidder. Similar stories were told in another letter, written by Joseph de García de Luna the following September, telling of flagrant violations to the rules, of smugglers walking through the city gates with impunity. Worse, anyone caught ignoring the informal rules (or the king’s laws) could easily pay a bribe and continue his illicit activities. Cuesta and Faxardo smuggled their letter from prison. The officials who replaced Faxardo and Cuesta were the viceroy’s cronies, which in essence put

⁶¹⁹ A.G.I., Santa Fé, 374 / 1720-1723 / *Expediente sobre comercio ilícito en el distrito de Santa Fé*, fechada el 23 de abril de 1721; A.G.I., Santa Fé, 374 / 1720-1723, "Joseph Garcia de Luna from Cartagena on 18 September, 1721."

the wolves in charge of the sheep.⁶²⁰ The primary victim of Villalonga's actions was, of course, the king, who received no tax income from the illicit trade.

This chapter will describe and analyse how smuggling was practiced throughout Spain's colonies. The starting point is that, despite Bhagwati's amoral analysis that smuggling's positive impact on trade and consumption is economically beneficial, such practices have a corrosive impact on government institutions.⁶²¹ In reality, there was no Indies port where the illegal commerce did not take place, though there were some colonies where it was more prevalent than in others. Ports with higher-ranking of royal officials also had higher levels of fraud, a fact that undermines Bhagwati's view. In other words, amoral smuggling exists only in theoretical studies. His analysis on the utility of contraband to the participants remains intact, however.

Early Spanish anti-smuggling laws made no distinction between casual and criminal smugglers, and the archives are filled with examples illustrating individuals caught taking a few personal goods off-register,⁶²² as well as cases of ships full of goods sailing to the colonies illicitly. The monarchy's approach to commerce defined smuggling as a threat to the global social order, an ideological, moral, social, and religious aberration, which was thus a political and moral crime, rather than a mere economic violation, with penalties comparable to the worst political or religious crimes.⁶²³ Terradas cites the 1650 *Pragmática* where smuggling was defined as a crime of *lesa majestad*, a felony on the par with high treason and heresy. Despite this ominous legal categorization, however, it usually involved efforts to

⁶²⁰ A.G.I., Santa Fé, 374 / 1720-1723, "Carta de Faustino Faxardo y Manuel de la Cuesta, tesorero y contador que fueron de las Cajas Reales, al rey, fecha 4 junio 1721."

⁶²¹ Bhagwati and Hansen, p. 9.

⁶²² The legal term indicating goods had been loaded on a ship without registering them on the manifest. Merchants sought to unload the goods before discovery, to avoid fees and taxes, often bribing the captain to help in the subterfuge.

⁶²³ Jorge Juan y Santacilia and Antonio de Ulloa de la Torre-Giral, *Discurso y reflexiones politicas* [Madrid, 1749]; Ramos Gómez, Luis J, ed., *Crónicas de America*, vol. 63 (Madrid: Información y Revistas, S.A., 1991), p. 197.

circumvent national commercial or fiscal laws, and was often linked to *piratas*, a term involving specific legal norms used in international relations, thus justifying the use of military force to combat it.⁶²⁴

Though smuggling is today considered a side line activity involving illicit goods such as narcotics or counterfeit items, during the XVI-XVIII centuries it was an intrinsic component of international trade relations. Sevillian merchants shipped items of high value and low volume such as silk, fine textiles, paper or wine, but the demand was higher for more mundane items of high volume and low value such as nails, wax, ironworks, and consumer goods. Also, Sevilla's efforts to keep colonial demand high by reducing supply induced smugglers to increase their efforts.⁶²⁵ Demand for labour was distorted because the British colonies, and later the United States, paid higher prices for slaves, so smuggling developed a specialized trade for that market.⁶²⁶

Regulation and Evasion. At the time of Columbus' discovery of the Indies, the concept of a monopoly was closely associated with conquest and ownership.⁶²⁷ In essence, Spain assumed a paternalistic "colonial pact" based on authority and power, promising to supply the colonies with all their wants in exchange for buying all colonial production. Monopoly was applied to more than commercial or industrial entities – it included political, social, religious, and cultural issues as well. This mentality led easily to the adoption of mercantilism, as discussed earlier.⁶²⁸ The only model available to study was that of Portugal, which formed a monopoly open only to royal officials, a small and inefficient entity. It had

⁶²⁴ The term usually related to crimes against the monarch or his immediate family. Terradas, p. 44.

⁶²⁵ García Fuentes, *Peruleros*, pp. 32-3.

⁶²⁶ José Luciano Franco, *Contrabando y trata negrera en el Caribe* (La Habana: Editorial de Ciencias Sociales, 1976), p. 6.

⁶²⁷ The primary example available was that of Portugal, which had established a single merchant guild through which all colonial trade was to be conducted, with exceptions for royally-owned commerce. This model worked well when only 3-5 ships per year were involved; Spain's fleets of over 200 ships sailing to multiple ports on the American continent rapidly overwhelmed this model.

⁶²⁸ Castellero Calvo, p. 78.

its own set of problems, though. Hamilton wrote that, “the only serious violation of the royal monopoly on direct trade with the East Indies was by Portuguese officials.” High profits and low pay made smuggling an attractive option for anyone with the authority or means of purchasing it (through bribery), a temptation enhanced by the Portuguese Crown’s practice of selling shipping contracts over specific routes or for specific products. Spain adopted this model to its Indies trade, and of course, smuggling also readily developed as well.⁶²⁹ But for the most part, the commercial policies were rigid. Writing in the XVIII century, Campomanes described its effects:

The problem resulted directly from the vices of the Compañía de Habana. Trade is limit on the island – nobody can ship goods from Europe other than through smuggling. Only the Company can ship sugar [to Europe], though it sends at most two ships per year, and these cannot import sufficient goods from Spain; thus, as long as the exclusive privilege exists for this Company, it is impossible to profitably sell Cuban sugar in Spain.⁶³⁰

Specifically, the monopoly on shipping reduced the volume of goods and increased freight costs by prohibiting specific goods, often forcing ships to sail “in ballast,” meaning they made no profit while incurring maintenance and labour costs.⁶³¹ Colonial merchants could not depend on the monopoly for supply or credit, which led to an exhaustion of coinage, further depressing commerce. Cuban merchants sought to resolve this problem by using customers and suppliers outside the legal system. Campomanes noted that what happened in Cuba applied throughout the Spanish colonies:

Not being able to extract the fruits of the land, which are made dear by their high consumption in Europe, [the merchants] likewise could not supply the colonies with goods from Europe. One is related to the other. The Caraqueños and Habaneros need canvas, rope, flours, wines, oils, and many other goods imported by the English, Dutch, and Danish smugglers. The proof of this smuggling is that both these Companies maintain coast guard ships to interrupt this commerce. If there were no smuggling, it would be a waste to maintain a guard.⁶³²

⁶²⁹ Hamilton, “Role of Monopoly, p. 38.

⁶³⁰ Campomanes, *Reflexiones*, pp. 73-75.

⁶³¹ Sailing “in ballast” meant having no cargo, only ballast stones in the hold to provide stability and seaworthiness.

⁶³² Because most of these merchants were Portuguese, taxes of 1½ per cent were paid to Lisbon. *Ibid.*, pp. 73-5.

The lack of Spanish production led to more than smuggling. Faced with low production at home, *consulado* merchants purchased goods from foreigners, and later began acting as *testaferros*, front-men to foreign companies.

Over time, foreign-owned commerce came to account for a majority of the goods shipped to the Indies, legally and illegally. Struzzi stated that if in 1624 the Spanish monopoly “loaded only those goods belonging to citizens the commerce would be very low and the tax income even lower and consequently much lower levels of gold and silver would be mined.”⁶³³ Foreigners owned most of the goods: “That is to say, foreigners always found the field abandoned, as the Spanish capital and specifically Sevillian capital refused to create strong industries perhaps because of the ease with which it obtained benefits under the protection of the monopoly.”⁶³⁴ Foreigners contrived many ways to penetrate the Indies trade, including obtaining citizenship through marriage. Castro noted that many earned fortunes, conducting annual business of over 1 million *pesos*.⁶³⁵

By 1582, the problem of foreigners evading commercial law was significant enough to merit royal attention, leading in a law prohibiting aid – or trade – with ships requiring emergency assistance on the assumption that most only pretended to be in distress, a practice known as *arribadas forzosas*, forced entries. In the colonies, officials often acceded to political requirements by formally convening *audiencias* to deny foreigners permission to land or trade goods for services, even when the foreigners arrived under legitimate emergency conditions. However, the same officials usually found ways around prohibitions by resorting to extrajudicial measures. Legal contradictions were built into the system,

⁶³³ Studies by Haring and Chaunu show that by the end of the XVII century, the ownership of fleet loads consisted of 25 per cent French, 22 per cent Genovese, 20 per cent Dutch, 11 per cent English, 11 per cent Flemish, 8 per cent German, and 5 per cent Spanish ownership. Haring, *Trade*, p. 114; Struzzi, *Diálogo*, p. 3.

⁶³⁴ García Fuentes, *Comercio español*, pp. 44-45.

⁶³⁵ Fray Juan de Castro, *Memorial sobre la pérdida de España, y su Comercio*, in Juan Sempere y Guarinos, *Biblioteca española económico-política*, volume 3 (Madrid: en la imprenta de Sancha, 1804), p. CCCXII.

seeking ways to obtain bribes to entice cooperation and profits for all. As Moutoukias points out, “[i]n reality, we must consider that this was a legal context where private interest frequently superseded the public interest.”⁶³⁶ It could just as easily be argued that the public interest was best served by catering to the private. There were ways for foreigners to trade legally in the Indies, but all required prior permission from Spain, and if the fraud was particularly blatant or if the perpetrator was caught, an *indulto* was always available for a price, erasing the crime.⁶³⁷

While smuggling can provide goods to market cheaply, even when tariffs are low, the small scale smuggler is constantly exposed to exploitation. Suppliers try to charge more for goods and threaten exposure; buyers can also refuse to honour the terms agreed to; inexperienced smugglers who turned to crime part-time are the most exposed to such exploitation, being less willing to resort to violence to enforce their contracts.⁶³⁸ Large-scale smugglers often enjoyed privileges available from having money to bribe officials or even rivals, seeking naval escorts, or incurring royal favours. But departures from the normal or established routes exposed everyone to increased risk. *Peruleros* who travelled to Portobelo or Brazil were often exploited by unscrupulous transportation guilds, both at sea and on land. Writing of foreign interlopers, Dionisio de Alsedo y Herrera, governor of Tierra Firme in 1731, opined that “if at times punctured by pleasure and more than a bit prosperous, the occupation of pirate was, nonetheless, painful in the extreme.”⁶³⁹ To them, risk was a constant.

⁶³⁶ Zacarías Moutoukias, *Contrabando y control colonial en el siglo XVII: Buenos Aires, el Atlántico y el espacio peruano* (Buenos Aires: Centro Editor de América Latina, 1988), pp. 101-114.

⁶³⁷ Foreigners could purchase licenses, permits, contracts (*asientos*), or obtain citizenship. Carlos D. Malamud Rikles, “El comercio directo de Europa con América en el siglo XVIII. Algunas consideraciones,” separata de la *Revista Quinto Centenario* (#1, 1981), p. 26.

⁶³⁸ The trials recorded in the Archivo Histórico de Hacienda (Ramo Juicios) show that many petty smugglers were exploited by both sellers and buyers alike, and more so by royal officials seeking to profit from their plight. Terradas, p. 69.

⁶³⁹ Alsedo used the term *pirata* when referring to all foreign interlopers. Alsedo y Herrera, *Piratería*, passim.

The typical smuggling voyage included stops at Portland, England; Amsterdam, Holland; and occasionally Cape Verde or Lisbon.⁶⁴⁰ Many Spaniards disguised themselves as foreigners and loaded small boats with gold and pearls and other goods, to meet at sea and trade with the enemy so frequently they had developed a comfortable relationship, even sending requests by post dispatches. President of Nueva Granada Don Juan de Borjas noted that increasing numbers of English merchants entering the Nueva Granada coastlines with ships full of trade goods and Guinea slaves, seeking “to trade and steal according to the occasion they encountered.” Most left the Main and headed for Española to top off their loads with hides prior to sailing back to Europe. French ships arrived frequently, mainly on small boats (200 tons crewed by 20 men), intent on robbing all they could find.⁶⁴¹ Foreign merchants came to the Indies because colonists bought all their goods; and colonists bought from them because they supplied the right volume and mix of goods, offering credit otherwise unavailable.⁶⁴²

British Smugglers

The first record of an English interloper in the Spanish Caribbean is, as could be expected, debatable. Several historians state that it was the ship *Dominus Vobiscum*, fitted out to sail to Santo Domingo to trade by the royal authority in London in 1524 while Felipe was the Prince Consort. Apparently the captain sold his goods in Puerto Rico after officials on Hispaniola refused him entry.⁶⁴³ Other historians note the presence of John Rut on the

⁶⁴⁰ A.G.I., Santa Fé, 18, R.6 N.35 / 06-07-1605 / Cartas de Audiencia / "Copia de la carta que el Presidente del Nuevo Reino de Granada Don Juan de Borjas escribió a Su Magestad, acerca del suceso que tuvo la armada de los galeones con unos navíos enemigos y advertencias sobre las galeras de Cartagena, fechada en Cartagena el 13 de agosto de 1605."

⁶⁴¹ Ibid.

⁶⁴² A.G.I., Santa Fé, 18, R.6 N.35 / 06-07-1605, *ibid.*

⁶⁴³ Theodore C. Hinckley, "The Decline of Caribbean Smuggling," *Journal of Inter-American Studies*, 5 (1963): 108; Haring, *Trade and Navigation*, p. 115; Fernández Alvarez, "Orígenes," p. 317.

Mary of Guilford and the *Samson* in 1527.⁶⁴⁴ These were probably not the only ships in the area, as records of such voyages are scant until Hawkins' trip half a century later. Hawkins exemplified the cycle of trade used over the next two hundred years, buying goods in Europe and slaves in Africa, trading them in the Caribbean for sugar, metals, pearls, tobacco, hides, dyes and medicinal herbs. These were the goods highly taxed by the legal system, so it was more profitable for colonists to assume the risk of discovery and sell to foreigners.⁶⁴⁵

Christobal de Erazo wrote to the king on June 5, 1579, from Nombre de Dios that one Juan de Aquines [John Hawkins] was arming 12 ships to patrol the Mar del Sur. Erazo had also heard that Captian Francisco [Drake] was wintering in Nicaragua. His recommendations probably helped shape the early defensive efforts, though they reflected the reputation Drake and Hawkins had earned – “because this corsair should be the object of vengeance over the event in San Juan de Ulua.”⁶⁴⁶

Sebastian de Arancivia wrote that foreigners had heard of El Dorado and its wealth by 1550, and found Indian allies to help penetrate the Spanish areas. Profits were used to arm other ships to return during the next season. But Indians were not the only allies Englishmen found in the region. On June 23, 1595, Walter Raleigh was entertained by Lucas Fajardo, who owned an estancia in Cumaná known as a place where foreigners could always sell their goods.⁶⁴⁷ Along the coast of Caracas, favourite smuggling bays coincided with the best pearl fisheries.⁶⁴⁸ But it was not just foreigners to blame, as the Spanish landowners sought to gain from their presence:

⁶⁴⁴ Means, p. 55.

⁶⁴⁵ Pérez Herrero, pp. 792, 798.

⁶⁴⁶ Erazo believed that the local natives should be rounded up during the time of the *feria* anyway, to increase security. A.G.I., Indiferente General, 2661 / 1550-1599 / Ordenes y Expedientes sobre seguridad de puertos y flotas, "Letter from Christobal de Erazo to the king, dated in Nombre de Dios on 5 June 1579."

⁶⁴⁷ A.G.I., Santo Domingo, (54-4-29), "Pedro de Liaño to the king, Caracas, April 6, 1597," and "Liaño to the king, Caracas, October 25, 1596," in Sluiter, p. 172.

⁶⁴⁸ These included "Isla de la Trinidad all the way to Santa Marta, including Puerto Sancto, Cumana, Las Vocas de Santa Fe, Toriano, La Burburata, La Vahia Grande Vaiahonda." A.G.I., Indiferente General, 2661 / 1550-1599, "Ordenes y Expedientes sobre seguridad de puertos y flotas, Discurso de la necesidad q tienen todas las

Relatively, this plague continued, being the *encomenderos* and ranchers in the border areas who sustained and helped the foreigners, as illustrated by the [1601] capture of an English corsair that stopped in Cartagena, maintaining commercial links and intelligence with many planters on the islands and ranchers on the mainland; also, the example of four ships surprised in the act of offloading goods on the north coast of Santo Domingo.⁶⁴⁹

In 1611, an English adventurer wrote of finding 15 ships in Port of Spain, none Spanish. They were involved in “freighting smoke,” an allusion to smuggling. Later that year, three English ships returned to London, with at least half a million ducats’ worth of tobacco. The colonists frequently traded with the foreigners; a *residencia* led by Sancho de Alquiza in 1611 petitioned to the king for a general pardon for everyone in Trinidad, as otherwise everyone above 10 years old must be put in prison.⁶⁵⁰

Until the 1630s, English markets had no stable base from which to operate in the Caribbean, but the conquest of Jamaica and Barbados altered that fact. By 1670, Port Royal had become a regional centre for liquidating prizes and contraband goods.⁶⁵¹ Many English merchant houses participated in the trade by using their privileged position in Cadiz to acquire shares in the legitimate fleet trade, counting on their market intelligence from Port Royal to gain an advantage over rivals.⁶⁵² Records of slave purchases exist from 1661 in Jamaica, and sales in Barbados predate them. An article in the *Naval Officer* reported on Jamaican sloops conducting about 40,000 *pesos* in trade; 40 of the 87 ships in Port Royal in 1679 were logwood carriers.⁶⁵³ The high volume of shipping led to confrontations with the

islas de barlobento y costas de las indias que aya algunos navios de armada en el Puerto de la habana ... firmado por Don Sebastian de Arancivia, 18 octubre de 1595."

⁶⁴⁹ “Carta del Governador de Cartagena, 1601,” Colección Navarrete, t. XXIII #18, cited in Cesáreo Fernández Duro, *La Armada Española desde la union de los reinos de Castilla y Aragón*, (Madrid: Sucesores de Rivadeneyra, Museo Naval, 1885-1903), volume 3, p. 254.

⁶⁵⁰ Eric Williams, pp. 13, 14.

⁶⁵¹ In 1679, almost half of the 87 ships departing Port Royal were on smuggling operations. Public Records Office (hereafter, PRO), CO 142/13, “Naval Officer’s Returns, Jamaica, 1680-1705,” in Zahedieh, “Trade, Plunder,” pp. 215, 216.

⁶⁵² Allan Christellow, “Economic Background of the Anglo-Spanish War of 1762,” *Hispanic American Historical Review*, 22 (1946): 1.

⁶⁵³ PRO, CO 1/15, fol 123-124, “A Narrative of Buying Negroes,” 14 June 1661, in Zahedieh, “Merchants,” pp. 575-576. In 1671, dye from logwood sold for £20 [40 *pesos*] per ton with a yearly volume of 2000 tons, making this business four times the profits from the plantation trade of Barbados and Jamaica. In 1670, there were 40

Spanish authorities, and by 1680, the English government complained of 300 to 400 English prisoners held throughout the Indies, most of who had been put to hard labour or sent to prisons in Spain.⁶⁵⁴ It is doubtful many were released because of such diplomatic demarches, as the Spanish policy was to consider all such incursions violations of its sovereignty, and usually responded by requesting that the English government take responsibility for the illicit actions of its citizens.

After 1640, most English smuggling was done on sloops built in the Caribbean, most capable of carrying 20 tons of cargo usually worth about 4,000 *pesos*. The goods were paid for in bullion, which came through the back door of Cartagena and Portobelo, thus giving the English a large market share of the treasure from Peru, Chile, and Nueva Granada. Evidence of this was the volume of Spanish and English coinage available in Port Royal, required as means of exchange between the pirates, smugglers, and merchants.

Most of the early English settlers in Jamaica sought trade or plunder: "their interest in Jamaica was aroused by its geographical location, 'in the Spaniard's bowels and in the heart of his trade.'" Peter Beckford estimated that smuggling directly cut overhead by half; John Cary estimated that direct trade with the Spanish colonies was five times more profitable than using a front company to ship on or off-register aboard the Spanish fleets.

The value of Jamaica's trade to England was at least 550,000 *pesos* per year, but could easily have been 1,000,000 *pesos* every year throughout the XVII century.⁶⁵⁵ By 1701, Great Britain's Caribbean trade reached 1,260,000 *pesos* annually, employing 7 per cent of English merchant tonnage, "there being seldom fewer than 60 or 70 sails of ships" along the

such sloops; in 1679, 80; in 1688, 100, including fleet of 20 privateers with crews totaling 2,000 men. PRO, C 110/152, "Halls to Aylword, November 21, 1688, Brailsford Papers," in *ibid.*, pp. 580, 583, 589.

⁶⁵⁴ Logwood was cut primarily on the Yucatán peninsula. *Calendar of State Papers*, 1681-1685, No. 307, "Draft of a memorial to be delivered to Don Pedro Ronquillo," Nov. 1681, in *ibid.* p. 585.

⁶⁵⁵ J.M. Treadwell, "William Wood of Jamaica: A Colonial Mercantilist of the 18th Century," *The Journal of Caribbean History*, 8 (November 1976): 45.

Indies coastlines.⁶⁵⁶ Direct trade through Jamaica easily undercut Seville merchants' prices, and "the Spanish colonists would then not only receive English traders in out of the way places but even send money to Jamaica in order to make purchases there." Nettels wrote that illicit trade kept 20 sloops of 15-40 tons in constant business.⁶⁵⁷

The English government helped its citizens through diplomatic efforts on their behalf. Several treaties were signed to regularize trade with Spain, though these always prohibited direct trade in the Indies. On the other hand, provisions were always made for ships in distress, and "these pretexts for entry clearly extended opportunities for illicit trade." Another diplomatic venture involved offers to control privateering and piracy in exchange for trade privileges – a tactic that never succeeded at the national level, but worked occasionally at the local level. Jamaican governor Thomas Modyford sent letters of peace and friendship to all his Spanish counterparts, though his continual support of the logwood cutters in Campeche and Balis doomed his efforts. Few Spanish governors trusted Modyford, because he never forced smugglers and pirates to leave Jamaica.⁶⁵⁸

The English government supported the woodcutters because of the value of their trade. Governor Thomas Lynch of Jamaica wrote in 1671 to the English Council of Trade that the woodcutters occupied uninhabited areas of the Spanish mainland and reduced the labour pool available to pirates. In addition to thousands of axmen on land, the business kept 100 slavers occupied and contributing to the Crown's tax income. The Council voted to support Lynch's argument, and in 1674 sent Ambassador William Godolphin to Madrid to

⁶⁵⁶ Barbados alone exported £196,532 [393,000 *pesos*] in sugar, rum, ginger, cotton, indigo. Only Virginia and Maryland had higher figures that year, together exporting £227,756 [455,500 *pesos*], mostly in tobacco. Patrick Crowhurst, *The Defence of British Trade, 1689-1815* (Folkestone, Kent: William Dawson & Sons, 1977), pp. 172, 176; Jerome S. Handler and Lon Shelby, eds., "A Seventeenth Century Commentary on Labor and Military Problems in Barbados," *The Journal of the Barbados Museum and Historical Society* 34 (#3, March 1973): 121.

⁶⁵⁷ PRO, CO I:44, No. 62, *Jamaica Council to Lords of Trade*, May 20, 1680; PRO, CO I:57, No. 67, *Molesworth to Lords of Trade*, March 24, 1685, in Curtis P. Nettels, "England and the Spanish American Trade, 1680-1715," *Journal of Modern History*, III (#1, March 1931): 14.

⁶⁵⁸ Zahedieh, "Merchants," pp. 574-575.

request a license for the woodcutters. Spain rebuffed all such efforts, and after 1672 began attacking English settlements and ships in the Caribbean, on the theory that all ships carrying logwood were considered valid prizes, regardless of where the product was harvested. Governor Martín de Urzua y Arizmendi sent eight different expeditions against them, but as he did not occupy the territory, the English returned after each attack. Twenty-four years later in 1704, Alvaro de Rivaguda launched another campaign against the settlements on the Yucatán peninsula, destroying all the property he found and expelling the foreigners. But as soon as his troops departed, the axmen returned, though most moved to Balis, working there until the 1750s.⁶⁵⁹ This trade was substantial enough to fight over – between 1663 and 1701, the dyewood business grew from 6,000 to 162,000 *pesos* per year in profits.

English diplomats protested Spain's policy of confiscating all goods native to the Indies, arguing that (silver, logwood, tobacco, and indigo) were available in several non-Spanish possessions. Their mere presence on board English ships did not provide conclusive proof that the vessel had put into a Spanish port. But Spain's policy remained true to its *mare clausum* theory, and all governors were ordered to confiscate as legal prizes all foreign ship carrying those goods. This caused problems elsewhere, because many of the *Assiento*'s transactions involved barter, which put the company's legitimate cargo at risk. The dispute over how to handle legal purchases of native Indies goods was never satisfactorily resolved.

English traders used the logwood camps as an entry point for trade elsewhere, offering slaves and manufactured goods. The data available on volume and value varies by source and what is being measured. In 1691 the estimated value of bullion exports to England from Jamaica was 200,000 *pesos*, a figure that probably combines all gold jewellery and coins received in payment for goods in addition to any bulk shipments of treasure. The

⁶⁵⁹ Alicia del C. Contreras Sánchez, "El palo de tinte: Motivo de un conflicto entre dos naciones, 1672-1822," *Historia Mexicana*, 37 (1, 1987): 53-54.

variety of goods sent to the Caribbean was a good indicator of where the goods were destined: approximately half of the imports to Jamaica and Barbados consisted of clothing and textiles – valued at 326,000 *pesos* – of which a high percentage were woollens, though it is doubtful anyone on the islands used them. Silk accounted for a quarter of the imports, and another 10 per cent consisted of cotton, linens, lace, ready-made clothing, stockings, gloves, hats, wigs, haberdashery, metalware, lead, and other miscellaneous manufacturing worth 820,000 *pesos*. The bulk of these goods were re-exported to the Spanish colonies.⁶⁶⁰ Other products included sugar, molasses, tobacco, foodstuffs, dyes, timber, and oil worth a total of 4,422,000 *pesos*; grain and fish worth 1,078,000 *pesos*; the latter were probably *en route* to Europe. It is doubtful the population of Jamaica could absorb this volume of goods.⁶⁶¹

In his pamphlet entitled *Ensayos Mercantiles*, Fernando Echevers wrote that the English were bad neighbours to the Spaniards, but good neighbours to the Indians. Merchants in the woodcutter camps in Balis and the Moskitia supplied as many goods as the settlers – both English and Spanish – could afford, becoming “storehouses of our disgrace and a sponge to our mines.”⁶⁶² They also patiently fostered good relations with King George in Moskitia, allowing many free or escaped slaves to inhabit his domain. Trade was done by barter, because the Indians did not accept the European use of money. English merchants also sent agents or factors to live among the Indians, thus obtaining better intelligence on prices and market demands.

Commercial Smuggling. One of the clauses of the 1713 Treaty of Utrecht ending the War of Spanish Succession assigned the *Assiento de Negros* to the British government, to be

⁶⁶⁰ Zahedieh, "Overseas Expansion," pp. 412, 416.

⁶⁶¹ Ralph Davis, "English Foreign Trade, 1660-1700," *Economic History Review* (second series) VII (#2, December 1954): 159-165.

⁶⁶² Carmelo Saenz de Santa Maria, "Inglaterra y el Reino de Guathemala: Influjo ingles en dos economistas guatemaltecos del período hispano, escasamente conocidos," *Revista de Indias* (Madrid), XLII (#167-168, 1983): 133-139.

administered through a newly formed entity called the South Sea Company. An astute English negotiator (representing Barbados merchants) insisted that the contract include all provisions allowed in previous *assientos*, and specifically the *nao de permission*.⁶⁶³ This allowed the Company to send a 500-ton ship to the *feria* in Veracruz to sell clothes and various foodstuffs. The original agreement had allowed Portuguese merchants to ship clothes and food to their factories, ostensibly to feed and clothe the slaves, though over the decades it evolved into a process of competing directly with *feria* merchants. The South Sea Company's directors added a new interpretation to the *nao de permisión* clause, sending one to each *feria* in the Indies instead of one yearly to Veracruz.

This *navío de permisión* was integral to the Spanish system of privileges and monopolies, and provided the *assientistas* a means of recovering potential losses to weather and high overhead costs imposed by the government contract. Its misuse by previous Portuguese and French *assientistas* had been the cause of much discontent in Madrid, but in the hand of English merchants it became a flagrant violation of all convention. Though Spain emerged from the War of Spanish Succession politically and territorially intact, its economic system was damaged seriously by exposing the Indies trade to this harmful intrusion.⁶⁶⁴

The *Assiento* had been sought by English merchants as a *façade* for smuggling in the Spanish colonies. The South Sea Company shipped slaves, housed them during their recovery from the trip, classified them, and sold them through specific venues to the Spanish market. However, over twenty-six years Company factors sent other cargo on the ships, violating the legal limits or bribing Spanish officials to ignore the law. They directed illegal trade, pointing out the method and location of shipments and serving as the intelligence network for

⁶⁶³ Also known as the *permiso* ship.

⁶⁶⁴ Donoso Nuñez, p. 21.

the Company's members.⁶⁶⁵ Several deputy directors operated independently within the company to provide their cohorts with high levels of income from contraband, known as "the private trade," mixing privately-owned with company goods. Two sets of correspondence were always maintained: confidential reports were sent home on board Royal Navy frigates, and a second set through the regular post where Spanish spies opened and read the mail and reported satisfactory data to their king.⁶⁶⁶

The first South Sea Company *permiso* ship, the *Bedford*, sailed to Cartagena in 1715, and was allowed in after the factor in Cartagena, Diego Pym, bribed the governor and other officials with 75,000 *pesos*. During 1716-1717, the *Kingstone* flooded Buenos Aires with illegal goods after offering the governor twenty-five per cent of the profits. The *Royal George* left England during 1723-4 for Cartagena and Portobelo, but first stopped at St. Christopher to add over 100 tons of illicit goods. The London office records indicate that a fee of 118,000 *pesos* facilitated the offloading and sale of the entire load. The *Prince Frederick* sailed to Veracruz in 1725 with so many crates stacked up on the main deck that they interfered with the ship's handling. Though only one *permiso* ship could enter the *feria* ports, it was accompanied by the *Spotswood*, and over 300 tons of cargo plus all the crew's food and water. The Company's ship *Principe de Asturias* sailed shortly afterwards, and stopped in Jamaica to add goods in place of all supplies used until then, before continuing to Veracruz. As Spanish merchants bought goods, cargo was transferred from the two support ships, thus complying with the law that allowed the sale of goods only from the *permiso*

⁶⁶⁵ Factories were established in the ports of Buenos Aires, Cartagena, Portobelo, Veracruz, and Santiago de Cuba, managed principally from the Company's offices in Jamaica, Barbados, and Guinea. Feliciano Ramos, *Contrabando inglés*, p. 30.

⁶⁶⁶ George H. Nelson, "Contraband Trade under the Asiento, 1730-1739," *American Historical Review*, 51 (1945): 55-56.

ship.⁶⁶⁷ The fact that a larger quantity of goods was sold than could fit on board the *Prince Frederick* was conveniently ignored.

The Company built large facilities staffed by factors in the legally specified ports, and smaller facilities were built in various other regions to help distribute slaves as needed. Most factories had warehouses to store the slaves and goods, and some had offices in interior cities to assist in the sales. The sale of slaves, however, was considered a minor portion of their duties, almost a sideline to the more profitable smuggling operations. Factories frequently became warehouses full of smuggled goods not available elsewhere and eagerly sought by the colonists. Factors often offered the only banking and credit services in the region.⁶⁶⁸ After the *feria*, the *Assiento* factors took left-over goods to their warehouses, making later sales legal by mixing them with other imported merchandise, in the process also avoiding the *alcabala* tax. Many *flota* merchants arranged to store their goods in the Company's warehouses for similar reasons and to avoid paying import duties, in the process also avoiding the *alcabala* tax.⁶⁶⁹

Ship officers or deck hands carried goods on their own account to sell in the Indies, each earning about 2-3,000 *pesos* per trip, all with the tacit approval of the Company. Many brought goods on credit, counting on the fact that business was always profitable, following the pattern of the packetboat *Carteret*, which left Buenos Aires in 1725 with 2 million *pesos* in silver and 800,000 *pesos* in hides, none of it from the sale of slaves. The Company operated four or five such ships per year throughout the colonies.⁶⁷⁰

The *Assiento* merchants began a new tactic not seen before in the shipment of slaves, bringing large ships from Africa directly to Jamaica or Barbados and then dividing the slaves

⁶⁶⁷ *Declaración jurada del confidente Mateo Plowes, oficial de la Secretaría de la Compañía del Mar del Sur. París, 19 de mayo de 1729.* A.G.S., Estado, leg. 7.017, in Gómez Molleda, pp. 366-367.

⁶⁶⁸ *Ibid.*, pp. 346, 349.

⁶⁶⁹ Malamud Rikles, p. 48.

⁶⁷⁰ Gómez Molleda, pp. 353.

into small lots subsequently sent on small ships to the Spanish coastline. This was, of course, an illegal transaction for both Spanish and Company officials. Some of the small slavers still made the passage from Africa directly to the Indies ports of entry. The factors at these points were able to judge closely the needs of the various regions, and provide information to the home office, which then supplied the smugglers with good intelligence. In exchange, the smugglers were able to take payment in local money, avoiding the tax collectors while providing the Company with bullion to ship to London.⁶⁷¹ Banking transactions were usually handled by Jewish merchants in Jamaica, if Company agents were not available. In 1737 they reportedly handled 200,000 *pesos*, plus other metals and coin, without once revealing the names or details, to reduce the risk of detection or confiscation.⁶⁷²

In 1728, Spain sent Thomas Geraldino to oversee all "improvements" promised by the South Sea Company and report to the king all issues related to the *Assiento*; England appointed two sub-deputy and two deputy governors of the Company to work with them; in reality, these four helped arrange all clandestine commerce.⁶⁷³ The Company was losing money on the *Assiento* contract by this time, but could not avoid bankruptcy without renegotiating the treaty, which was not possible. The Spanish Crown claimed 25 per cent of the Company's profits, and sought to extract as much other income as possible. On the other hand, most directors and factors were also earning high salaries from the "private trade," and had little incentive to end the arrangement: "some of the directors of the company seem to have greatly profited personally through these abuses and also doubtless supported and shared in the contraband activities of the free trader."⁶⁷⁴ The War of Jenkin's Ear solved the problem of the *Assiento* by breaking relations between the two parties, thereby cancelling the

⁶⁷¹ Alsedo y Herrera, *Piraterías*, pp. 205-6.

⁶⁷² Nelson, p. 62.

⁶⁷³ The testimony of Dr. Burnet and Matthew Plowes, factors bribed by Spanish officials; they were described by Company officials as "faithless servants of the company." Feliciano Ramos, *Contrabando inglés*, p. 30.

⁶⁷⁴ Lawrence Henry Gipson, "British Diplomacy in the Light of Anglo-Spanish New World Issues, 1750-1757," *American Historical Review*, 51 (#3, April 1946): 629-630.

agreement. Most English investors lost their money, but the Company's factors and partners had by then earned sizeable personal fortunes.

Dutch Smugglers

Dutch merchants were the late-comers among Caribbean smugglers, their ships first visiting Panamá in 1572. Twenty years later they sailed regularly throughout the Caribbean, with a special affinity for Margarita and Cumaná, trading in cloth and raiding the pearl fisheries so frequently that pearls disappeared from Caracas markets.⁶⁷⁵

In 1621 William of Usselinx formed the Dutch West Indies Company to establish agricultural settlements in Spanish and Portuguese territories in the Indies, copying the pattern of the East Indies Company. The 12-year truce with Spain in 1609 forced a re-direction toward North America, though the primary objective of plunder and smuggling remained intact. When the Company's charter was changed to de-emphasize war, its role in smuggling dropped to negligible levels. Contraband trade continued at the same level, however, as individual merchants filled the void created by the Company's withdrawal. Dutch merchants established relations with colonists in Santiago de la Vega, Jamaica, in the early 1630s, within four years undercutting legal trade between Spain, Habana, and Cartagena de Indias. Official records of trade indicate a precipitous drop in Spanish commercial activity; in reality, the volume and value probably remained static or even increased, but moved away from Sevilla in favour of the Low Countries.⁶⁷⁶ Of course, this only lasted until Admiral William Penn and his army – including an aging priest named Thomas Gage brought along as principal intelligence officer – arrived in 1655.

⁶⁷⁵ Sluiter, pp. 170-173.

⁶⁷⁶ Francisco Morales Padrón, *Jamaica española* (Sevilla: Escuela de Estudios Hispano Americanos, 1952), in Pérez Herrero, "Estructura," pp. 783-784.

After conquering Curaçao in 1633, Dutch merchants converted that island into an entrepôt for most of their activities, a stable and safe port from which to supply their customers. This trade became so vast that Dutch merchants in Cádiz began consigning goods to Curaçao to make up for losses in their *flota* smuggling.⁶⁷⁷ Aizpúrua notes three main types of smuggling run from the island, named for the routes used: the wide sweep, the narrow focus, and the reverse visit.⁶⁷⁸ The first was the most frequent, consisting of a Curaçao merchant taking a loaded *balandra* or *goleta* to Trinidad and sailing westward with the wind, stopping at small ports, bays, or inlets, trading with whoever was interested. When the load was depleted the merchant returned to Willemstad, occasionally using Bonaire as a stop-over point; any goods purchased or accepted in trade would then be transferred to large merchant ships bound for Amsterdam. The narrow focus trip was that of merchants on smaller boats such as *balandritas*, *golarios* or *goletillas* capable of landing anywhere, sailing along the coast between Tucacas and Maracaibo to meet a specific individual for a pre-arranged deal. The third type consisted of Spanish merchants or planters sailing to Curaçao to sell their goods or occasional cabotage ships stopping to add contraband to their cargo. If caught by the Spanish coast guard, they offered the *arribada forzosa* excuse, claiming damage or illness requiring immediate attention. Spanish and Canaries merchants frequently forged licenses, ostensibly sailing from Caracas to Santo Domingo or Puerto Rico, though in reality putting in only at Curaçao. During the XVIII century, the Spaniards often turned the tables on the Dutch by using Bonaire to evade taxes imposed in Curaçao.⁶⁷⁹

⁶⁷⁷ Klooster, p. 55.

⁶⁷⁸ Many of the Curaçao smugglers were Sephardic Jews. Aizpúrua, "El contrabando," pp. 12-13.

⁶⁷⁹ A Spanish captain in 1751 reported seeing 200 Spanish traders on Bonaire, selling goods to Dutch merchants who then took them to Curaçao to sell. A.G.I., Indiferente General, 2412, "Agustín Moreno Henríquez to José de Gálvez, Amsterdam, February 11, 1778"; Algemeen Rijksarchief, The Hague, Nieuwe West-Indische Compagnie 1159 fol 196, *Isaac Faesch to the WIC, Board of X, Curaçao, June 28, 1749*, in Klooster, pp. 128-129.

Dutch smuggling *fluits* normally carried up to 100 and 200 thousand *pesos*' worth of goods, and these were offered at any volume; individuals could purchase one piece of cloth or the entire load. Advance orders were encouraged, as this made for regular delivery runs and steady profits. Caracas Governor Francisco de Cañas reported in 1712 that mule drivers arrived regularly from as far away as Quito, Santa Fé, and Popayán seeking specific Dutch ships.⁶⁸⁰ Factors usually lived near their businesses, even among the Guajiros Indians, for three or four months every year. Philip V in 1717 asked the States General to end smuggling with the Guajiros in Honda, because they traded dyewoods for guns and powder, subsequently used to fight the Spaniards.⁶⁸¹ The answer appears to have been an ambiguous no, because the trade continued, as did the flow of weapons – and the war.

Curaçao shipowners hired pilots in Venezuela to act as intermediaries with clients. Often they exchanged information on markets and prices; deals were arranged by mail, or Venezuelan merchants went to Curaçao to negotiate deals. Major cacao plantations were well known to the Dutch smugglers. Credit was frequent, at 18 per cent or more, and partial payment for cacao could be made for slaves or Dutch manufactures or textiles. Signal fires marked the bays to be used; passwords were used, exchanged in advance for safety.⁶⁸²

A popular tactic in Venezuela, where merchants received *registro* licenses for cabotage routes between principal ports, was to make surreptitious visits to foreign ports, stopping at, for instance, Jamaica or Guadeloupe while *en route* to Veracruz from Caracas. Foreign goods were co-mingled with local merchandise and offloaded at the destination,

⁶⁸⁰ A.G.I., Santo Domingo, 696, "Carta de Cañas al Rey," Caracas, 24-IX-1712, in Analola Borges, "El Inicio del Comercio Internacional Venezolano (siglo XVIII)," *Boletín de la Academia Nacional de Historia*, 46 (#189, 1965): 36. During the second half of the XVII century, Dutch ships outnumbered Spanish ships in Puerto Rico by 2:1. During XVIII, Dutch goods accounted for 32.7 per cent of Puerto Rico's trade. A.G.I., Audiencia de Santo Domingo, 535a, "Manuel de Blemonte to the Count of Medellín, Netherlands, 1675," in Klooster, p. 78.

⁶⁸¹ The request probably meant Rio Hacha, rather than Honda, which was a considerable distance south, along the Magdalena River. There were 16 separate tribes on the Guajira region, and several coastal villages owned and operated ports to handle exports from the interior tribes. *Ibid.*, p. 76.

⁶⁸² *Ibid.*, pp. 126-7.

using the cabotage license to pay only the *alcabala*, but evading all import duties.⁶⁸³ For the most part this method succeeded because the profits were shared with the proper authorities, who discreetly looked the other way, or covered the proceedings with licenses or pardons, as the case required.

Venezuelan planters depended on sales to the Curaçao maritime network, and established a vast land-based network to transport goods to the coast, kept clandestine almost to the extreme. Cacao was an ideal commodity, as it produced crops throughout the year and was highly coveted in Spain, New Spain, Guatemala, and European markets. Tobacco was cultivated in the interior, but was seldom purchased by Spanish merchants, and thus farmers carried it overland to the coast, seeking Dutch buyers. Both products were easy to transport, though concealment was difficult. Cattle were bred throughout the region, and provided two services: containers and transport. Mules carried contraband goods to the coast wrapped in cow hides, and smugglers could buy any one or all of the four products, as they wished.⁶⁸⁴ Transportation experts known as *bodoqueros* or *maleteros* began to specialize in products or routes to and from the coast, aided greatly by the geography of north/south mountain ranges, which hindered east-west travel. Enforcement officials from Caracas could not easily hinder the smuggling routes on land, and had insufficient resources to do so at sea.⁶⁸⁵

French Smugglers

The first French ships to enter the Caribbean were corsairs following the early Spanish explorers when war broke out in 1521. News of the Indies wealth raised hopes of quick wealth through plunder and prize, which fitted neatly into the French *guerre de course*

⁶⁸³ Pombo, p. 15.

⁶⁸⁴ Tobacco, cacao, and hides were shipped to Europe; mules were shipped to sugar-producing plantations throughout the Caribbean.

⁶⁸⁵ Aizpurúa, "El Contrabando," pp. 12-14.

strategy of attacking its enemy's commerce. When merchants complained of corsairs off Cape St. Vincent, Pedro Manrique was authorized to arm a squadron to defend Spanish shipping by forcing the French out of the area. The corsairs reacted by moving toward the Azores, the Canaries, and, shortly thereafter, to the Indies.⁶⁸⁶

As was the case with the English and Dutch, the French corsairs began occupying Caribbean bays, and merchants soon began shipping tools, cloth, and dry goods, to trade with Spaniards for hides, sugar, brasilwood, and other goods. The settlers on the north side of Hispaniola prospered enough through trade in tobacco and *corambre* (pelts and hides) to the point where the French government sought to collect taxes. On the south side, Governor Juan Balboa de Mogrovejo dominated the cloth and clothes trade on the island, bringing in goods illegally from Curaçao.⁶⁸⁷ When the *flota* was delayed, the demand for such goods increased, so whoever showed up first could sell with ease: "The colonists were, then, those who encouraged and sustained this commerce, easing the access to ships, providing them with ports and pilots, lighters to carry goods, dissuading coast guard forces from arriving on the scene, and occasionally setting out to find them [the foreigners]." As none had scruples in attacking each other, violence was common, "originating from bad faith, the ordinary companion of illicit businesses." But piracy was the primary reason for the French presence, despite the profitability of trade. Most of them were Huguenots from Normandy under license from Admiral Gaspar de Coligny to attack Spanish fleets.⁶⁸⁸

By the end of the XVII century, French colonies were well established and recognized by the Spanish Crown, though their trade was not. But this situation was altered when French merchants were awarded the *Assiento de Negros*, through which smuggling trade increased

⁶⁸⁶ Fernández Duro, *La Armada*, pp. 201-203. Hussey noted that French ships entered the Caribbean in 1522. Hussey, p. 286.

⁶⁸⁷ Moya Pons, pp. 210-212.

⁶⁸⁸ The Normandy smugglers paid 10% of their prize money to Coligny for the license. Fernández Duro, *La Armada*, pp. 209-210.

dramatically. Admiral Ignacio Perez Caro, President of the *Audiencia de Santo Domingo*, wrote a letter dated June 30, 1693, forwarding information to the king on how the French abused the *Assiento* contract. The original agreement stipulated that one 20-ton ship could be sent per year with 30 slaves worth 130 *pesos* each, paying 80 *pesos* per *pieça* in taxes; the highest authorized tonnage was a 400-ton ship carrying 600 slaves. But the French brought the slaves not in ships (*navíos*), but in “*balandras* build with great artistry, designed by merchants ignorant of mensuration and ambitious in taking advantage” of the Crown. Thus, though a 20-ton ship paid taxes on the 200 slaves the official records indicated, the ship could carry up to 400. French captains insisted that the number of trips specified in the agreement was a right, not a limit, a minimum rather than a maximum, and thus sailed into Spanish ports twenty times per year, importing twice as many slaves as stipulated in the treaty. Royal officials complained to the Crown that the French abused the *Assiento* as much as had the Portuguese and Spanish before them, though local officials tolerated the fraud to meet the demand for labour, also benefitting from the bribes.⁶⁸⁹

Portuguese and Jewish Smugglers

Many foreigners arrived in the Indies through various loopholes or exceptions legalizing their status. Portuguese merchants entered the area as early as 1514, offering goods for sale in Santo Domingo on Hispaniola.⁶⁹⁰ The Inquisition had attempted to eradicate the Portuguese, labelling them crypto-Jews, and informed the Crown that such

⁶⁸⁹ A.G.I., Santo Domingo, 66 / R2, N35 / 20-06-1693 / "Cartas de Audiencia. Carta de Lic. Don. Bernardino Antonio de Pardinias Villar de Francos a Francisco Camargo de Paz, en Madrid a 16 de Henero 1696." As proof, Pérez mentions one trip where the ship captain sold 48 slaves in Santo Domingo and 29 in Puerto Rico, and, though the ship had a capacity for 120, the manifest noted it was legally rated at 13 tons. Pérez cited the treaty wording, noting that the *Assiento* required the delivery of 600 slaves per year, 30 per 200-ton ships, a total of 20 ships per year. By building hulls legally registered at 200 tons but was in reality capable of 400 tons, the *assientistas* could import either 60 slaves or 30 slaves and 200 tons of smuggled goods or another cargo mix. By using the treaty specified 20 trips per year as a right, they guaranteed themselves profits on twice the number of slaves or cargo. This contradicts Pérez' view that the French were ignorant of mensuration – it appears they knew it all too well!

⁶⁹⁰ Hussey, p. 286.

foreigners provided Spain's enemies with intelligence on Cartagena's commerce and security.⁶⁹¹ A census ordered in Cartagena de Indias in 1630 indicated that of a total of 1500 European inhabitants, 184 were foreigners; of these 164 were Portuguese merchants, and 12 were described as significantly wealthy and influential.⁶⁹² Governor Pedro de Valdés of Habana reported that by 1602, a similar situation existed in Cuba, where the commerce was in the hands of Portuguese merchants, mostly representatives of the Portuguese *Assiento* or its sub-contractors, the Dutch West India Company.⁶⁹³ In Veracruz, the Inquisition uncovered a network of Portuguese Jews linking the *ferias*: "a great part of this commercial network of slaves, cacao, textiles, precious metals and products from across the seas were based in Veracruz, with contacts in Mexico, Puebla, Bajío, Querétaro, Táchco, the northern mines, and Acapulco."⁶⁹⁴

Inquisitors began investigating what they believed was a network of crypto-Jews in 1642, fearing a plot to support the Portuguese rebellion. The Inquisition usually added the more serious charge of sedition against its prisoners "for preparing a rebellion against Spain in alliance with the African slaves."⁶⁹⁵ Most of the accused were convicted, sentenced and, more to the point, their goods were confiscated and distributed among the king, the judge, and the accuser. Both in Veracruz and Cartagena de Indias this effort removed from the Indies a large part of the retail distribution network, creating a gap in the commercial system that took almost a century to overcome. The most significant impact fell on Spanish

⁶⁹¹ Enriqueta Vila Vilar, "Extranjeros en Cartagena (1593-1630)," *Jahrbuch für Geschichte von Staat, Wirtschaft und Gesellschaft Lateinamerikas* (#16, 1979), reprinted in Enriqueta Vila Vilar, *Aspectos sociales en América colonial de extranjeros, contrabando y esclavos* (Bogotá: Instituto Caro y Cuervo, Universidad de Bogotá Jorge Tadeo Lozano, 2001), pp. 9-20.

⁶⁹² Ibid.

⁶⁹³ Pérez Herrero, pp. 787-788.

⁶⁹⁴ Antonio García de León, "Contrabando y comercio de rescate en Veracruz del siglo XVII," in Carmen Yuste, *Comercio marítimo colonial; Nuevas interpretaciones y últimas fuentes*, (México: Instituto Nacional de Antropología e Historia, 1977), p. 23.

⁶⁹⁵ Ibid.

wholesale merchants, however, as consumers had during the interim become increasingly dependent on foreign smugglers.

Migration to the Indies was a successful method for Europeans to advance economically or socially, and many methods were developed to do so. A popular tactic among Jews and Moriscos was to enlist as soldiers and volunteer for duty in the Indies, avoiding the licensing system required of other colonists. Signing on as an official's household servant also avoided some of the rules, as the erstwhile employer obtained the requisite licenses. As mentioned earlier, many Portuguese travelled as factors for the *Assiento*, depositing a bond with the local officials, often converted later into a bribe for a permanent license. New Christians could purchase a high-priced license to travel as merchants, in effect buying or bribing their way into the Indies on the understanding that they would live as Catholics. There were also those who simply moved to the region by any means possible, hiding from the government in under-populated places such as Nicaragua, Buenos Aires, or the interior regions of Nueva Granada and Caracas. Once in the Indies, legal status was attained by marriage, by posting a bond, or through bribery.⁶⁹⁶

Many European Jews had been admitted into England after the Civil War ended in 1651, where they re-kindled links to the international network of family and religious colleagues. They easily entered the trade routes in the Caribbean, using the network to establish businesses for import and export, shipping, banking, and insurance.⁶⁹⁷ By 1672, there were 13 Jews in Jamaica with patents of naturalization, and 16 others trading without license; their number increased rapidly as smuggling networks were established. Trade links

⁶⁹⁶ Lucia García de Proodian, *Los Judios en América. Sus actividades en los Virreinos de Nueva Castilla y Nueva Granada. S. XVII* (Madrid: Consejo Superior de Investigaciones Científicas Instituto "Arias Montano," 1966), pp. 27-28.

⁶⁹⁷ Klooster, p. 66.

with Europe frequently violated the Navigation Acts, a fact the colonial governments usually ignored, preferring to benefit financially from the offered bribes.⁶⁹⁸

Jamaican Jewish companies organized specifically to trade illegally with the Spaniards, though individual merchants also participated. Most of their ships were "genuinely floating fortresses," given the lack of state security – merchants relied on their own defences to survive. The crews tended to have experience in military operations.⁶⁹⁹ A typical case was that of privateer John Morris, who sailed the heavily-armed *Blue Dove* sloop into Jamaica. Everyone suspected his involvement in smuggling with the coastal Jews, as he was laden with goods normally used for the Spanish trade and always hired crewmembers who spoke Spanish, Portuguese, or an Indian language.⁷⁰⁰ His success was one of many such cases that relied on Jewish bankers and traders in the region.

Spanish Smugglers

In the introduction to this study it was noted that three people are required to smuggle, but there was no requirement that one be a foreigner. Spaniards took full advantage of the commercial system available to run illicit ventures of their own. One of the most common tactics took advantage of the absolute prohibition on loading goods not listed on the original manifest as registered in the *Casa de Contratación*. However, "there were continual violations of these norms, in many cases following a suborning of the officials charged with imposing them."⁷⁰¹ One fascinating example occurred in 1555, when sixteen ships caught fire on the Guadalquivir River shortly after departing from Sevilla, killing over 200 people. Salvage efforts found 150,000 pounds of legal cargo, mixed in with 350,000 pounds of

⁶⁹⁸ By the 1680s there were communities of about 300 Jews in Jamaica and Barbados, most of them involved in the contraband trade. Zahedieh, "Overseas Expansion," p. 418.

⁶⁹⁹ Feliciano Ramos, "Comercio de contrabando," p. 81.

⁷⁰⁰ Zahedieh, "Merchants," pp. 179-80.

⁷⁰¹ Antonio J. López Gutiérrez and Pedro Sánchez Núñez, *La nao de aviso "Nuestra Señora de Valme" y sus viajes a Indias (1652-1653)* (Sevilla: Dos Hermanas, 1988), p. 34.

unlicensed cargo.⁷⁰² Other examples indicate this was not an exceptional case, as most officials operated on the principle of accommodation: *remedio siempre hay* for any anomaly.⁷⁰³

Merchants frequently petitioned the king for special rights, usually in an effort to abuse the system. The *Consulado de Cádiz* received in 1615 the privilege to load local produce for the Indies, but instead took to loading clothes and textiles imported from abroad; its members also sought to increase the tonnage allowed per shipment in addition to a regularly scheduled load sent to Puerto Rico or Santo Domingo. An investigation 15 years later revealed that the merchants had insufficient locally produced goods to justify the original allotment, so the obvious conclusion is that the entire operation involved smuggling.⁷⁰⁴

Any effort by foreigners to forcibly land or trade illegally in the Indies was supposed to be reported and repulsed by the colonists. Early XVII-century colonists actually reported such efforts, fearing any potential alliance between foreigners, Indians, or escaped slaves. *Infiltraciones* became an important and inexhaustible source of contraband goods among the Indians, and the link to foreigners fostered anti-Spanish sentiment. Often this led to violence – many Spanish governors or lieutenant generals lost their lives when they visited distant regions under their rule, and others were threatened into giving the natives a wide berth.⁷⁰⁵

Fraudulent Documentation. Some of the Spaniards' smuggling answered to evasion rather than trade prohibitions and consisted of efforts to repatriate wealth to Spain without

⁷⁰² Fernández Duro, *La Armada*, p. 215.

⁷⁰³ "A remedy always exists," the usual comment opening negotiations for a bribe.

⁷⁰⁴ Joseph de Veitía Linaje, *Norte de la Contratación de las Indias Occidentales* Book 1, Chapter 25, Law 26. (Seville: Marcus de Orozco, 1672; Re-printed in Buenos Aires: Comisión Argentina de Fomento Interamericano, 1945), p. 193.

⁷⁰⁵ Maria Teresa Oliveros de Castro, *La Goajira* (Mérida, Venezuela: Universidad de los Andes, Ediciones del Rectorado, 1975), pp. 98, 100.

paying exorbitant duties or risking confiscation. Many smugglers opted to use the formal trade system, seeking thus to provide the bureaucratic cover required for access to the fleets. Dutch merchants often sold goods to Spanish merchants directly, offering credit with any down payment of at least 30 per cent of the value of the goods purchased, which provided a profit margin of up to 65 per cent on their investment, and reduced the risk incurred in a trip across the Atlantic. English and French merchants hired Spanish partners to meet the legal requirements, paying up to 10 per cent of the value of the goods. This tactic added the advantage of having a Spanish supernumerary accompany the cargo to supervise its sale and ensure a high profit.⁷⁰⁶ Flemish merchants were favourites as front men, because they knew the language and commercial customs, and cooperated in the subterfuge willingly, ignoring nationality, ideology, or religion as barriers to profits. The increased overhead costs and reduced risk of using the *Carrera* process generally proved worth the trouble, as profits from goods smuggled on the fleets often reached 180 per cent of the investment.⁷⁰⁷

The Canaries were a perennial favourite point of entry to the legal trade routes, though over time most European merchants bypassed them, in part because of increased overhead costs. Portuguese ship captains developed the tactic of making a fictional sale to a Spanish associate in the Canaries, taking advantage of the latter's traditional right to trade in the Indies without first registering their goods in Sevilla. The now "Spanish" ship could legally sail directly to the *feria* sites, and profits easily returned to Portugal.⁷⁰⁸

Manifest fraud was not confined to on-board tactics. Antonio de Pedrosa y Guerrero of Nueva Granada in 1718 was required to inspect the Real Hacienda ledgers in Cartagena de Indias after the king received a letter from Miguel Fernández Durán listing the names of all ships not subject to his jurisdiction, that is, foreign ships he was not allowed to board.

⁷⁰⁶ Klooster, pp. 50, 51.

⁷⁰⁷ Ibid.

⁷⁰⁸ Haring, *Trade and Navigation*, p. 113.

Fernández took the opportunity to describe how local merchants brought smuggled goods which were then transferred directly to other ships off the coastline, alleging they never entered port and thus did not fall under the category of imports subject to duties. He also described the local custom of registering only one third of the goods as a means to determine the level of gratuity offered to local officials. This custom always reduced the smugglers' transaction cost, and the local officials benefited from higher bribes; only the king lost on the deal, because there was seldom sufficient money left to cover his expenses.⁷⁰⁹

One interesting aspect of this trade is that, despite all the foreign smugglers, there was significant smuggling by Spaniards – mostly of treasure – into Spain. Essentially, they were laundering profits, moving money from its source in the Indies past tax collectors and the king's *hacienda*. Some used the SSC banking option. Mr. Burrell, the South Sea Company's factor in Kingston, Jamaica, received requests from Spanish colonists seeking to forward money to Spain. Burrell warned his directors that the money be routed through London, and that Spanish *metedores* be hired for the final delivery into Cádiz, paying the usual 2 per cent fee.⁷¹⁰ He clearly thought this a new phenomenon, noting:

which proposals plainly demonstrates the natural Inclination Spaniards in America have, both in the North, and South Seas, to trade with the English Nation; and what may very probably be executed by well-chosen Persons, of experienced Abilities in Trade, properly trusted and protected; but in all Engagements in Commerce where either those Material Qualifications, and Circumstances are wanting, no Trade of consequence can, or will ever be Executed to any laudable purposes, for the General benefit of a Trading Nation.

Burrell was not the only factor to help launder Spanish treasure into Spain. Contemporaries in New Spain accepted requests to ship metals "at risk," in essence, charging an 8 per cent commission on any credit issued to customers. Fees charged on the *flotas* were three per cent

⁷⁰⁹ Carlos Restrepo Canal, "Erección del Virreinato de Santa Fe," *Boletín de historia y antigvedades*, 30 (#347-348, 1943): 997.

⁷¹⁰ *Metedores* were men who specialized in smuggling goods from ship to shore into Spain; it is quite possible the term referred to their counterparts in the Indies. Untitled document, *Shelburne Papers* (Clements Library, University of Michigan), volume 44: 11-21.

lower, but exposed the owners to Crown confiscation and little or no insurance coverage. Company fees could bring in considerable profits, as these customers were used to paying up to 20 per cent for the service, and the Company could earn an additional 30 to 40 per cent on the currency exchange. Because of the heavy penalties involved, Burrell recommended screening such requests carefully, only accepting those from the best business houses in the Indies, and limited to only two or three factories using bills of exchange. In this way a specialized clientele of persons of distinction, religious orders, or others held in high confidence could be served.⁷¹¹

Such “private trade” had probably been conducted in the past with previous French and Portuguese *Assiento* contractors. The company was not expanding smuggling, as Gómez Molleda states, but rather was carrying on a long tradition and in fact only replacing previous *Assiento* companies to evade Spanish trade and tax laws. Burrell noted the example of the Jesuit Fathers of the Provincia de Paraguay who conspired with Captain Opie in 1725 to ship London more than 400,000 *pesos* in gold and silver for which the Company would receive up to 12,000 *pesos*.⁷¹² Crown officials complained that this service violated the terms of the *Assiento* treaty, as did other practices such as carrying Spanish passengers to and from the Indies. The Company’s directors actually fired Captain Waring of the *Saint James* on this pretext but requested more proof before considering criminal proceedings.⁷¹³

The risk Burrell warned of was real, though, as illustrated by the September 1739 capture of a Royal Africa Company ship by a Cuban coast guard force near Habana. The goods registered in the prize court included 6,608 *pesos*, 4 *reales* and a shipment of gold and

⁷¹¹ The *Jorge* sailed to London in 1718 with 2,379 *marcos* and 4 oz of pure silver, each *marco* weighing 8 ounces worth 8.5 *pesos*; the total value was 19,630 *pesos* and 7 *reales*. A.G.S., E/lg. 7017. "Los factores de Buenos Aires a los directores de Londres, 4 de abril de 1718. Declaraciones de Plowes y de Burnet," in Gómez Molleda, pp. 355-356.

⁷¹² A.G.S., E/lg. 7.017, "Declaración jurada del confidente Mateo Plowes, oficial de la Secretaría de la Compañía del Mar del Sur. París, 19 de mayo de 1729," in *ibid.*, p. 368.

⁷¹³ Ernest G. Hildner, "The Role of the South Sea Company in the Diplomacy Leading to the War of Jenkin's Ear, 1729-1739," *Hispanic American Historical Review*, XVIII (#3, August 1938): 328.

precious stones consigned to the Company's factor Antonio Weldent by Habana resident Angel Sales. Such a consignment was, of course, illegal, though Sales knew it was cheaper and safer to send treasure to Spain on consignment through London. The risk of capture was balanced by the ability to legally recover his treasure: on 12 December, Sales paid a fine of 960 *pesos* and took his goods home. Weldent was not as successful, as his illicit activities apparently cost the Company 368,231 and ½ *reales* and the confiscation of six ships.⁷¹⁴ Nevertheless, such money laundering undoubtedly continued, as the profits to all involved were quite high.

Other Spanish commercial projects show how illicit trade completely permeated the colonies. Mr. Burrell received several proposals from Spanish merchants to begin a cabotage service, charging up to 30 per cent of the value of shipped goods, between the “little frequented” ports in Perú, Chile, and Tierra Firme. The factor plainly recognized the value of using the Company’s assets for smuggling, and his report to the London headquarters analysed the profits as well as the risks. He mistrusted the volume of trade proposed, noting that the silver fleet trade was regularly estimated at 20,000,000 *pesos*, though the *ferias* had rarely met during the past 50 years. Peru, Chile, and New Spain each produced 10,000,000 *pesos* annually, not counting agricultural goods. Thus, the offers to trade through the *flota* system could not be very profitable, especially at the price requested by the various unnamed merchants. In other words, the offers depended on a greatly increased frequency to be of any significant advantage.⁷¹⁵

⁷¹⁴ A.G.I., Contaduria, 1170, 1719-1756, “Cuentas de caudal de represalías y de presas inglesas. Quenta y Relacion Jurada de Cargo, y Data que yo D.ⁿ Juan Thomas de la Barrera Sotom^{or}, y D.ⁿ Diego Peñalver Angulo, ôfs de la Real Haz^a que hemos sido de estas Ca.^s damos de los Caudales pertenecientes â los Represaliados a la Nazion Inglesa, y Deposito de la Paca y Lana, que hemos âministrado desde diez y ôcho de septiembre, de Mil sietecientos treinta y nueve hasta doze de Disz^{re} de mil siet^{os} quarenta y dos.”

⁷¹⁵ Mr. Davidson, factor in Cartagena de Indias, suggested the Company postpone its annual permission ship or suffer the same fate of the Spanish fleet merchants, who faced bankruptcy when the colonies were so glutted with goods that no one bought from them. “Letter from Davidson to Burrell, Kingston, Jamaica, undated,” *Shelburne*, 44: 22-29, 685-7.

Everyone with money to move sought to smuggle, even the religious orders. Convents and monasteries depended on the king for income, and the Crown usually provided each with a revenue-generating business such as cultivating cacao, tobacco, or producing specific items, all exempt from taxes, customs, or *fletes*. Because these businesses belonged to the Church, they were also exempt from civil law, meaning that local law enforcement officials could not enter their facilities, even if seeking illicit commercial activity. Many merchants offered grants to convents or monasteries in exchange for religious privileges in the form of special masses, prayers, or acceptance of a daughter into the order. They also sought additional benefits, occasionally asking to deposit goods in the convent's warehouse for a short period of time, usually until local law enforcement officials lost interest in the goods. In 1654, a *Cédula Real* was issued prohibiting the clergy from hiding smuggled goods, and especially in the convents, if only to preserve the sanctity and reputation of the cloistered nuns.⁷¹⁶ A new *Cédula* was issued in 1733 authorizing civil police to enter any religious building in search of illicit goods, and prohibiting the clergy from interfering.⁷¹⁷ Many bishops protested this new law, but appeals to the crown fell on deaf ears.

Smuggling Tactics

After the War of Spanish Succession (1702), illicit trade became less corporative, as more small or medium-sized merchants joined together in informal shipping companies with representatives throughout the region seeking to share costs, risks, and benefits. Prior to this, large companies associated with the various *assientos* had done a majority of the smuggling, concentrating on the major points of entry in the Indies. In the Gulf of Mexico, most

⁷¹⁶ Juan Agustín García, *La ciudad indiana* (Buenos Aires: Hyspamérica, 1986), p. 135, in José Ignacio García Hamilton, *El autoritarismo hispanoamericano y la improductividad* (Buenos Aires: Editorial Sudamericana, 1998), p. 188.

⁷¹⁷ A.G.N. (Bogotá), Colonia, Contrabando SC 15, 1522-1820 / Tomo VII, año 1730, fol. 658-659, "Real Cédula para que se evitara y sancionara el contrabando de los eclesiásticos. Dada en el Soto de Roma a 7 de mayo de 1730."

smugglers used Veracruz, Acapulco, the west coast of Campeche, and the Mississippi River delta – or in foreign-controlled areas such as Campeche and Balis. After 1748, smaller boats carried goods directly from foreign Caribbean ports to smaller bays and inlets, shipping goods directly to consumers. This change from large-scale to small operators benefited the consumers, as the structure of illicit trade became more flexible and less expensive. As always, smuggling expanded throughout this era.⁷¹⁸

Though smuggling in New Spain remained concentrated on the main points of entry, the smaller towns were not ignored completely and officials in remote areas such as the small rivers in Ahualulcos, Coatzacoalcos, Tabasco were involved in *tratas* (trade) involving cacao, maize, pigs, women, lumber, dyestuffs, or tobacco. Spanish or Indian merchants would take goods to the mouths of rivers and wait for the foreigners to show up and trade. When deals fell through, violence ensued – hostages would be taken for ransom, or occasionally there would be sacking and pillage. In Papaloapan, relations were more stable, possibly because it was farther away from government officials. The complex networks of smuggling and trade allowed the towns of Cosamaloapan, Tlacotalpan, and Acayucan to develop and grow; they would have withered had they been forced to rely on the formal trade system. The capital of Coatzacoalcos controlled the trade with the Dutch and English smugglers, with Indian chiefs licensing the flow of goods from the interior for barter. The Spaniards in this region were a minority as late as 1742, reflecting their numbers as a percentage of the overall population.⁷¹⁹

Veracruz was a profitable point of entry for Jamaica merchants, as they could sell slaves for up to 20% cheaper than could the Dutch from Curaçao. Once their bribe was accepted, ship captains could offer other goods for trade, and even receive licenses to take goods inland.⁷²⁰ The ship *William*, captured in Veracruz, is illustrative of this new type of

⁷¹⁸ Feliciano Ramos, *Contrabando inglés*, p. 45.

⁷¹⁹ Specific goods included cacao, grains, dyes, traded for cattle, cloth, and wine. García de León, pp. 26-27.

⁷²⁰ B.L. Egerton, ms 2395, fos. 502, 502B, "Considerations about the Spaniards buying negroes of the English Royal Company," in Zahedieh, "Trade," 218.

smuggling. George Culbert of Jamaica contracted the ship and crew for a voyage, while Patricio [Patrick?] Maguire, an Englishman of Campeche, consigned the goods to be exchanged for 100 tons of *palo de campeche*. Captain Dorzet was offered 6 per cent of the profits by Alexander MacFarlane, who owned and insured most of the goods on board. The manifest showed that he had an agent in Carolina, though he apparently was a front for Elizabeth Roguer. The ship entered Veracruz claiming to have on board some prisoners from Jamaica, sent to be exchanged for English prisoners held in San Juan de Ulúa. However, the prisoner exchange was simply a cover story for the merchants' efforts to get their goods into Veracruz legally. Their cover story worked until departing Veracruz, at which point the ship was detained by the coast guard off the coast of Campeche.⁷²¹

There was a large volume of trade between English merchants and Indians on the mainland, a contact specifically prohibited in Spanish law. The basic tactics of smuggling required considerable technical expertise because of the long distances traversed, aiming at specific locations on the coastline to find individual merchants or Indian groups. The trade with Indians was concentrated in areas where fewer royal officials were available to monitor compliance with commercial regulations, such as the Moskitia coast, Campeche, or La Guajira. The volume and value depended on the specific tribe and its ability to pay.

Spanish officials referred to most smuggling attempts as *extracción*, referring to the fact that Spanish money was extracted from its colonies, or as "schooner traffic" (*tráfico de balandras*) because this was the most common ship used. Smugglers would approach a pre-arranged location and signal their arrival with a combination of flags or cannon shots, and a counter-sign such as a signal fire or smoke from shore indicated a safe environment for the exchange. This system developed over time to reduce the risk of detection and changed constantly to avoid discovery, in the process reducing transaction costs for all. Another

⁷²¹ Feliciano Ramos, *Contrabando inglés*, p. 51.

common method was for smugglers to off-load at night on hidden beaches or bays; the trade took place on the beach, which put the seller at a disadvantage should the buyer or royal official have ulterior objectives. Often smugglers arrived in two ships, so one could patrol while the other off-loaded goods. *Comercio a la pica* involved ship-to-ship transfers off shore or in anchorage, allowing greater safety to the foreign ships by not having to dock or beach in potentially hostile sites. A less frequent tactic was for Spanish merchants to initiate contact by sailing to Jamaica or Barbados seeking trade in specific goods. This method was frequently used by government officials seeking slaves in areas under-served by the *Assiento* factories.⁷²² An example is the purchase of slaves by the Crown to build the fort of San Fernando de Omoa in 1755. An advance payment of 40,000 *pesos* was made to Joseph Melchor de Ugalde for 217 slaves, and a 15,770-*peso* balance was to be paid on delivery. The slaves were purchased in Jamaica from one Jasper Hall, though apparently Robert Hodgson and William Pitt were also involved in a sale.⁷²³

A long experience with *arribadas* led to new tactics. Ship captains who arrived in port claiming their ships had been damaged negotiated with the proper authorities to effect repairs, which involved putting the ship into a shipyard and moving the cargo to a bonded warehouse. The goods were removed at night, and the crates re-filled with traded goods or payment. After the repairs were completed, the crates were re-boarded. Port captains often allowed foreign merchants to sell a certain portion of the load under the pretext of needing money to pay for the repairs and other expenses, including bribes, licenses or taxes.⁷²⁴

⁷²² Ibid.

⁷²³ Archivo General de Centro America (Guatemala), A3 exp 13273 leg 709; Harvey K. Meyer, *Historical Dictionary of Honduras, Latin American Historical Dictionaries*, #13 (Metuchen, NJ: The Scarecrow Press, 1976), p. 168; "Documents pending concerning the purchase of one hundred blacks, for the Port of Omoa, on account of his majesty, by which a deal was made with don Gaspar Holl Neighbor of Jamayca. Office of Guerra Gutiérrez," in Rubio Sánchez, *Historia*, p.108.

⁷²⁴ Feliciano Ramos, *Contrabando inglés*, p. 94.

Subterfuge helped when coöptation failed. A favourite Dutch tactic was to approach the Venezuelan coast at night and open fire upon a Spanish coast guard ship. The latter would usually weigh anchor and leave port rapidly hoping to capture the interloper, after which the Dutch ship would quickly double back and begin trading.⁷²⁵ In a variation of this tactic, the decoy sloop would lead the chase away from the area while other sloops entered and conducted their trade.

Both smugglers and customers recognized that the risk factors changed during times of war and tactics were changed to reduce risk. At times, the bulk of the smuggling was done by Spanish merchants on Spanish hulls, and factors were placed in English colonies. They used Spanish ships, sailing first to London and on to Cádiz.⁷²⁶ In 1660, the English Crown administrators in Jamaica recommended reconnaissance trips to find what goods and prices Spanish merchants sought. Until then, most Spanish merchants bartered locally produced goods for what foreigners brought.⁷²⁷ By 1750, the *Assiento* and South Sea Company had been abandoned, so Jamaican merchants sent ships and agents to encourage Spanish hulls to visit Jamaica. The Navigation Acts were relaxed in 1763, opening trade between English and other European merchants in the Caribbean, increasing both competition and volume, not to mention profits.

In this way the Spanish hulls assumed a higher percentage of the risk because there were fewer Royal Navy ships in the area searching for prizes. Efficiency was increased also, as it took an English ship about three months to liquidate its cargo along the Spanish

⁷²⁵ A.G.I., Indiferente General, 2412, "Agustín Moreno to José de Gálvez, Amsterdam, 11 February 1778"; A.G.I., Estado, 2321, fol. 299, "Balthasar de Fuenmayor to King Charles II, The Hague, 11 September, 1680"; Real Compañía Guipuzcoana de Caracas, *Noticias historiales practicas de sus sucessos, y adelantamiento de esta Compañía, desde su fundacion año de 1728 hasta el de 1764 por todos los "ramos, que comprehende su negociación* (NP: NP, 1765). p. 459; Algemeen Rijksarchief, The Hague: Oud Archief Curaçao 820 fol 145, *Statement by Emanuel Lorentz de Giez, Curaçao, February 11, 1749*, in Klooster, *Illicit Riches*, pp. 167-8.

⁷²⁶ One merchant who followed that route asked the king for a license to provide Jamaican foodstuffs to the Spanish colonies in Nueva Granada. The Spanish ambassador in London questioned his motives, and recommended the request be denied. *Ibid.*, pp. 170, 173.

⁷²⁷ *Ibid.*, p. 159.

mainland, whereas a Spanish ship did so in a third of that time, in part because their captains always found it easier to bribe local Spanish officials. This process inadvertently increased dependence on the suppliers of goods, specifically English suppliers in Jamaica, in the process increasing the island's income and the flow of money to England. However, war always reduced trade, often causing a cash flow problem in Jamaica: in 1756, the governor reported that 15-20 ships were dedicated to the commerce with Aruba and Rio Hacha, trading rum and dry goods for about 2,000 mules and other cattle, a mere fraction of peacetime trade.⁷²⁸ Regardless of which ships went where, operations along the coastline were done carefully. If the risk was high, a Spanish-speaking agent was put ashore to find deals before landing the ship, or to seek agents along the coastline where they could goods, thus reducing the risk of capture.⁷²⁹

Smugglers' tactics were reminiscent of pirates, but they also had the sophistication of capitalist entrepreneurs. The Spanish ambassador in London wrote to Marqués de la Ensenada Cenón de Somodevilla, Ministro de la Marina e Indias, that he could find out a ship's destination by looking for the presence of weapons. Unarmed ships usually sailed to North America, while those bound for the Caribbean "had plentiful artillery" and all carried a tender (a small, fast rowboat used for making contact with buyers or escaping capture). The decision to arm a boat, however, depended on the boat's cargo and value: small ships used to haul logs or fish were seldom armed, whereas the larger boats carrying fine woods, foodstuffs, or metals tended to be heavily armed. English smugglers were known as fierce fighters, probably because capture meant significant economic losses, and possibly a fatal outcome. Most boats sailed in pairs, so one could patrol while the other traded, assisting or rescuing each other as necessary.⁷³⁰

⁷²⁸ See Thomas Wood's account, cited in footnote 42, above. *Ibid.*, pp. 174-175.

⁷²⁹ Feliciano Ramos, "Comercio de contrabando," p. 82.

⁷³⁰ Feliciano Ramos, *Contrabando inglés*, pp. 80-83.

The use of violence was not always what it seemed. Many cabotage routes passed near foreign-held islands. For instance, coasters from Santo Domingo often stopped at Kingston to load goods, after which they headed to Curaçao or Barbados. Spanish authorities would be informed that during the trip pirates had stolen the goods: the “looted ships would then sail on to Cuba or the Canaries with ready cash to buy new cargo.

On the Iberian Peninsula, coastal ports were not the primary beneficiaries of smuggling, as the goods generally passed around them *en route* to other locations, usually seeking entry to the *Carrera* fleets. In other words, most ports were merely the scene of the physical act of smuggling, but the goods did not remain to benefit the town’s economy. The smugglers themselves – the *metedores* who physically carried the goods across the border – especially those in Sanlúcar, Huelva, Chipions, Puerto de Santa María, and Rota, benefited from the risky employment. Their pay was high in relation to the risk: in 1775, ship to ship loading paid between 1.5 per cent and 3 per cent of the value of the goods involved, and moving goods to shore and inland cost twice that.⁷³¹

Maritime tradition allowed any ship to enter any port under emergency. Ship captains of all nationalities quickly learned to use such legal justification to cover their intent of illicit activity, feigning damage or lack of supplies in order to enter a Spanish port. A request would then be made for a license to sell goods in order to pay for the services received, and gifts would be offered to the authorities to facilitate approval.⁷³² Spanish officials referred to such stratagems as *arribadas forzosas*, reflecting the fact that their participation had been forced by the foreigners. A variation during wartime involved entering a port under the banner of parlance, claiming to be on some diplomatic errand, though in reality only seeking

⁷³¹ The cost of smuggling gold was 3%; silver, 2%; the cost of transshipment to foreign ships cost 1.5% for gold *doblon*es and 1% for *tejos* [doblones were gold coins equal to 16 *pesos*; *tejos* were blanks from which coins were struck] Silver in *cuño viejo* form cost 3%, and *cuño nuevo*, 2-2.5%. Amalia Gómez Gómez, "Nota sobre el contrabando gaditano a fines del siglo XVIII," in Yuste, p. 329.

⁷³² Donoso Nuñez, p. 28.

illicit trade. Even Royal Navy ships used the excuse, usually to load or offload a British subject's cargo, and their counterparts visited Jamaica for "urgent necessities" while loading goods, offering bribes to facilitate the bureaucratic requirements. Regardless of nationality, smugglers who used the *arribada* tactic were seldom armed, in order to increase their payload and reduce suspicion.⁷³³ As mentioned earlier, the "forced" part often involved ritualized hostage-taking and brandishing of a weapon, regardless of its threat to life or limb. Ship captains used a variation of forced trade by seizing a Spanish ship and transshipping the cargo, leaving an invoice for the goods or a payment in kind or coin. Reports of such violence frequently noted that the invoices seldom overvalued the goods taken, evidence that both parties were complicit in the event.⁷³⁴

The Wayú Indians of the Guajira never conceded Spain's dominion, let alone its commercial monopoly. Even in the XVIII century, the local governor complained to the king that one of the principal Wayú leaders, Majusare, traveled to Curaçao to trade a sack of pearls for brandy, gunpowder, bullets, bits and spurs. The governor considered this a traitorous act because the Indians were supposed to be subservient to Spanish law, and this trade indicated yet another forthcoming attack. All along the coastline of the Guajira the Wayú harvested *palo de tinte* in defiance of the *renta* monopoly and traded it for flour, corn, brandy, weapons, powder and bullets, and clothes in Curaçao. They also maintained large herds of mules, horses, and cattle, which they shipped to Curaçao and elsewhere, selling the live animals, hides and tallow. Barrera's study notes that the volume of trade was such as to make it doubtful that the Indians consumed all the goods shipped through their ports – they probably were selling illegally to Spanish colonists as well.⁷³⁵ The Guajiros occasionally

⁷³³ Hinckley, p. 111; Feliciano Ramos, *Contrabando inglés*, pp. 80-83.

⁷³⁴ A.G.I., Caracas, 438, in Klooster, p. 171.

⁷³⁵ Eduardo Barrera Monroy, *Mestizaje, comercio y resistencia: La Guajira durante la segunda mitad del siglo XVIII*. Colección Cuadernos de Historia Colonial (Bogotá: Instituto Colombiano de Antropología e Historia, 2000), pp. 138-139.

escorted English smugglers past Spanish counter-smuggling forces. In the 1730s and 1740s, Spain only had 30 soldiers in the Rio Hacha region: they were seldom paid, so it appears they often deserted or just ignored their orders. Many became agents for the smugglers, helping them sell or transport goods.⁷³⁶

Conclusions

This chapter takes a look many of the variations taken by smugglers and their customers. Spain's primary concern in developing economic policy that emphasized the mercantilist concept of excluding foreigners was based on its grand strategy objectives, seeking to achieve hegemony in Europe. In the Indies, this took the form of economic warfare, so it is not surprising that the enemies reacted in kind, seeking access to the treasure and commerce from which they were ostensibly banned. Of course, in any warfare the enemy has a veto over war plans. English, Dutch, French, Portuguese, and others readily exercised that veto, evading Spain's restrictions and flooding the Indies markets with goods, taking home those profits the Spanish monarchs sought to control.

Foreigners were not the only ones participating in the illicit commerce. Spaniards participated on the consumer side, buying from foreign merchants; but they also participated on the supply side, hiding goods from the bureaucracy through innumerable subterfuges. In these cases, the primary objective was tax evasion, though other regulations were ignored also.

Because of this lack of free market supply and demand, French, English and Dutch smugglers stepped in to fill the void. Spanish policymakers were not ignorant of market forces, and had changed the early efforts to monopolize commerce when it became apparent that such a program was impossible. Sancho de Moncada wrote in 1619 that the vast number

⁷³⁶ Grahn, "Irresoluble," p. 130.

of rules regulating everything required monitoring and enforcement, all of which cost money.⁷³⁷ His writings came a century after the policies had been put in place, but others before him had advised the Crown of the dangers involved in tampering with people's needs and wants.

The Bourbon reforms produced efforts such as *Proyecto 1720*, initiated within the *Casa de Contratación* in its new headquarters in Cádiz, seeking to simplify regulations by reducing paperwork, taxes, and fees on the *Carrera de Indias*, though it ignored all other variables.⁷³⁸ The effort inadvertently hurt the manufacturing sector by supporting or fixing the price of commodities, because the Indies tax structure was not synchronized to the distribution system, and ignored the fact that the high level of taxation undermined all other elements of the commercial policy. The reforming bureaucrats hoped to promote trade through technical improvements, but refused to renounce the easy tax income available from colonial trade as it had always existed. These changes were insufficient to improve Spain's participation in the Indies trade, because they only addressed one of a myriad of factors involved.⁷³⁹ Governor Sancho de Alquiza's reports had noticed this discrepancy over a hundred years previously, but no one had adopted his recommendation, or those of all his predecessors and *arbitristas*. The new regime likewise saw no reason to overhaul the entire system, preferring to tinker with a few technical modifications to increase the flow of income to the Crown. This, of course, is part of the reason why Spain adopted mercantilism: the Crown only sought as much short-term tax income as possible, and ignored any long-range reform that might interfere with the short-term flow of income. Mercantilism's emphasis on bureaucratic control of the flow of money led the Crown to ignore the colonists' needs and wishes, and blamed all failure on individual greed.

⁷³⁷ Moncada, p. 100.

⁷³⁸ Martínez Shaw, p. 60.

⁷³⁹ *Ibid.*, pp. 55-60.

The distance of many colonial population centres from the principal Spanish trading nodes made dealing with smugglers an easy choice. The fleet or its supply ships concentrated on a few ports, and arrived only infrequently and erratically; smaller ports, were visited not at all. Feliciano Ramos argues that this distribution system of was designed to provide the Crown with the maximum tax income possible, but it theoretically included the altruistic element of national development by allowing for local merchants to distribute goods locally. The misapplication of the original plan had the opposite effect on the economic growth of the colonies. Colonists sought to survive by any means possible, even if this meant violating the king's laws. But this reliance on market forces had a positive effect by providing an escape valve or means of survival for the mistreated and ignored marginal areas of the empire.⁷⁴⁰

Smugglers were better suited than were legal merchants at moving products to their marketplaces, in part because the illicit distribution system depended more on a personal network than on laws and licenses. Instead of focusing on the efficiency of specific elements, smugglers sought an efficient satisfaction of market demand and asked only to be rewarded accordingly. Terradas' analysis emphasised on the personal nature of the smuggling business, on the need to know the clients' needs intimately. This line of argument gives the legal merchant an advantage in lower distribution costs because he can advertise without fear of discovery.⁷⁴¹ However, it also assumes an efficient wholesale delivery system and an effective law enforcement force intent on eradicating smuggling, neither of which were present during Spain's colonial period. That anti-smuggling effort will be the topic addressed in the following chapter.

⁷⁴⁰ Feliciano Ramos, *Contrabando inglés*, p. 12.

⁷⁴¹ Terradas, p. 70.

Chapter V

Spanish Anti-Smuggling Strategy

Anti-smuggling strategy was based on the assumption that laws served to alter behavior, and that honest officials could be found to obey and enforce the rules. Over the long run, neither assumption proved correct, and this led to a lengthy list of mostly failed efforts, including military tactics, law enforcement efforts by local militias, increased regulation, and the constant search for *un hombre honesto*.

Spain's primary anti-smuggling tactics were based on military force, which in turn required intelligence. Thus, the bureaucratic need for a constant flood of information led to the development of a fleet of packetboats, small vessels capable of rapid sailing between the various strategic nodes of the empire. These carried the bulk of correspondence used to administer the empire, spreading news of alarms or danger, notify officials of the sailing dates of the fleets as well as any available data on where corsairs or smuggling fleets were rumoured to be. However, because the empire's defensive system (and its information collection process) concentrated along the strategic ports and trade routes between them, in general it ignored the areas frequented by smugglers. As in the case of the legal trade, the military forces bypassed much of the region, concentrating on areas of higher population density.

The Crown's military strategy was at worst incoherent, or at best based on erroneous assumptions. The resulting policies were divided between diplomatic and military strategies. Armed forces were developed to maintain the claim of *mare clausum* against foreign national navies. Reliance on naval forces to stop illicit trade led to mission creep, adding anti-smuggling tasks to the existing, widely dispersed, often inadequate and numerically insufficient forces in the Indies. Military leaders charged with applying the resultant strategy

undoubtedly understood the contradiction between policy and its application. The Crown (and its ministers) apparently assumed that the presence of Spanish warships deterred aggression or crime; while true against foreign fleets, this proved false against private ships.

Bureaucratic Solutions. Smuggling demonstrated the intrinsic weakness of the system, despite the fact that Spain's economic and commercial policies had been, for the most part, designed by merchants, ostensibly to increase commercial might. Scarcity of goods resulted from the *Consulados'* policy of keeping prices high and profits higher.⁷⁴² At the same time, the *Consulado* and Crown bureaucracies took a long time to act, which worked in the merchants' favour. A booklet published anonymously in 1712 in London, for instance, described Spanish tax rates as affecting all goods imported and exported from the Indies, which "in some Species of Goods amounts to no less than a Prohibition." Though the data was at least 27 years old, it was still current. Goods paid the same tax rate year after year, with little regard for prices or inflation, even if the former had been reduced to half the value since the book was published, evidence of the bureaucracy's inability to react quickly – or lack of interest.⁷⁴³

Inflexible policy also affected the effort to increase efficiency. The quest for gold and silver determined the colonial infrastructure that concentrated the population in commercial ports and government capitals, all located to best serve the flow of metals toward Spain.⁷⁴⁴ Interestingly, though a primary objective during the conquest had been the search for treasure, there is little evidence that the actual location of mines had much impact on colonial

⁷⁴² María del Carmen Borrego Pla, "Tráfico comercial de España con Indias (1700-1714)," in Carmen Yuste, ed., *La Burguesía Mecantil Gaditana (1650-1865). Ponencias Presentadas en el XXXI Congreso Luso-Español para el Progreso de las Ciencias, celebrado en Cádiz* (Cádiz: Instituto de Estudios Gaditanos, Excma Diputación Provincial de Cádiz, 1976), p. 148.

⁷⁴³ Anonymous, *A letter from a West-India Merchant to a Gentleman at Tunbridge* (London: Printed in the Year 1712), p. 16.

⁷⁴⁴ Céspedes del Castillo, "La organización," p. 64.

infrastructure. This is important to remember because the commercial system was designed to serve the main population centres, despite the lack of planning on how to move goods from the coast those cities. However, the rules governing the distribution of goods required fixed trade fairs, regardless of the impact on industry. In Nueva España, the silver mines in Zacatecas were not concentrated; this was also true in the Chocó gold mining areas of Nueva Granada, where placer mines and river deposits were dispersed over a large area. Both areas had low population density, which reduced the possibility of high, quick profits, and hence, of interest in the regions. Miners moved frequently as metal deposits were exhausted, so the support industry – middlemen who bought the metals, merchants who sold slaves, tools, *aguardiente* (brandy), and foodstuffs – moved just as frequently. It was difficult for the commercial system to establish fixed marketplaces or routes from the coastal supply points, except in the silver mines in Cerro de Potosí in Peru and the emerald deposits in Muzo in Nueva Granada, which were sufficiently concentrated to allow for population and support industries to develop. In order to remain profitable, most miners resorted to dealing with foreign smugglers or Spanish merchants who were willing to illegally move goods as needed by the consumers. Such measures led to a large outflow of treasure directly from the mines, bypassing the legal infrastructure. Smuggling goods in and treasure out of these areas (Chocó, Zacatecas) proved to be easier, and law enforcement much more difficult.

A secondary consequence of inflexible regulation was felt in areas with low metal production (the Greater Antilles, Guatemala, the La Plata region, Venezuela, Chile) that were far from the commercial nodes, and found themselves increasingly isolated from the culture and commerce of the colonies. The most marginal areas were those populated almost exclusively by Indians, to whom the Sevillian commercial system did not cater at all. Over time, foreign smugglers took advantage of this uneven infrastructure, using the unofficially abandoned areas of the Spanish empire as bases from which to operate.

When deemed essential, flexibility was possible, and especially so in the mining industry. Mercury at first had to be transported from Spain to Peru and Nueva España via the royal *renta de azoque* monopoly in Spain. When mercury mines were discovered in Huancavélica, the *rentas*' area of operation was expanded to include the Indies, thus easing the logistical and production demands. Royal tax collection centers (Cajas) in New Spain were also moved frequently, following the silver production. In another example, Indians were given a royal dispensation to build factories to produce clothing for themselves, thus side-stepping the Sevillian monopoly's refusal to deal in cheap, coarse cloth.

This snapshot of colonial commercial reality indicates how far the legal system had departed from market forces. Foreigners sailed to the Spanish Indies to conduct business, be it piracy, extraction of resources, or trade; they were followed a few years later by merchants offering supplies the colonists requested.⁷⁴⁵ In Nueva Granada, President Borjas' correspondence on how to solve the discrepancy between policy and market forces was typical: he recommended sending a fleet of seven galleons or six *navíos* loaded with weapons, soldiers, and ammunition to defeat what he considered to be poorly-armed foreign merchant ships. Borjas warned, however, that Spanish warships in the *Armadas* tended to be too large to adequately manoeuvre in the shallow coastal waters against the smaller foreign ships, and suggested arming *galeones ligeros* (light frigates) with long-range cannon, to more effectively engage the enemy at a distance.⁷⁴⁶ Borjas' suggestion aligned perfectly with the Spanish Crown's diagnosis and prescription of the smuggling, recommending that local commanders use military assets not available at the time. In other words, the Crown was unaware of what ships, personnel, and supplies were available to the local commanders.

⁷⁴⁵ The terminology used in the reports of the time is purposefully vague, though hints are available: *género* usually related to cloth and clothes; *efectos* usually meant personal goods such as furniture, utensils; *mercancías* and *viveres* were generally undefined except for their standard definition of merchandise and foodstuffs. Feliciano Ramos, *Contrabando inglés*, p. 225.

⁷⁴⁶ A.G.I., Santa Fé, 18, R.6 N.35 / 06-07-1605, op. cit.

Borjas urged the usual bureaucratic solution of throwing money at the problem, instead of fixing the underlying cause. The remainder of this chapter presents many of the variations to Borjas' description of the smuggling and counter smuggling efforts throughout the Indies.

The effort to reduce the loss of treasure to foreigners imposed severe limits on colonial trade and specifically on inter-colonial links. The mercantilistic ideal of managing trade to the motherland's benefit led to convoluted regulations and even more contorted efforts to avoid them. Because it produced no silver or goods that competed with Spanish production, Venezuelan merchants were allowed to trade tobacco and cacao with New Spain and overland with Quito and Lima; trade between New Spain and Lima, however, was especially monitored to reduce the risk of losing silver from Potosí toward Manila via Acapulco. Direct shipment of goods from Manila to Lima had begun in 1580, but Felipe II put a stop to it two years later, also proscribing the sale of Asian products in Peru, Tierra Firme, Guatemala, and the Caribbean, unless the goods first passed through Sevilla and did not compete with Spanish production.⁷⁴⁷ Commerce between Lima and Acapulco took place anyway, as governors (for a fee) allowed locally produced goods to be exchanged yearly, specifying the use of 300 ton ships. These laws did not prevent violations, so in 1604 new regulations were issued, reducing the number of ships and also limiting the Manila galleons to 200 tons. In 1631, all shipping between Peru and New Spain was prohibited in an effort to stop the flagrant and continual flow of Asian goods between them but, because the profits proved irresistible, the trade grew despite the laws. Borah wrote that in 1600 this illicit trade was between 2 and 3 million *pesos* per year, taking about 2 million ducats from Spain's

⁷⁴⁷ Hamilton, "Monopoly," p. 42.

coffers.⁷⁴⁸ The official manifests indicated that only the legal limit had been shipped, though in reality, about eight to ten times that much entered Acapulco.⁷⁴⁹

Governors ignored the rules and licensed the export of Peruvian goods to Mexico. The ships return full, using legal products such as *añil* dye, tar, pitch, and iron as cover for the illicit merchandise.⁷⁵⁰ The smuggling involved persons of all stations of life, including royal and church officials. A large portion of the population benefited, as “it was a growing system of interregional relations, completely foreign to the decadent [formal] Atlantic commerce. The metropolitan mercantilism never achieved control because of the strong local interests involved in this traffic.”⁷⁵¹ The main attraction of the Manila galleons was the profits from spices and luxury goods such as silk and porcelain. The market was sophisticated enough that many items were commissioned by specific purchasers from identified producers, and plans were sent with drawings by Mexican artists describing what they sought from China or Japan. In other words, wealthy *criollos* could request tapestries, paintings, or porcelain objects from individual artists or manufacturers and expect to receive them within a reasonable timeframe. The link with smugglers on this route was so strong that even English and Dutch merchants sent such orders to the Orient through Spanish factors.⁷⁵²

An example of Spanish efforts to stop smuggling in its colonies involved the diplomatic sparring between the two states’ maritime claims in the Caribbean. During the mid-XVI century, Spanish merchants pressured Felipe II for authorization to defend

⁷⁴⁸ Pilar Latasa Vasallo and Maribel Fariñas de Alba, "El comercio triangular entre Filipinas, México y Perú a comienzos del siglo XVII," *Revista de Historia Naval*, año 9 (#35, 1991): 14-17.

⁷⁴⁹ Boxer, p. 210.

⁷⁵⁰ Juan y Santacilia and de Ulloa de la Torre-Giral, p. 205.

⁷⁵¹ Latasa Vasallo and Fariñas de Alba, pp. 19-20.

⁷⁵² Asian goods included lacquered furniture, ivory goods, fine wood furniture, porcelain, glass, pearls, mother-of-pearl, ebony, silk, and paper. Even the Inquisition could be evaded, as seen in the Oriental practice of erotic decorative porcelain being sold openly in New Spain. Gustavo Curiel, *Tránsito de obras suntuarias a la Nueva España; reflexiones sobre el comercio artístico transmarítimo*, in Shulamit Goldsmit Brindis, and Rubén Lozano Herrera, coordinators, *España y Nueva España: sus acciones transmarítimas* (Mexico: Universidad Iberoamericana, 1991), pp. 146-160; A.G.I., Consulados, Libro I, "Acta de 10 de abril de 1610," in García Fuentes, *Peruleros*, p. 34.

themselves against English privateers when Spanish warships were not present, but he refused, asserting his right to monopolize military power. Ambassador Guzmán de Silva passed a note to the English council in 1566 explaining the intense pressure his king felt to allow an escalation of violence. Guzmán's rationale was sound, given the reputation of Spain's military power, and he impressed on Elizabeth that Felipe II's answer in part depended on her decision.⁷⁵³ The outcome of this specific instance is unclear, but Elizabeth's proclivity to maintain England's sovereignty normally dictated that she answer no, and the limits on the scope of action available to some of England's premier sea dogs – Raleigh, Hawkins, Drake, Frobisher – indicate that she recognized the danger of ignoring Spain. Such successes by Spanish diplomats allowed their monarch to solidify his positions on maintaining the claims of *mare clausum* and a monopoly of commerce in the Indies.

One threat occasionally perceived by royal advisors was that this effort, by ignoring the bulk of the colonial coastline, could potentially lead to *desarticulación*, a dismembering of the territorial hegemony component of grand strategy.⁷⁵⁴ Defence policy assumed *desarticulación* on a strategic scale was impossible, though losses in specific locations might occur. Action to deter such threats was sporadic, though. One effort to address this concern resulted in the creation of the *Junta de Comercio* in 1705 in Madrid to seek solutions to the increasingly critical economic situation and, of course, stop the rampant smuggling in the colonies. The effort included increased budgets for the naval forces, re-structuring the navy's command structure, building new warships for the Indies fleets, and re-forming coast guard forces to patrol the principal trade routes, all designed to discourage foreign interlopers. A diplomatic effort was initiated to pressure the governments of England, France, and Holland

⁷⁵³ Felipe II's reticence was based on a concern over the potential loss of the Crown's monopoly on violent power, as will be discussed below. A.G.S., Estado leg. 817, fol. 47, "Da Silva a Spíndola," in Fernández Alvarez, "Orígenes," p. 339.

⁷⁵⁴ Moya Pons, p. 105.

to rein in the actions of their citizens.⁷⁵⁵ As Spanish naval power had been nearly extinguished during the War of Spanish Succession, this renewed interest in naval power offered at least the potential of reducing the violation of Spanish sovereignty in the Caribbean region.

Spanish ambassadors in London spent a great deal of time pressuring the English government to prevent illicit travel to Spanish lands. They also ran a string of spies who reported on English shipping to Spain to warn of impending activity. Of great interest was the data on when ships left and arrived, what goods and armaments they carried, and their rumoured destination. Ambassador De Silva asked Elizabeth to prohibit John Hawkins' voyages, and succeeded for a year, the 1566-1567 sailing season. Fernández notes this should be considered a temporary diplomatic victory, but a victory nonetheless.⁷⁵⁶ Some two hundred years later his successor wrote to the king of two ships on the Thames outfitting for smuggling in Honduras and Campeche, and also of two ships recently returned from Portobelo and Santa Fé with goods obtained in barter.⁷⁵⁷ One reason the ambassadors concentrated on this task was that Spain would not admit to England's claim of freedom of navigation. Ambassador Carvajal noted that "if we cede, we lose our fundamental right to those dominions." The Marqués de la Ensenada Cenón de Somodevilla, Secretary of the Navy and the Indies during the mid-XVIII century reiterated the idea: "conceding them free navigation, as they ask, is not possible without abandoning the Indies."⁷⁵⁸

The death of Carlos II unleashed the War of Spanish Succession, and the alliance with France produced a nightmare for Spain's *mare clausum* and commercial monopoly in the

⁷⁵⁵ Feliciano Ramos, *Contrabando inglés*, p. 22.

⁷⁵⁶ Fernández Alvarez, "Orígenes," p. 357.

⁷⁵⁷ Feliciano Ramos, *Contrabando inglés*, p. 58.

⁷⁵⁸ Archivo Histórico Nacional, Madrid. Estado, legajo 4267, "Carvajal a Wall, 24 agosto, 1749; Idea de lo que parece preciso en el día para la dirección de lo que corresponde a Estado y se halla pendiente; dirigida por el marques de la Ensenada al Rey Fernando VI," in Antonio Rodríguez Villa, *Dn. Cenón de Somodevilla. Marqués de la Ensenada* (Madrid: 1878), p. 33; both cited in Donoso Nuñez, p. 32.

Indies because the need for French ships to protect Spanish interests in the Pacific confused commercial policy. A *Real Cédula* issued on January 3, 1701, stated that Spain's interests were henceforth linked to those of France; a subsequent *cédula* apparently allowed all French ships to enter ports in the Indies. A flurry of diplomatic activity led to another *cédula* specifying that French warships could escort Spanish convoys in the Pacific, but again the wording appeared to authorize entry for all French ships into Spanish Pacific ports. Viceroy of Peru Francisco Ibañez y Peralta commented on the fourth *Cédula*, issued on September 28, 1700, noting that the Crown precluded most efforts to stop smuggling in his province despite the apparent prohibition on all foreign presence in Spanish colonies. His complaint proved valid, as by 1706 over 25 French ships had entered the Spanish Pacific colonies, and rumours abounded of many English and Dutch ships also taking advantage of the confusion.⁷⁵⁹

Market saturation suddenly became a serious problem for all merchants, legal or not. The first three ships sold their cargoes in 1702 and 1703 for profits as high as 600 per cent, but the region could only absorb goods from two or three ships per year without reducing prices precipitously. In 1712, Louis XIV prohibited all French ships from sailing to Lima. Not until 1720 did the market saturation abate and Spanish merchants turn a profit.⁷⁶⁰

Multiple Tactics. A serious impediment to Spain's claimed monopoly was its chronic inability to enforce such policies. To some degree this resulted from a lack of strategic guidance from the Crown, though the lack of a maritime tradition in Castilla and Leon

⁷⁵⁹ Archivo Nacional de Chile [hereafter, A.N.C.], Capitanía General, vol. 719, pieza 30, "Real Cédula de 3 enero de 1701"; A.N.C, Capitanía General, vol. 719, pieza 31, "Real Cédula de 11 de enero de 1701"; A.N.C., Capitanía General, vol 719, pieza 23, "Real Cédula de 28 de septiembre de 1700," in Villalobos, pp. 49-51.

⁷⁶⁰ Dahlgren stated that 152 ships arrived; Mackenna uses the figure of 200 ships; Alsedo y Herrera puts the number at 210. M.E.W. Dahlgren, *Voyages Français a destination de la Mer du Sud avant Bouganville*, in *Extrait des Nouvelles Archives des Missions Scientifiques* (Paris: Champion, 1907); Benjamín Vicuña Mackenna, *Historia de Valparaíso*, vol. 3 of *Obras Completas* (Santiago: Universidad de Chile: 1936); Alsedo y Herrera, *Piraterías*, p. 260-261; Villalobos R., pp. 64-66, 77.

contributed as well. Technological advances came to Spain at the same time as to the other seafaring nations, but found resistance among the maritime communities, and took even longer to be accepted by the military forces. Spanish naval tactics were based on land operations; ships were seen as extensions of land, and ship crews consisted of sailors to run the ships and soldiers to do the fighting. The standard battle tactic was that of the galley closing in, grappling, and boarding an enemy ship for hand-to-hand combat to conquer the enemy ship. This worked well when an enemy used the same tactic, but few European enemies cooperated. Vasco Da Gama's new tactic of 'line of battle' was quickly adopted by the English, Dutch, and French navies. Improvements in metallurgy and technology led to the development of better guns, specifically the culverin, which the English Navy quickly found useful in distancing smaller ships from the Spanish galleons. Both these developments made galley tactics obsolete, though the Spanish navy kept at it for another century.

This lack of adaptation among the Spanish forces was reflected in coast guard and privateer activity, in that a majority of arrests took place on land, and less often at sea; most interlopers were taken in port, surprised by the sudden arrival of a coast guard unit that prevented their escape the militias. Naval organization was not a strong point – minute regulation by the higher officer's ranks was the norm.⁷⁶¹ This does not point to a lack of naval capability, but rather to a conscious decision to adopt a strategy requiring the use naval forces primarily to protect the convoys or the homeland, both directly related to the empire's grand strategy. In other words, the Spanish Navy answered to objectives in Europe, not the Indies, and organized itself and trained for those goals. Secondary missions – anything related to the Indies except the silver fleets – were conducted when there was nothing else to do and with what resources were available at the time. In other words, not often enough.

⁷⁶¹ Spain's navy under Carlos V and Felipe II was characterized as having "not so much as a single naval administration, but only a batch of squadrons working side by side, or even wholly apart from one another." Hannay, p. 60.

Convoys. Defence of the Indies trade became increasingly important as more treasure was discovered. Losses to French piracy were significant, as demonstrated by the 1523 theft on the high seas by Giovanni da Verrazano of Hernán Cortes' gift of Aztec treasure to Carlos V.⁷⁶² Once the bureaucracy was involved, the *Casa de Contratación* gradually increased the requirements for defending the fleets or their routes, following a series of policy decisions answering to defence strategic issues. Early on, each ship was required to arm itself according to admiralty regulations. The rules were strengthened in 1526, adding more naval guns, gunners, and marines on board each ship. In 1537, the use of escort ships began: 24 years later all shipping was subject to convoys. Naval tactics dictated additional rules such as the position of each ship in the convoy, maintaining position in the formation, communication codes, and what to do when an enemy was sighted. The only factor not regulated was the volume of goods shipped.⁷⁶³

Further strategic changes evolved. The system of convoys under heavy escort was expensive, increasing the economic risk to merchants and Crown alike.⁷⁶⁴ In 1552 the king ordered the construction of a small fleet, initially commanded by Don Pedro Manrique, to protect the commerce along the Spanish coast. Other fleet escorts were organized, such as Captain Domingo Alonso's force built to protect convoys to the Canaries.⁷⁶⁵ These fleets, proved to be very efficient at deterring hostile fleets, though only if viewed as a whole. Pirates and foreign navies frequently infiltrated the convoys and captured individual ships. In part this was due to *fraude*, as the naval commanders loaded cargo to sell in the colonies, a

⁷⁶² Oviedo states the value of the stolen goods was 24,390 *pesos*. Cited by Germán Arciniegas, *Biografía del Caribe* (México: Editorial Porrúa, S.A., 1993), pp. 85-86.

⁷⁶³ On September 28, 1534, a royal Cédula was issued ordering all merchant ships to carry artillery, balls, powder, lances, darts, shotguns, arms and ammunition as seen necessary for the ship's defense. García-Baquero González, pp. 146-149; eighteen years later, on February 13, 1552, all ships sailing the Indies routes were required to sail in convoy: "que las naos que navegaren á las Indias vayan en flota." The *avería* fees charged to finance the fleet escorts added considerably to the cost of shipping goods with the convoys. Antúnes y Acevedo, pp. 83, 178.

⁷⁶⁴ Campomanes y Soriba, *Reflexiones*, p. 342.

⁷⁶⁵ *Ibid.*, pp. 83, 178.

practice that reduced the volume of armament and munitions on board, and also interfered with the movement of guns during combat operations. Armada commanders relied on merchant ships and the armament they were required to carry, despite ample evidence that such rules were not always obeyed.

Captains and admirals of the fleet who smuggled were to be properly punished, but loopholes were built into the laws. Any general officer, admiral, master pilot or master, for instance, could authorize the use of goods as ballast for a ship, if necessary, and thus could plead that this was not done to evade taxes or prosecution. In one case during the 1585 fleet, the *capitana* carried 519 *pipas* of wine, oil, and olives, claimed as ballast, ignoring the fact that 519 *pipas* weighed 430.5 tons, an excessive amount for a 600-ton ship, in addition to the rule that the *capitana* was prohibited from carrying cargo at all. In 1588, one ship carried a large quantity of iron bars, but was punished because of the tight control over iron required for military purposes.⁷⁶⁶

Inefficiency and poor leadership were to blame for the only successful effort to capture the fleet, the attack led by Dutch Admiral Piet Hein in 1628. One of Hein's boats, described in the Spanish account as an *urca* or carrack, infiltrated the fleet after leaving Habana, sailing for an entire day without discovery, sending signals to the Dutch fleet to approach and engage the Spanish ships. *Flota* commander General Juan de Benavides had been warned of Hein's presence, and should have ordered sufficient watch-standing procedures so as to notice an extra ship in his fleet.⁷⁶⁷ Benavidez paid for this lack of readiness with his life, executed in May of 1634 for dereliction of duty leading to the loss of a majority of the fleet and its treasure. That same year and not long after this powerful reminder of the need for adequate security procedures, a small merchant ship overtook the

⁷⁶⁶ The *capitana* was usually a 600-ton ship. Ibid., pp. 196, 201.

⁷⁶⁷ An *urca* was a pink-build, sloop-rigged boat, sometimes referred to in English as a hulk. Artífiano y de Galdácano, p. 85; Goslinga, pp. 184-190.

fleet's *Almiranta* in a maneuver signaling for protection from a French pirate sailing on the edge of the Spanish formation. According to the inspector's report, the *Almiranta* was so overloaded with illicit goods that it took the crew 12 hours to hoist the cannon up from the holds and open fire on the pirate. In other words, the *Almiranta*'s captain and crew had stowed the artillery in the hold and loaded the gun decks with cargo, two serious violations of security protocol.⁷⁶⁸ The incident ended when the French vessel evaded capture, but the fact that a flag officer felt confident enough to ignore the precedent of executing officers who failed to protect the Crown's treasure indicates the level of impunity and fraud undertaken by everyone involved in the business.

When goods arrived in the Indies, they were inspected to verify that no goods had been loaded after being sealed in Seville. The inspector had a copy of the ship manifest from the *Casa de Contratación*, and confiscated all goods not listed, though the owner could redeem his goods by paying the 7.5 per cent *almojarifazgo*. To ensure proper payment, Viceroy Mendoza on July 23, 1537 (and again on July 14, 1542), ordered the construction of a *Real Caja* in Veracruz.⁷⁶⁹ Ships carried duplicate manifests from other ships in the fleet, and the registry was compared frequently against originals or other duplicates, to catch falsification and "losses." A bounty was offered for turning in smugglers, often up to one third of the confiscated materials.⁷⁷⁰

Over time, the threat from piracy and privateers declined, but Spain's requirement to ship goods on annual fleets remained intact, as it provided the perfect means to monitor compliance with tax laws, or demand donativos to rease *fraude*. A measure of flexibility developed later through the *registro suelto*, a registry of ships allowed to sail outside the

⁷⁶⁸ Artíñano y de Galdácano, p. 85; Goslinga, *The Dutch*, pp. 184-190.

⁷⁶⁹ Mendoza's orders were confirmed by the king with an Ordenanza Real of 28 October 1572. Trens, p. 20.

⁷⁷⁰ Hamilton, *American Treasure*, pp. 20-21. The specific law offering bounties is cited in Antonio de León Pinelo, ed., *Recopilacion de las leyes destos Reynos* (Alcala de Henares: Iuan Iñiguez de Lequerica, Año. M.D.XCII, facsimile reprint, Ismael Sánchez Bella, ed., Mexico: Universidad Nacional Autónoma de México, 1992), libro 8 titulo 7 ley 1.

convoy system, though the overriding preoccupation was money: *suelto* licenses could be brought from the Crown. According to Chaunu, between 1504 and 1650 the *suelos* carried 14.95 percent of the legal commercial cargo to the Indies. The *suelto* process gradually became institutionalized, though restrictions were imposed, hoping to reduce merchants' ability to carry more than their authorized cargoes.⁷⁷¹

Trade Fairs. The *feria* system of trade was an outgrowth of the traditional trading system that convened merchants at a predetermined market. Spain combined this practice with the convoy system, making the logical decision to hold a trade fair at the point of arrival in the Indies. The lack of competition, however, altered the normal trade practices, eliminating the need to keep duties low, and changing the dynamic which had led to trade fairs. In other words, security led to imposing a bureaucratic monopoly. The exchange of goods and treasure now took place under strict surveillance to preclude foreign contact:

This is one of the fundamental ways to understand Spain's state monopoly of the Indies commerce ... the *flotas* and *galeones* were required to sail in disciplined convoys monitored by the State, departing in predetermined numbers with the prescribed tonnage, all under the Spanish banner, with inflexible departure and arrival dates set previously by the state.⁷⁷² Furthermore, the scheduling of *ferias* allowed competitors (foreign smugglers) ample warning. With this knowledge, they could – and did – arrive before the fleets or at the same time, in effect flooding the region with cheaper goods, in the process removing a high percentage of the available capital. The *Casa* merchants and the king's *hacienda* suffered accordingly.

⁷⁷¹ In 1642, ports authorized to receive *suelos* included Buenos Aires, Caracas, Campeche, Cumaná, Guaira, Habana, Honduras, Maracaibo, Margarita, Nueva Córdoba, Puerto Rico, Rio Hacha, Santo Domingo, Santa Marta, Tabasco, and Trinidad. García-Baquero González, p. 166.

⁷⁷² Castillero Calvo, p. 83.

Given the Crown's and the *Consulado*'s penchant for micro-managing the process, it is not surprising to find evidence of a large volume of illicit trade developing in every component of the system. The areas surrounding the *feria* towns often became secondary markets where foreign smugglers traded directly from their ships. In many cases Crown officials extorted a commission or percentage of the profits to ignore violations. Everyone, from factors of large merchant houses to small entrepreneurs, "street vendors, assorted ecclesiastical hierarchies, artisans, women and men of every stripe" participated in the illegal trade, often with the open complicity of the local authorities.⁷⁷³

Assiento Fraude. The *Assiento de Negros* became a major source of *fraude* right from the start. The Crown imposed a tax of 33 $\frac{1}{3}$ *pesos* on the importation of each slave, paid by the *Assiento* merchants at the sale of first instance. This cost, along with the price paid to obtain the contract and all transportation costs, were passed on to the consumers who bought the slaves. Such practices cut into the profits of all industrial and agricultural producers and led many colonists to buy slaves directly from ship captains or to evade the legal slave markets altogether by going directly to English, Portuguese or Dutch merchants in the Antilles and Brazil. The terms of the *Assiento* also meant that "whatever profits Spanish merchants might obtain from the trade [were] purely fortuitous" or required illicit activity.⁷⁷⁴ None of the *Assientos* between 1696 and 1739 were considered profitable to the companies or individuals who accepted them, but competition for the contract was fierce because the agencies, factories, and depots in the Indies were considered more valuable as an entry point

⁷⁷³ *Ibid.*, p. 89, 90.

⁷⁷⁴ AGN (Mexico) Reales Cédulas, Tomo I, fol. 273, in Gonzalo Aguirre Beltrán, "The Slave Trade in Mexico," *Hispanic American Historical Review*, 24 (1944): pp. 419-423.

for smuggling. The Spanish Crown knew this, and increased the volume of regulation and royalties, seeking thus to profit from it.⁷⁷⁵

Rational decision-making processes led to this confused outcome. Spain had negotiated the Treaty of Tordesillas to protect its new sphere of influence, in the process ceding to Portugal the routes to Africa long before slave labour was needed in the colonies. As a result, the Crown was forced to negotiate with Portuguese companies for this commodity. Campomanes argued that this trade should have been free of taxes, to foster productivity; the loss of income could be replaced by taxing something else: “even should the Crown substitute [the *Assiento* tax], the increase of our commerce in Spain and the Indies would produce such tax income to the Royal Coffers that in a short time it would find itself with a replacement [of the *Assiento* tax] and an excess besides.”⁷⁷⁶ But the tax on slaves remained in place, because the Council of the Indies had calculated that it made up for the *assientistas*’ smuggling.

The *Assiento de Negros* with Portugal was cancelled in 1640, though the damage had been done, and the high volume of illicit trade had become almost institutionalized by this time. The *Assiento* was assigned to Spanish merchants, but their behaviour proved worse than that of their predecessors, in that they hired all the Portuguese ship captains of the previous contract, and increased the volume of smuggling.⁷⁷⁷ The king ordered all these Portuguese ships confiscated, but soon found this counterproductive, because without them, Spanish *assientistas* had no access to the African ports. French *assientistas* proved no better.

⁷⁷⁵ Bromley noted that Spanish interference and regulations delayed the construction of Company warehouses and factories for over three years, making it difficult to deliver the required number of slaves on time. J.S. Bromley, *Corsairs and Navies, 1660-1760* (London: The Hambledon Press, 1987), p. 21. Sanitary inspections had been imposed in 1571, seeking to prevent diseases from entering the new world; anti-fraud rules followed shortly thereafter, so that “greater formalities were required at the disembarkation of Negroes as a means of preventing smuggling,” a part of the “formalities” being bribes to local officials. Aguirre Beltrán, pp. 412-3.

⁷⁷⁶ Campomanes y Soriba, *Reflexiones*, p. 81. Many tratadistas made this assertion, though none appears to have quantified it. Campomanes cited Humboldt’s calculation that a fourth of the Indies trade consisted of goods smuggled by English merchants.

⁷⁷⁷ Aguirre Beltrán, p. 423.

When the South Sea Company was given the *Assiento* in 1713, no one in England thought the contract would be profitable, and the English government appears to have been prepared for Spain's effort to interfere in the business. But the volume of illicit goods carried on the company's ships overwhelmed even those high expectations. Regulations required that larger ships carry four slaves per every five tons of goods, and smaller ships carry two slaves per two tons, all properly inspected and documented, showing that such goods fed and clothed the slaves prior to their sale. Burnett's espionage reports to Spain alleged that every packet boat sailor carried 4000-6000 *pesos*' worth of goods, either on their own account (belonging to the crew) or for "some Jamaican Jew," over and above the high volume of goods carried off register by the Company itself. Collusion with Spanish officials was such that only one packet boat was searched in the three years Burnett served as the Company's factor in Cartagena. Spain revoked the right to sub-contract, in reaction to the knowledge that England controlled one-third of the contraband trade in the Indies.⁷⁷⁸ It made no difference to the volume of contraband.

More Bribery. The connivance of Spanish officials in the illegal commerce was a great impediment to Spain's anti-smuggling efforts. Most officials sought to gain a fortune as quickly as possible, hoping to return to a life of luxury in Spain, an ambition that made them amenable and susceptible to fraud.⁷⁷⁹ According to Jorge Juan,

What is most understood in this regard is that neither honour, conscience, or the recognition of being supported and enjoying increased salaries from the sovereign, serves as a stimulant in those countries to watch out for their own obligation. And thus the king pays the salaries of those who usurp his [fiscal] rights and undermine his royal treasury.⁷⁸⁰

⁷⁷⁸ Brown quotes Burnett and Plowes' testimony to Spain, in A.G.S., Estado 2370. Vera Lee Brown, "Contraband Trade: A Factor in the Decline of Spain's Empire in America," *Hispanic American Historical Review*, 8 (#2, May 1922): 180-1.

⁷⁷⁹ Feliciano Ramos, *Contrabando inglés*, p. 11.

⁷⁸⁰ Juan y Santacilia and Ulloa de la Torre-Giral, p. 220.

Jorge Juan suggested reducing the high profit to doing business illegally, because the colonists did not seek to hurt their king on purpose, and if the profit motive were not there, “then to do so would be to create damage without the expectation of gain,” something that increases the risk of discovery and catastrophic damages.⁷⁸¹ His analysis was correct, but was ignored, as it countered the mercantilistic policies of the Crown.

Many royal officials avoided directly defrauding the king, but still subverted his income by accepting bribes to ignore smuggling, which some judges considered a crime as bad as *fraude*. One blatant example was that of Guillermo Eon, a Spanish director of the South Sea Company in London. He had been sent from Madrid to monitor compliance with the details of the company’s treaty, and had apparently received, shortly after his arrival, a “gift” of 2000 *pesos* with a promise of an annuity of 600 *pesos*. His superiors in Madrid suspected his susceptibility to such a bribe, and in 1723 ordered the ambassador to inspect Eon's books for evidence, though it is doubtful he would keep such in any Company accounting ledger.⁷⁸² Another report from the same time provides a fascinating look at the methods employed by Company factors to guarantee favourable treatment:

It is the style of all ships arriving into Indies ports to offer gifts from Spain to the Governor, Crown Officers, the Castle commander, registry and militia scribes, and, in Caracas, the Bishop, and to provide detail I’ll mention that each Crown Officer and Castle commander received a trunk of wine and one of vinegar, six bottles of oil, two bottles of olives, two containers of capers, one with raisins and one with almonds, two containers of salmon, two of tuna, and six of cod if available; if the Castle commander does not receive that much it does not matter; the Governor receives the same plus a bottle of brandy or Mistela [a drink made of wine, water, sugar, and cinnamon]; the registry and militia Scribes receive half what is offered to a Crown Officer, and the Bishop receives what the factor thinks proper; this is given as if by division of prizes, and is now considered an obligation.⁷⁸³

⁷⁸¹ Ibid.

⁷⁸² María Dolores Gómez Molleda, "El contrabando inglés en América: correspondencia inédita de la factoría de Buenos Aires," *Hispania*, 10 (#39, 1950): 249.

⁷⁸³ Pedro J. de Olavarría, 1728, A.P.G. 2-22/72(2-11), in Aizpurúa, “El contrabando en la provincia de Venezuela en tiempos de la Compañía Guipuzcoana 1730-1788,” *Revista/Review Interamericana* (Puerto Rico), 14 (#1-4, 1984): 58.

A packet of documents provided by Matthew Plowes to Spanish officials in 1741 included correspondence detailing methods of paying bribes. At one point the Viceroy of Nueva España had delayed filing complaints against the ship *Prince Frederick* until after it had sailed, in exchange for “a sword garnished with diamonds and a very exquisite musical clock.” The captain of the *Royal George* spent 118,000 *pesos* bribing officials in Portobelo to secure safe passage for his off-register goods. One letter from the factor in Panamá reported that compliance with the Governor’s demands had cost 6000 *pesos*, the *fiscal* another 1500, and two other officials 1000 each, in addition to 2400 *pesos* for a ring requested by the General.⁷⁸⁴ While bribery was not considered *fraude*, it led to defrauding the king’s income. The sale of offices made it difficult to differentiate between bribes and legitimate gifts, however, and the practice continued. The Crown’s constant solution was a search for *un hombre honesto*, though there is little evidence one was ever found.

Law Enforcement. Spain’s anti-smuggling strategy consisted of using as many tactics as possible to stop the flow of treasure out of the empire, at the lowest cost possible when resources and forces were available. Military might, police force (government and privatized), threats of confiscation, death penalty, increased bureaucratic regulation, closing areas from settlement, amnesties, managed production efforts, the continuous search for *un hombre honrado y de confianza*, all failed because of the lax attitude fostered by the Crown itself toward law enforcement. Efforts to enforce the Crown’s monopoly on ownership over the Indies began with Pope Alexander VI’s *Bulas* in 1493, but were also undermined by the grants and licenses issued to individuals in an effort to reduce the financial burden of empire to the Real Hacienda. The earliest examples of smuggling were by Spanish merchants

⁷⁸⁴ Brown quotes AGS, Estado, 2370, “Paz to Barrenechea, Nov. 14, 1728.” Brown, “The South Sea Company,” p. 665.

attempting to take goods either already regulated or for which no rules existed, 20 years before the presence of foreigners.⁷⁸⁵ By then the first fiscal bureaucrats had been detailed to the region to inspect the tax records in Santo Domingo and ensure all was in order and no fraud was taking place.

The death penalty was required for anyone caught smuggling noble metals, and commercial goods were usually confiscated as part of any lesser sentence. The usual fine for smuggling tobacco was twice the price of what was confiscated. Ordinary smugglers were sentenced to service in the navy or merchant marine, which meant they became galley slaves or hard labour on board the king's ships for up to a decade.⁷⁸⁶ Feliciano Ramos states that this sentence was considered harsher than prison, though its use acknowledged their value to the navy as skilled labour. Sailors fared well in such cases, as their skills were needed on Spanish ships. Men of high rank were exempt from physical labour, and usually were removed from office for a period of time, were exiled from the Indies, and lost the privilege of trading in the Indies. After deducting court costs, the balance of any confiscated prize was equally divided among the *delator* (informant), judges, and Real Hacienda.⁷⁸⁷ Preventive efforts included the public reading of laws and penalties, and a heavy dose of moral suasion from priests preaching the evils of smuggling, and decrying the presence of foreigners. Occasional *indultos*, many of them for individuals offering to pay for this freedom, overrode the justice system, though often this answered to specific local requirements.

Judges used whatever legal instrument was available to achieve a conviction. The case of Simón de Herrera in 1604 demonstrates this. He was executed in Santo Domingo for selling a ship christened *La Pava* to foreigners and for having obtained a safe passage from

⁷⁸⁵ Hussey, p. 286; Means, p. 55.

⁷⁸⁶ Hamilton, "Imports," p. 448; Hamilton cites Veitía Linaje, p. 196, on the legal punishments to be imposed on smugglers.

⁷⁸⁷ Serving in the navy was considered a harsher sentence than jail time, though it is more likely their expertise as sailors was considered more useful than paying for their upkeep in prisons. Feliciano Ramos, *Contrabando inglés*, pp. 224-250.

Count Maurice of Nassau and the Queen of England.⁷⁸⁸ It is unclear from the record if Herrera was punished for treason, violations of commercial law or heresy; most likely all these charges were brought, and the prosecutors sought whichever process worked best and most efficiently. A similar situation took place the following year, when Felipe III issued the *Real Cédula* of July, 1605, ordering all his viceroys to execute justice to all captured smugglers and foreigners without delay or appeal, using existing Castilian law for deciding penalties. Governor Sancho de Alquiza in Venezuela followed those orders and severely curtailed Dutch smuggling in his colony. However, this also cut off Venezuela's source of textiles and eliminated the principal means of exporting the colony's products, and the medicine proved worse than the disease.⁷⁸⁹

Law enforcement was expected to work hand-in-hand with the regulatory impositions: The royal assay offices were required to submit to the Crown annual reports on the sums collected from the quint and fees for smelting, assaying, and marking. Colonial officials also reported to the House of Trade the number, weight, and fineness of each piece of gold and silver sent to the Crown, as well as the number of people and the amount of gold, silver, and merchandise on every ship returning from Spain.

The evidence suggests that a concerted effort to stop smuggling through law enforcement could succeed, at least temporarily, though it usually led to worse economic conditions for the target area. Governor and Captain-General of Caracas Francisco de Cañas (1711-1714) imposed a rigid regime against illicit commerce, and reduced it on a grand scale by prosecuting, imprisoning, and persecuting those implicated. He publicly hanged two Spanish merchants and eleven mule drivers, and arbitrarily imprisoned anyone who opposed his methods. Cañas effectively paralysed commerce throughout Caracas and rapidly impoverished the colony, though legal exports doubled in volume. He produced the results

⁷⁸⁸ Sluiter, p. 174.

⁷⁸⁹ Goslinga, p. 64.

sought by the Crown, but the project backfired because of its brutal tactics.⁷⁹⁰ However, Cañas reported to the king that these efforts would come to nought if an annual *registro* were not sent to provide a legitimate venue for commerce. Arbitrary violence and cruelty elicited public discontent and excited rumours of a rebellion from all levels of society, including several revolts allegedly led by Capuchin and Augustine priests; Dutch merchants in Curaçao openly called on the Venezuelans to kill Cañas, even threatening to invade and do the job for them. In the end, he was arrested and convicted for overstepping his authority.⁷⁹¹

In 1763 the governor of Habana pardoned all smugglers selling slaves, in an effort to fill the chronic labour shortages on the island. Individuals could be put to death, incarcerated, sent to the galleys, banished, and suffer confiscation of their goods and wealth, all depending on the severity of the crime and the individual's social status.

The entire legal structure of government was undermined by many of the laws created to deal with what were supposed to be occasional situations, exceptions created for leniency or expediency, issuing pardons or amnesties to those admitting to smuggling, though none were required to undergo penance or give their parole, which simply encouraged more smuggling. Legal reform was occasionally enacted, but it usually reacted to excessive situations and was in due course quietly dropped. An example is the statement issued by Felipe III on October 10, 1618, that he would offer no more amnesties for any reason, as these undermined his authority. He later relented in exchange for ready cash, and pardoned more smugglers in exchange for the usual fine and payment of duties.⁷⁹²

That flexibility was also reflected at the local level, because most colonists benefitted from the illicit trade. Governor Pedro Fidalgo of Maracaibo reported that efforts to send

⁷⁹⁰ During 1709-1711 shipments of cacao to New Spain totaled 31,598 *fanegas*, and increased to 60,555 *fanegas* during 1711-1713. A.G.I., Santo Domingo, 696, "Carta de Cañas al Rey, Caracas, 24-IX-1712"

⁷⁹¹ Ibid.; A.G.I., Santo Domingo, 696, "Carta del Governador y Capitán Don Francisco de Cañas al Rey, Caracas, 11-VI-1713," in Borges, "El Inicio," p. 29.

⁷⁹² Hamilton, *American Treasure*, pp. 22-3.

troops against foreigners failed because the troops were all local and their families hindered all efforts to interfere with their income. Blas de Lezo in Cartagena de Indias reported a network of intelligence operating against him – all his operations failed because smugglers knew of his interdiction efforts well in advance. Lezo used undercover agents to seek out law-breakers, but they were quickly suborned.⁷⁹³

Customs officials in Cartagena armed ships to combat smugglers, but these appropriately named *armadillas* were too small to succeed.⁷⁹⁴ Occasionally a conscientious official varied the strategy, hoping to achieve better results. In 1732, Bartolomé Tienda y Cuerdo, *Intendente de Guardias* in Cartagena de Indias, proposed placing armed reconnaissance posts along the coastline, with soldiers, horses, and small boats to contact headquarters in Cartagena should they need reinforcements, a plan remarkably similar to that of Antonelli some 175 years earlier. At the very least, this would reduce dependence on the two expensive naval platforms that were too large to chase smugglers. This change from ship to shore indicates Tienda y Cuerdo's dissatisfaction with the navy's effectiveness in operating as a coast guard force. The plan was apparently implemented for a time, though it is doubtful these land-based forces had any more success than did the coast guard – complaints about foreigner impunity continued.⁷⁹⁵

Depopulation. Extreme efforts had led to similar results on Hispaniola in 1604, when all the inhabitants along the north coast and interior were forcibly relocated to the southern coastal areas. Colonists in the affected area had been forced to transport their goods overland to the southern port of Santo Domingo, only to be told that they had to sell at prices lower than their costs. Gutiérrez Escudero wrote that “it should not surprise us, then, that such

⁷⁹³ Sanders, p. 76.

⁷⁹⁴ Sanders, p. 61.

⁷⁹⁵ A.G.I., Santafé, leg. 1094, “Tienda y Cuerdo a Patiño,” 15 julio 1731, in Sanders, pp. 62, 63.

cities [Santo Domingo] were among the first to participate in the illicit trade. Pretenders [smugglers] were not lacking.”⁷⁹⁶

The Crown’s reaction was swift and ruthless: Monte Christi, Bajája, Puerto de Plata, and La Yaguana were ordered destroyed by a Real Cédula in 1605 as a means to stop the entry of illicit goods. This began a cycle of repression that reduced the island’s ports to one and further entrenched dependence on foreigners. Faced with bankruptcy and starvation, many colonists left, further reducing the demands for goods and leading to fewer fleet arrivals and higher prices. The economy was devastated by the evacuation, but the smugglers never left.⁷⁹⁷ On August 24, 1604, the *Cabildo de Santo Domingo* sought to delay the evacuation order by explaining the smuggling:

It was the failure of the home government to provide adequate shipping service and of the monopolistic merchants of Seville to supply sufficient goods at reasonable prices, they said, that had forced those living away from the city of Santo Domingo to engage in smuggling, and until that situation was corrected the nefarious practice would surely continue.⁷⁹⁸

One or two small ships per year were insufficient to satisfy the colonists’ needs, but abandoning the area left it completely open to foreigner settlers. The colonists’ plea was ignored, and by 1605 most inhabitants had fled to the interior or were evacuated to Cuba, ironically on board Dutch ships. According to Sluiter, this action left the western half of the island virtually abandoned, “and thus set up the conditions for the thriving of the buccaneers, the entry of the French settler and flag, and ultimately for the emergence of the linguistically and culturally divergent Black Republic of Haiti.”⁷⁹⁹

⁷⁹⁶ The trade involved Dominican *corambre* and silver, in exchange for all types of cloth (silk, taffeta, bretaña, wool, etc.), hats, playing cards, sail cloth (canvas), combs, knives, and foodstuffs. Antonio Gutiérrez Escudero, “Contrabando en el Caribe: Comercio ilícito entre franceses y españoles en Santos Domingo,” *Estudios de Historia Social y Economía de América*, 1 (1985): 72-73.

⁷⁹⁷ A.G.I., Indiferente General, 1867, “Junta de Guerra de Indias to the king, Valladolid, 11 January 1603,” in Sluiter, pp. 185.

⁷⁹⁸ *Ibid.*, p. 187.

⁷⁹⁹ *Ibid.*, pp. 187-188.

Depopulation was also tried in the Chocó region of Nueva Granada, where the authorities closed the Atrato River to all traffic. The law, issued on October 20, 1689, sought to prevent foreign incursions into the gold-producing areas by removing their customers. However, because foreigners were already barred from the area, the law only affected Spanish merchants, and their absence meant the miners had few options for replacing iron tools, purchasing inexpensive clothes or food for their slave *cuadrillas*, or selling their gold. The penalty of death and confiscation proved a useless deterrent, given the isolation from government authority:

In this border region an intense economic activity developed, based on smuggling. The relative geographic isolation of the region, which facilitated clandestine contact with people of foreign powers, the Spaniards' need for replenishment, and the quest for gold by government officials, miners, and even Franciscan missionaries created the proper conditions for a successful contraband business.⁸⁰⁰

The price of goods during this era of prohibition rose to high levels: legal slaves were transported overland, a trip that could take several months and increase the cost of feeding and clothing them.⁸⁰¹ Illicit purchasing of slaves obviously took place, though in insufficient volume to keep prices down, possibly related to the elevated risk of shipping into a region so proximate to the Cartagena and Portobelo defensive nodes. Once past the outer ring of Spanish defences, however, smugglers sailed up the Atrato with impunity, knowing there were no government forces in the area. The high value and profitability of the region's principal product – gold – made it worth the trouble, and when the river was again open to navigation in 1784, the price of legal imports dropped by half.⁸⁰² But by then, foreigners

⁸⁰⁰ Erik Werner Cantor, *Ni aniquilados, ni vencidos. Los Emberá y la gente negra del Atrato bajo el dominio español. Siglo XVIII*, (Bogotá: Instituto Colombiano de Antropología e Historia, 2000), pp. 85, 86.

⁸⁰¹ Interestingly, Sharp noted that the cost of transporting slaves was listed by weight, not by *pieça*, perhaps indicating they were transported on boats rather than overland. Sharp, "Profitability," pp. 471-472.

⁸⁰² Antonino Olano y Olave, *Popayán en la colonia: bosquejo histórico de la gobernación y de la ciudad de Popayán en los siglos xvii y xviii* (Popayán: 1910), p. 143, in Sharp, "Profitability," pp. 471-472.

were firmly entrenched as the principal suppliers, making it difficult for legal merchants to gain access to the markets and production lines in so volatile a market.

The high volume of smuggling on the Atrato river cost the Crown more than just tax income. Royal officials participating in the illegal traffic made it difficult for legal merchants to enter the region profitably. Soon after assuming office, Chocó governor Francisco Ibero, assigned specifically to stop smuggling, was accused of negotiating with Dutch merchants to fill a warehouse with goods he later marketed as legal. Ibero had pardoned one Juan Rodríguez from a death sentence, and then became his partner, capitalizing on his knowledge and connections to arrange the transfer of goods between Dutch ship captains to Ibero's stores in Quibdó and along the Baveramá and Negua rivers. According to one witness, each shipment sold for about 25,000 *pesos* in gold, and required the use of two or three *piraguas* crewed by 25 men.

To increase the penalty for smuggling gold or silver, a *Real Cédula* was issued on December 30, 1640, by Fernando Ruiz de Contreras, stating that any witness over 14 years of age could provide legal testimony in court, and *fueros* could not be used to allow members to evade the law. A second *Cédula* of November 4, 1661, by Juan de Subiza added that the word of a minister, persons of note, given to a judge was proof enough to condemn smugglers to the galleys.⁸⁰³

In another series of cases, Franciscan priests were accused of using *piraguas* in 1715 to sell clothes and other goods from Cartagena in the Atrato region. A local priest bribed a royal official sent to stop the excesses, offering “a black woman, a gold thread coverall, a fine beaver hat, and Chinese porcelain.”⁸⁰⁴ One logical conclusion from this example is that, just as the goods and slaves required to keep the mines open came in illicitly, and gold also left

⁸⁰³ Veitía Linaje, p. 195.

⁸⁰⁴ *Cuadrillas* were work gangs, usually 40 slaves. Werner Cantor, *Aniquilados*, pp. 86-88.

the region surreptitiously. How much is unknown, because only the Spanish king had an interest in knowing the figure; everyone else sought to obfuscate their participation, and if caught, to minimize the impact of their illicit activity.

In both of these regions (Hispaniola and the Chocó) the effort to eradicate smuggling by depopulating the access routes led to disastrous results for the Crown. Royal officials firmly believed that the king's laws would modify human behaviour and thus avoid the problem. They were proved wrong even as the laws were being promulgated, as foreigners ignored the law and even took advantage of the absence of Spanish forces. The "liberal fiction" described by Terradas cost the Crown a high level of income, all lost to smugglers.

Monopoly Options. One of Spain's efforts to end smuggling involved monopolies over specific products, on the theory that these enhanced efficiency and eliminated the need for illicit trade. This option also answered to the mercantilistic practice of attempting to coordinate national commercial production and distribution. For instance, the Crown dictated that all cultivation of cacao be granted to colonists in Caracas, excepting only specific monasteries, convents, and Indian communities in Guatemala and New Spain, given the privilege in lieu of grants or subsidies. However, monopolies usually caused difficulties detrimental to the colonists' and the Crown's interests. The *Compañía Guipuzcoana de Caracas*'s ownership of the cacao business created problems for Guatemala because its high consumption of chocolate led to continual shortages and high prices. Palma Murga states that smuggling of cacao from Venezuela began shortly after the *Compañía* arrived, but in reality, it had never stopped.⁸⁰⁵ Guayaquil merchants exported cacao to Acapulco, distorting the markets by flooding New Spain with cacao but leaving lesser colonies such as Guatemala

⁸⁰⁵ Gustavo Palma Murga, "El reino de Guatemala y sus vinculaciones económico-comerciales externas durante la época colonial," in Yuste, *Comercio*, pp. 47, 48.

underserved. In 1680, more than 6,000 *fanegas* of cacao were smuggled into Guatemala from Caracas and Guayaquil, making it difficult for the legal producers to sell at a profit.

Anti-smuggling programs such as this one were developed without consideration of cost and benefit analysis, which led to serious and expensive repercussions, as illustrated in 1730 when the Spanish coast guard frigate *San Sebastián*, licensed by the *Compañía Guipuzcoana*, captured a small fleet of Dutch ships near Puerto del Carnero de Capara. Twenty-four Dutch sailors were captured, including several ship captains; all were sentenced to four years of hard labour on board a navy carrack, but were first imprisoned in Cádiz. Their ships and goods were declared prizes, and divided as required by the *Compañía's* rules. In an apparently unique case where bureaucratic paperwork failed the empire, nine years later F. Van den Steen, Ambassador of the States General to Cádiz, wrote to the head of the guard at Castillo de San Sebastian about the fate of five Dutch sailors who he believed had served their sentence and were still in prison five years later. Their original sentence, issued in Caracas, stipulated that they were to serve on board a Spanish navy carrack or as galley slaves attached to a *presidio* in Africa. The prisoners had appealed to their ambassador for help, requesting they be allowed to serve their sentences properly, instead of dying in prison of cold and hunger. The letter made its way up the chain of command, all the way to the *Consejo de Indias*. After some deliberation and investigation, Francisco de Varas y Valdes authored the *Consejo's* decision in April, 1739, setting the five men free under Van den Steen's parole, together with two other prisoners from the same original sentence, on condition they not return to the Indies. There was no mention of the distribution of the prizes, though the original report indicated that the prisoners had sought to trade brandy and clothes for cacao and silver.

It is doubtful the volume or value of the confiscated goods and ships approached Spanish expenditures in time, effort, and resources spent on maintaining the prisoners for

nine years or on producing the 28 documents circulated among the members of the *Consejo de Indias* and the *Casa de Contratación* during the investigation and adjudication of the case. According to the rules of the *Compañía Guipuzcoana*, the king would have received one third of the value of the prizes.⁸⁰⁶ Most of Spain's efforts to eradicate smuggling in the Indies followed a similar pattern, ignoring the actual cost of implementing them, especially in relation to any benefit accrued to the empire from the anti-smuggling laws and operations.

Conclusions

Spain developed multiple tactics in its effort to interdict the smugglers. One of the earliest was the use of convoys to escort merchant ships to the Indies and back; by the 18th century, this method gave way to the use of individual ships (*suelos*). This answered to the original threat posed by pirates; but the smugglers adapted and found ways to infiltrate the ships while in port, using them to carry their goods. Legal means were sought, imposing heavy penalties on both smugglers and consumers; bribery developed to bypass such laws.

Secular and ecclesiastical administrative controls were developed specifically to improve "the strict and full observance of existing statutes." Such controls sought to provide incentives for foreigners to leave the region, and intimidate the colonists into compliance through a combination of penalties – capital and corporate – and the confiscation of goods.

Laws re-issued regularly stated that:

Without dissimulation, dispensation, or appeal to us [the King], and without awaiting new orders, execute justice on all corsairs and pirates who may be captured on the seas and coasts and in the ports of the provinces beyond the

⁸⁰⁶ Of the original 24 prisoners, 8 had escaped and two had died shortly after capture; the ambassador's letter mentioned Juan Vanhouston, Phelipe Enriquez, Guillermo Gomez, Marcos Jacobo, and Juan Esteban, and apparently the Consejo found two more unnamed sailors. A.G.I., Indiferente General, 1829, 1736-1739, "Espediente sobre prisión de Olandeses, y penas que se deberá imponer á los extranjeros ilicito comercio: año de 1736 ál 1739"; "Carta de F. Van den Steen, embajador de Olanda, 12 febrero de 1739"; "Martín de Landizaval al rey, Caracas, en 20 julio 1730."

Canary Islands, and that they impose the penalties established by the laws and statutes of these kingdoms of Castile.⁸⁰⁷

But the very fact of the regular re-issue of such laws attests to their inefficacy. Few royal officials abided by them, and most colonists followed their leaders' example. There proved to be no "hombre honesto."

Occasionally an anti-smuggling tactic rose to the level of strategy, but only at the local level, and temporarily. The concentration of law enforcement, militia, and naval forces proved sufficient to stop the illicit trade, at least once in Panama and once in Venezuela. But the inflexible nature of the legal commercial system proved it incapable of taking advantage of both instances. As a result, when the smuggling stopped, so did all flow of goods, and penury resulted. In both cases, smugglers came to the rescue, and provided the goods necessary for survival.

The Crown never recognized that its own policies, designed to extract tax revenue, control trade, and pursue the empire's strategic objectives, were the problem. Given this, it was impossible to expect any anti-smuggling strategy or tactic to succeed. In the end, accommodation was reached with most of the interlopers (Spanish and foreign alike), allowing goods to enter the Indies, in exchange for sufficient ready cash as needed at the moment.

⁸⁰⁷ *Recopilación*, II, folio 56, in Sluiter, p. 192.

Chapter VI

Smuggling Trumps Grand Strategy

In hindsight, it is easy to see the how and why of smuggling in the Spanish Indies. The analysis of smuggling provided in the introduction to this work spells out the multiple forces involved in the decision to violate the rules and buy or sell outside the legal norm. Among these are the mix of government regulation, high tax levels, insufficient supply of goods through legal venues, distance from the absolute ruler, and the easy, cheap options available locally. Given this mix, it is amazing that any legal commerce took place at all.

Spain's monarchs developed a list of objectives to define their rule. This grand strategy designated what resources were dedicated to each objective, but did not include the use of economic forces required to develop the finances to achieve those objectives. Instead, the Hapsburg monarchs built the empire's economic policies on a confusing mix of practices they knew and understood, regardless of their applicability to the rapidly-changing commercial environment brought about by the phenomenal expansion of the empire. Further, all grand strategy was designed for the Spanish homeland. The colonies existed primarily to support the metropolis.

Commerce was part of the Spanish state's arsenal in its quest for monopoly over the New World's production and consumption of goods: "This is a conflict to dominate a global system of production and distribution in which there are no *rationalities*, but rather different *forces*."⁸⁰⁸ Spain used its full gamut of forces to impose a claimed monopoly over its

⁸⁰⁸ Terradas, p. 44.

colonies: punitive legislation, economic incentives and improved infrastructure in specified areas, abandonment in others; diplomatic action and defence where necessary. Defensive efforts included fortifications, armed militias, vigilance, coast guard action, corsairs, and naval forces. But these efforts produced a balloon effect, where pressure on one point produced a bulge elsewhere – smuggling increased after every effort to stop or undermine it, as smugglers and their clients adapted and established new routes and tactics. But Spanish policymakers never developed the one solution that could end the illicit trade; they never adequately supplied the colonies with sufficient goods at prices comfortable enough so that no one needed to seek alternatives.

Spanish monarchs assumed the divine nature of their mandate meant that might made right, and that laws could be used to alter reality in their favour. Their subjects would respect this and acquiesce to their wishes, accepting the bureaucratic structures that benefitted the Crown, regardless of the impact on themselves. Such regulation was considered normal at the time, though it came with a price, as Williams noted:

To the men of the sixteenth century all this seemed perfectly natural. They cheerfully submitted to inquisitorial tyrannies which would be revolting to moderns with their hypersensitive ideas of personal liberty. There was no demand for real freedom of trade (in the non-fiscal sense), and no realization of the enormous waste caused by the existing system.⁸⁰⁹

Emphasis was placed on developing logical laws and increasing emphasis on the process, that is, the bureaucratic flow of money, managed by wise and honest rulers. On the other hand, despite Williams' analysis, disobedience of commercial laws indicates that, while cheerfully submitting to the Crown's authority, the citizenry just as cheerfully ignored the bureaucratic regulation over commerce.

⁸⁰⁹ James N. Williams, *Maritime Enterprise, 1485-1558* (Oxford: Clarendon Press, 1913), p. 136. This analysis is accurate for most of Europe with the notable exception of the Dutch.

Legal tradition supported these assumptions. Furthermore, the monarchs apparently also assumed that political and military hegemony would easily translate into economic and commercial hegemony. Even worse, they sought to extend these assumptions to the behaviour of foreigners. Those assumptions became the basis for their grand strategy, from which emanated all anti-smuggling policy, strategy, and tactics. While it may be relatively simple to entice subjects to respect political and military might, commercial behaviour is more difficult to force on any society, in part because few individuals willingly give up their personal ambition. The result for the Spanish Crown was that, while its subjects willingly gave their monarchs political, religious, and territorial loyalty, few felt the need to surrender their natural right to economic independence.

The control over trade between the metropolis and colonies was so low that the Hapsburg Crown colluded with its colonial subjects, so long as they remained loyal on the principal issues of grand strategy. The misunderstanding of the limits of power created a contradiction in the modern absolutist state.⁸¹⁰ Government control over productive activity was thought to be the most efficient way to run an economy, because any scheme that allowed decentralisation would negate the absolute nature of the monarchy. This basic contradiction between the strength of the absolute state and the economic development it did not to foster was resolved through illicit commerce.

Spain's economic decadence after the XVII century should not be interpreted as the result of a specific policy that impeded the development of a capitalist economy, but rather as a result of the inherent contradictions between the development of economic policy, low levels of productivity, and the minute regulations imposed on commerce. So-called "safe" policies such as monopolies and protectionism joined forces with massive levels of economic disloyalty in the form of tax evasion and smuggling. Other states resolved the contradiction

⁸¹⁰ Suáres, p. 498.

in different ways: England imposed the Navigation Acts after its military successes had strengthened the state's enforcement capabilities. The Netherlands adhered to an economic policy that would be considered libertarian today, allowing its subjects to trade anywhere, anytime, even with Spain during the war of independence, based on the theory that their income financed the war effort. The fundamental objective was to allow Dutch subjects to earn an income by whatever means they wished in exchange for voluntary political loyalty. The results were as might be expected: a Dutch economic hegemony that at one point encircled the globe. Spain was unable to impose an effective political economy, because it overextended its ability to enforce laws.⁸¹¹ When the Crown sought commercial order through delegated authority, its effort produced the opposite: nobody obeyed the laws, and if goods were unavailable through legal means, they were obtained illegally, with no thought or conscience.⁸¹²

The dynastic change of the XVIII century did not lessen the protectionist or mercantilist mentality, as the Bourbon monarchs sought to reform the existing system primarily by increasing its efficiency. Ministers such as Campomanes, Jovellanos, and Olavide consented to a few liberalizing fiscal and monopolistic projects, but not many.⁸¹³ The tradition of seeking to forcefully impose a state definition of price and value proved too attractive to overcome, but at the same time as elusive as ever in actual practice. In reality, the Crown understood the need for flexibility, and relied on a constant contact with its subjects, seeking specific objectives while developing policies designed to achieve them.⁸¹⁴

⁸¹¹ Terradas, p. 55.

⁸¹² Adám Szaszdi de Nagy, "El comercio ilícito en la Provincia de Honduras," *Revista de Indias*, 68 (#17, 1957): 271.

⁸¹³ Terradas, p. 59.

⁸¹⁴ Torres Sánchez, Rafael. *Constructing a Fiscal-Military State in Eighteenth-Century Spain*, translated by Dave Langlois (England: Palgrave Macmillan, 2015), pp. 5-7.

According to Terradas, from a strictly utilitarian viewpoint smuggling appears whenever states seek to protect commerce or treat it as a centralized and generalized state asset. When commerce can only be conducted as directed by the state, an artificial environment is created and kept alive only by the presence of a strong and centralized enforcement system. Any gaps in enforcement allows smuggling to creep into the system. England and France defied the latter's policies by allowing their subjects free reign to trade in the Indies, where merchants, corsairs, pirates, smugglers, and privateers from all over Europe arrayed their forces against the Spanish commercial regime.⁸¹⁵ Political and territorial hegemony took over three centuries to erode, and religious allegiance took even longer to dim, but Spain never even came close to imposing the commercial and economic sovereignty it sought to impose as early as 1492:

... in this sense, it can be said that in Spain an apparent paradox resulted: state absolutism required (within the range of moderate absolutism) a protectionist commercial policy, while the interests of its real, absolutist, and moderate establishment benefitted from smuggling and free trade in general.⁸¹⁶

Royal officials fully understood the process through which *fraude* was committed, but too often negotiated penalties with the perpetrators, balancing how much ready cash could be obtained instead of losing it all to direct smuggling. This made it almost impossible for merchants to earn profits legally. Corruption permeated the government, and siphoned commercial activity away from Spain.⁸¹⁷ Smuggling increased and expanded in the Indies, as did illegal trade with the Orient, though tax income dropped precipitously – which meant more people kept more of their money away from the government.

⁸¹⁵ Ibid., p. 63.

⁸¹⁶ Ibid., pp. 77, 78.

⁸¹⁷ A.G.I., Escribanía de Camara, 451 B, fol. 1, page 54, and fol. 2, page 137., dated September and December 1579, respectively; A.G.I., Audiencia de Panamá, 17, “López de Cañizares al rey, 6 julio 1622.” Vila Vilar, “Ferias de Portobelo,” p. 302, 303.

According to most economic histories of the Spanish empire, the beginning of the XVII century saw the best income from the Indies for the Spanish Crown. Studies like that of Chaunu, however, show a *decline* in Atlantic commerce, mining production, and agricultural exports from the Indies. In reality, this decrease indicates primarily a drop only in the commerce controlled by the *Casa de Contratación*, though much of it included so high a level of fraud that the statistics are further skewed.⁸¹⁸ The problem, then, is choosing which analysis or set of records to accept as valid, or to conclude that none are reliable. The answer lies in putting such statistics in context, analyzing the trade practices of the time, the place, and the method of carrying out the widespread fraud. What question is asked of the data is critical in this regard. Studies like those of Chaunu use the evidence available in Spanish archival lists of declared trade – official records rendered false by the high volume of smuggling and off-register shipping conducted on the *Carrera de Indias* fleets. Such records do not contain reliable data on the total trade between the Indies and non-Spanish Europe, and thus provide incomplete answers regarding overall trade patterns. Vila Vilar, who compared tax and commerce tables, notes that during the period she studied “it [fraud] appears to have overflowed all previous limits.”⁸¹⁹ Analysis of court cases against captured smugglers provides evidence contradicting the presence of a depressed economy in the Indies, but does support the idea of a lower level of commercial activity between the Indies and Spain.

Many historians write about the flow of treasure from the Indies, though an examination of the data indicates that contraband provided most of the region’s wealth.⁸²⁰ Income to the metropolis declined, but colonists’ wealth increased. Statistics show a drop in value and volume of goods on the *flotas*, though increases appeared elsewhere, as many

⁸¹⁸ Jorge Gelman and Carlos Malamud, “La economía colonial americana en los siglos XVII y XVIII. La consolidación en las elites locales,” *Rábida*, 11 (1992): 52.

⁸¹⁹ Vila Vilar, “Ferias de Portobelo,” p. 292.

⁸²⁰ Zahedieh, “The Merchants,” pp. 570-571.

merchants sought to evade Spain's restrictions by using English shipping networks. Nettels noted the impossibility of coming up with an accurate figure for the level of trade that includes private companies or smuggling, because official records concentrate on the government's interest in collecting duties and seldom include accurate export or illicit trade data.⁸²¹ As suggested by Pérez Herrera, more studies are required on the commerce between the Spanish colonies, Caribbean entrepôt ports, and non-Spanish ports in Europe.

Smuggling Undercut Spain's Grand Strategy

The smugglers who attacked Spain's commerce in the Indies operated on so vast a volume that they directly affected the king's tax income. Royal officials complained of this throughout the colonial period: one example is that of Don Andrés Saabedra Alfaro wrote to Indies and Navy Minister Julián de Arriaga in 1777 that illicit trade took all the export goods from Cuba, Jamaica, and Florida for transshipment to England or the North American colonies (then in rebellion). Cubans sold their goods to foreigners because of the better prices offered, knowing that if caught, they could always evade punishment through bribery.⁸²²

Spanish historians have written that Felipe II misunderstood the threat posed by the English privateers, and consequently did not adopt adequate defensive means to stop them – this was also true for his predecessors.⁸²³ This was also true in relation to all foreign interlopers, throughout Spain's colonial history. In reality, these armed foreigners were not a direct threat to Spain's grand strategy or even to its territorial control over the colonies. Policy miscalculations led to a series of strategic decisions on defence and economics that, while based on rational analysis, sought only short-term advantages that consequently hurt

⁸²¹ Curtis P. Nettels, "England," p. 28.

⁸²² Feliciano Ramos, *Contrabando ingles*, p. 169.

⁸²³ Fernández Alvarez, "Orígenes," p. 369.

the empire over the long run. One mistake committed by all Spanish monarchs was to direct all their energies toward achieving hegemony in Europe, rather than consolidating commercial hegemony over the colonies from whence came a significant portion of their income. Had this income been secured and increased first, the hegemony sought might have resulted. A second mistake was to rely on domestic and international law to eradicate smugglers, a mistake compounded by identifying smugglers as a security threat, instead of concentrating on the economic behaviour they represented. Corbett stated this differently by focusing on the military methodology, noting that Spain never grasped the concept of controlling the sea – it sought instead to control its population through military power. By the end of the XVII century, Spain's rivals understood that Spain's weakness resulted from a lack of capital, wealth, materials, and skills, and set about to exploit that weakness.

Saabedra Alfaro described a fundamental factor in economics. If the penalty for violating the restriction is high enough, the risk increases the potential profit, causing people to ignore the penalty and act outside the law. Despite the Spanish Crown's myriad laws prohibiting relations with foreigners, the primary participants were Spanish citizens evading their own government's trade laws.

The policy emphasis on authority interfered with the development of a political economy that could better fund the grand strategy objectives. Likewise, an anti-smuggling policy based on economic or commercial issues was incompatible with the overall emphasis on control. Spain's efforts to maintain its political hegemony in Europe was the most significant aspect of its government during the XVI-XVII centuries, made difficult by the dynamic nature of commercial production and consumption and the static nature of its politics.

Spain's ability to implement its grand strategy was always questionable. At the height of its power under Felipe II, the military proved capable of coordinating the naval and land

forces designed to invade England in 1588, a project described as “the most technically demanding and expensive task a sixteenth-century state could undertake.”⁸²⁴ However, the political guidance defining the project’s objectives was lacking, as the ideal of a single Christian monarch changed, becoming an ideal of a Spanish monarch instead.

By the XVIII century religion was no longer a big issue. The effort to expel foreigners from the Indies continued, but was no longer justified primarily through religious zeal. Attitudes were no longer monolithic and “sources of direct colonial dispute between the two nations were few, most notably the ships that were seized in the West Indian waters by *guardacostas* and accused of illicit trade.”⁸²⁵ A *cédula* in 1672 addressed the issue, stating that any invasion by foreigners or trade without license was cause for military action regardless of why the incursion took place. There was no mention of heresy, and no religious rhetoric.⁸²⁶

A major impediment to stopping the smugglers was the lack of a cohesive policy. Spanish hegemonic projects led to a series of conflicts that reduced the Crown’s ability to concentrate on governance and development during the conquest of the Indies. Crisis became the norm. None of the monarchs adopted adequate anti-smuggling policies. Furthermore, the vested interests of the Sevilla and Cádiz merchants – through the authority delegated them by the Crown – became as entrenched as were the smugglers, pursuing commercial practices designed to benefit themselves, not the empire.⁸²⁷

⁸²⁴ Rodger, *The Armada*, pp. 4-7.

⁸²⁵ Joseph, p. 3.

⁸²⁶ Ibid.

⁸²⁷ Christellow, p. 35.

Conclusions

There are myriad anecdotes available throughout the archival records that represent a long-range trend of increased illicit activity throughout Spain's colonial experience. As the population in the colonies grew, so did the demand for goods; the legal production system failed to deliver those goods so the colonists reacted positively when foreigners stepped in to offer them.⁸²⁸ Spain continuously issued laws with seeking to reduce smuggling through force of arms, though this caused a different set of problems just as difficult to fix. The Crown's chronic bankruptcy forced it to seek accommodation with individuals or interest groups, in essence selling permission to violate the various commercial laws they sought to evade anyway. Over time, all royal colonial officials accepted this process, defying the Crown's authority over commercial matters, so long as political and religious hegemony was pledged to the Crown.

Early efforts at imposing a commercial monopoly over the newly-acquired Spanish colonies sought to benefit Castilla and Leon, but this gave way rapidly to a system that brought benefits only to the Crown. The entire issue of contraband, security, and governance over the colonies can be explained from this perspective; the primary economic strategy was one of maximizing tax income. In the Indies, governance, commerce, justice, religion, territorial integrity, were all secondary to the need for money.⁸²⁹

This practice of ignoring fiscal and commercial regulations, referred to at the time as *fraude*, robbed the Spanish Crown of more than half of its potential Indies tax income, a loss that contributed directly and significantly to the Crown's inability to achieve its grand strategy, its quest for political and territorial hegemony over Europe. The causality is not singular, of course – a myriad other forces contributed to the demise of the Spanish empire.

⁸²⁸ Aizpurúa, "El contrabando," p. 9; see also Terradas, pp. 50, 54.

⁸²⁹ The dynastic wars of expansion consumed up to 70 per cent of the Crown's income. Fisher, pp. 22-26; Artífano y de Galcándano, pp. 28-36.

But the level of fraud argues that the impact of the contraband trade and its attenuating corruption significantly reduced the Crown's income, and thus, its ability to achieve its objectives.

The bureaucratic policies in the colonies were not developed to purposely undermine the empire, and indeed each was logical and useful for the specific application to which it reacted. In the aggregate, however, they produced a rather chaotic system of rules, privileges, prohibitions, and the means of evading all. This was not a completely irredeemable system however. Struzzi wrote of the apparently chaotic system, noting that everyone profited by it: the king collected taxes and duties, and issued licenses exempting some merchants from the myriad restrictions, profiting from the fees imposed; the colonists benefited from the foreign migrants, who provided access to goods otherwise unobtainable; and the foreigners profited from the business opportunities available in the Spanish colonies. Struzzi's point was that the king's laws should not violate natural laws, and the exemptions (*indultos*) brought Spain's onerous regulations closer in line with God's divine principles, on which was built man's "natural law".⁸³⁰ Supply and demand sought its natural balance as illegal suppliers of goods were attracted to the voids created by the limited production system, while high taxes and shipping charges encouraged colonists to break the law throughout the colonies.⁸³¹ Smugglers were best suited to move products to their appropriate place in the marketplace, concentrating on satisfying market demand instead of the efficiency of specific sectors of the process, seeking only to be rewarded accordingly.

Commerce became part of the state's arsenal in its quest for hegemony, and Spain used the full gamut of its forces to impose its colonial monopoly: punitive legislation, economic incentives and improved infrastructure in specified areas, trade liberalization,

⁸³⁰ Struzzi, p. 3.

⁸³¹ Bitar Letayf, p. 49.

diplomatic action, and defence where necessary. Military forces were the primary venue used to control commerce, despite the fact that these were designed to fight other national forces, not irregular groups of pirates, smugglers, or merchants. *The only anti-smuggling strategies never adequately attempted were to legalize foreign participation or satisfactorily supply the colonies with sufficient goods at prices comfortable enough that no one needed to seek alternatives.* The debate on how to do the latter lasted throughout the colonial period, without resolution.

Final Thoughts

Between Fernando and Isabela's conquest of the Iberian Peninsula and the death of their great-grandson Felipe II, Spain developed and refined its grand strategy of empire. Its efforts to implement this plan of territorial, political, and religious hegemony in Europe, however, were hindered by the lack of an adequate political economy capable of providing the required income. Financial and economic decline was based in part on this expensive scheme and in part on structural problems dating from the Middle Ages. Furthermore, economic policy was not developed as rationally as was the rest of the government.

Hamilton wrote that "economics and politics were clearly interrelated, but a loss of economic strength appears to have been more largely a cause than a result of the political decline."⁸³² The stresses imposed by the incongruence of military sophistication, social extravagance, global political superpower status and immature economic behaviour led to noticeable decline as early as the reign of Felipe II, though no catastrophic event happened until near the end of his reign. Between 1492 until the addition of Portugal to the empire in

⁸³² Hamilton, "Revisions in Economic History. VIII. The Decline of Spain," *Economic History Review* 8 (1937-1938): 169.

1580, Spain increased its military and political power to pre-eminent status; after this, a gradual descent set in until the death of Carlos II in 1700, when Spain had recognizably become a second-rank state, a hollow shell of its former grandeur. The persistent presence of foreigners interloping in the declared monopoly in Spain's colonial trade was a demonstration of that loss of status. The inability to impose its laws was a constant reminder that the empire could not focus its attention on the issue, and that Spanish sovereignty was total only on paper. There were successes, of course. The Indies were conquered, colonized, and exploited with little challenge from European rivals, who were only capable of launching irregular forces (Spain called them pirates) against the imposing and self-financing defences built to protect the empire's flow of treasure. The fleet convoy escort system, combined with the principal forts built throughout the Caribbean, worked well for over 300 years, an impressive success story by any definition.

By the end of the XVI century, though the fiction of monopoly was accepted by all, English, Dutch, French, Portuguese, and other European merchants appeared on the shores of Spain's colonies, offering to trade goods for treasure on more favourable terms than were available through the ponderous legal system. The fraud levels rose to incredible levels, in part because of collusion by the very officials sent to eradicate it. Even the king defrauded himself by offering pardons at prices that did not recoup the income lost through the illicit transaction. The official statistics indicated that colonial trade was depressed for over a century, though the economic activity within the Indies was not – it merely switched destinations, conducting the bulk of its trade with merchants from Spain's rivals. An estimate of how much of this activity escaped Spain's control is impossible to calculate accurately, because there are too many variables involved. Tax evasion alone may have accounted for the 97 percent of fraudulent manifests Vila Vilar found in the *Carrera de Indias* trade, specifically in the warehouses at Venta de Cruzes in the early XVII century. The ability of

colonial merchants to evade the guild system and trade directly with Spanish suppliers could explain the depressed official statistics later in the century, because this type of transaction technically did not exist, and was not recorded separately. Spain's anti-smuggling efforts also need to be considered, as these occasionally actually abetted the fraud, as for example in the cases on the Atrato river and the northern areas of Hispaniola, where Spanish military forces were prohibited from entering to stop the smuggling.

All contemporary accounts noted that smuggling or *fraude* moved approximately half of the empire's trade into the hands of foreigners. Given the confusing statistics on the cost of maintaining the colonies, financing the royal household, and the grand strategy objectives in Europe, it is difficult to comprehend the volume of treasure and income involved. But when juxtaposed with the equally confused figures of treasure and profit sent to Europe from the Indies, it is apparent that had the *fraude* been eradicated, Spain's income would probably have been more than sufficient funds to cover the discrepancy between Crown income and expenditures. Theoretically, the Crown would have sufficient funds available for its grand strategy objectives of territorial, political, and religious hegemony in Europe.

All counterfactual arguments, of course, require assumptions, and this one assumes that Spain's budgetary allocations to the military campaigns remained the same; if so, the increased income from the Indies trade would ensure that armies would be paid on time and thus not walk off the field of battle as happened several times during the war in the Low Countries. Another scenario is Felipe's project against Elizabeth I. The increased income would eliminate the need for floating bonds in Genoa to finance the Armada, which could then be outfitted in less than four years, arriving off the shores of England long before Hawkins and Howard could ready their defences. Future military conflicts would follow the same logic, giving Spain an advantage against its European rivals on the battlefield. There

are many problems with making such assumptions, not the least of which is the problem of leadership capability among the all the Hapsburg monarchs.

One serious problem with the argument is the development of economics as a discipline. Spanish writers – Vitoria, Suarez, among others – based their analysis of economic activity on theological principles. Merchants were more interested in a utilitarian view of how economics worked. The king, however, did not consult with merchants in developing Spain's political economy, unless it involved receiving a *donativo* to cover over an infringement of the rules or the floating of a new loan. This discrepancy between theory and practice helps explain why the Spanish Crown never developed a political economy that maximized its tax income. The many exceptions granted to anyone who could pay to receive one undermined law and order throughout the empire. This allowed smuggling to flourish almost from the start, though the high volume of income from the treasure produced by the Indies covered the economic symptoms until the flow of treasure slowed in the early XVII century. Spain was unable to impose much control over the economic aspects of its empire.

Economic policy was never a major components of Spain's grand strategy, so it is doubtful Fernando, Isabela, Carlos V, or Felipe II would ever consider this a failure. Long after they were gone, the Spanish Indies remained firmly part of the Empire and loyal to the Catholic faith. Only the loss of the Low Countries and Portugal could be considered strategic losses, and the success of the English and Luther's Reformation likewise represented a strategic failure to Spain. Smugglers were a nuisance, and it was known at the time that they cost the Crown a considerable amount of money, but this fact never rose to the level of grand strategy, and sufficient royal attention or money was never allocated to it. All Spanish merchants well understood the practical implication of undervaluing the economics of any project, be it a trading voyage or an empire.

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