

The business of smuggling in the eighteenth century:

Anglo-French comparisons

Stephen Mallet

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I, Stephen Mallet, confirm that the work presented in my thesis is my own. Where information has been derived from other sources, I confirm that this has been indicated in the thesis.

Abstract

Smuggling was a substantial business in Britain in the eighteenth century. The government banned trade in, or taxed, certain commodities, opening the door to smugglers to trade those products illegally, even as the government tried to discourage smuggling through penalties for law-breaking and to enforce the law by use of physical preventative measures. Across the Channel, in France, the situation was little different, although the historic proliferation of customs zones and land borders made government control if anything harder to achieve. France's anti-smuggling enforcement was outsourced to the *Fermes Générales*, and their continuing lobbying resulted in restrictions and legal penalties not very different to those in Britain. In both countries there was a recognition that the tariff system worked against the prevention of smuggling.

This thesis demonstrates that there was a strong business case for smuggling, with plentiful demand, a wide variety of sources of supply and, to transport the contraband, many people prepared to risk capture for a level of pay well above their normal rates. It looks at how the business was organised and financed, how it operated and who the main players in the value chain were, as well as presenting the complexity of legislation that created the smuggling opportunities and hindered law enforcement. Comparing Britain and France, it highlights the fact that the similarities were greater than the differences. The thesis also explores issues such as the ability to merge contraband commodities with legally imported goods, people's attitudes to smuggling and the impact it had on local communities, and how governments reacted to the law-breaking. It becomes clear that today's governments need to understand better the implications of legislation to tax or restrict imports, or continue to deal with the consequences.

Impact statement

Smuggling loomed large in eighteenth-century life, not just as folklore. It undermined the efforts of merchants in certain trades, it created a major problem for governments because of the need to maximise the revenues from taxes, it burdened the legal and judicial systems of the time, and it gave consumers access to necessities and luxuries that were otherwise scarce or expensive, prompting large numbers of ordinary people to support criminality. As a result, many historical studies of eighteenth-century Britain or France, both economic and social, have addressed smuggling as part of their analysis. Few, however, have tackled the subject head on, in part no doubt because of the lack of archival records. This thesis aims to redress the imbalance and add to an academic understanding of the eighteenth century, assembling what archival material does exist and attempting to fill in the gaps. Unlike the few academic studies that do address smuggling in any detail, this thesis starts with the position that the ability to make money on the back of government taxation policy was the fundamental driver of the marked growth in smuggling during the century, and, as far as is possible, analyses the subject as a business. As such, it is intended to shed new light on smuggling and its impact on the eighteenth century's society and economy.

Smuggling remains with us to this day, often for the same reasons as in the eighteenth century, and we are as familiar now with banned or counterfeit goods and the concept of smuggling as contemporaries were then. Countries (or economic blocs) continue to restrict the entry of certain goods for industrial policy reasons, or tax them highly as a deterrent to their import or consumption, and even the link with government revenue raising schemes has not been broken entirely. If we look, for example, at the propensity to smuggle goods beyond personal allowances through arrivals customs, or across land borders such as that

dividing the Republic of Ireland from Northern Ireland, usually because they are cheaper to buy elsewhere because of differences in levels of taxation, we can see clear similarities. If there is a difference, it would be that there is less (comparatively) socially acceptable smuggling, and that most of the restrictions are viewed as appropriate. We might not agree with government policies on migration or access to hard drugs, but few people would regard drug or people smuggling gangs as acceptable forms of law-breaking. And yet the lessons of this thesis, that prohibitions and excessive taxation will create markets in which criminal entrepreneurs are all too keen to operate, still apply, and governments have so far failed to find ways to avoid this impact. Whether this is because criminality is kept within acceptable levels, in much the same way as eighteenth-century governments seemed to raise sufficient revenues, in spite of prevailing levels of smuggling, or because of a lack of attention to the impact of policies, could form a worthwhile question for future study.

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Having embarked on the research degree process in October 2019, my work was disrupted by the Covid pandemic as archival sources were closed and then subject to only limited reopening for some time. This has extended the elapsed time to submission of this thesis, as it prompted me to convert to part time study, and has limited the amount of time I have been able to devote to travelling to archives outside London. That said, the academic community has been very welcoming of my efforts, both here and in France, and their responses to my requests for information and other questions have been swift and helpful.

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Abbreviations

ADN	<i>Archives du Nord, Lille</i>
AN	<i>Archives Nationales, Paris</i>
Cdi	<i>Compagnie des Indes</i>
CUL	Cambridge University Library
DK	<i>Archives de Dunkerque</i>
EIC	East India Company
<i>Ferme</i> or <i>Fermes Générales</i>	<i>Compagnie des Fermiers Généraux</i> , which existed from 1726 to 1790, and its predecessors. Farmers General refers to the organisation's managers and partners in the business.
<i>Livre tournois, livre or It</i>	The main currency of France, divided into 20 <i>sols</i>
OBPO	Old Bailey Proceedings Online
<i>Statutes at Large</i>	<i>The Statutes at Large, from Magna Carta to the End of the Eleventh Parliament of Great Britain, Anno 1761</i> , edited by Danby Pickering, with continuations.
TNA	The National Archives, London

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1 – Introduction

General

Smuggling was a substantial and growing business in both Britain and France in the eighteenth century. In the interests of protecting national industries and, increasingly as the century progressed, in order to raise money or regulate economic life, or both, the governments of both countries used monopolies, import or export bans, or duties, applied to specific commodities. This opened the way for smugglers to take advantage of differentials, sometimes substantial, which arose between the prices at which those goods traded legally and illegally. For merchants and retailers, smuggling started to blur the lines between trading in honest, legitimate commodities on which duty had been paid and dealing in ‘run goods’, and many would have been tempted to become involved in order to preserve or enhance profitability. As demand for smuggled commodities grew on both sides of the Channel, more and more people were employed to protect cargoes and reduce risk through intimidation, and smuggling businesses increased in sophistication, even to the extent of using letters of credit and insurance. And on both sides of the Channel, ordinary people were daily faced with the opportunities and the risks of confronting or outwitting the authorities, sometimes becoming involved in violence, and helping smugglers by handling or hiding smuggled goods.

For Britain, tea, tobacco, wine and spirits were the principal items smuggled in and distributed across the country, in some areas using the routes established by illegal exports of wool which had gone on for centuries. The government’s focus on indirect taxation opened up business opportunities that the smugglers grasped eagerly, while the East India

Company's monopoly and the other trade restrictions of the mercantilist system ensured limited competition. Significant numbers of ships and sailors were employed at sea to transport smuggled goods and large gangs of casual labour on the shore were used to land and distribute them. Substantial sums would have been tied up in ships and their crews and inventories, and cash was diverted abroad, while, to a lesser extent, illegally exported wool helped to fund the purchase of contraband goods to satisfy the increasing appetite for low-priced commodities in Britain.

As the smuggling business grew in importance across the century, and the smuggling ships and gangs became larger and better armed, the government used progressively stricter legislation in its fight to eliminate the contraband trade and protect its revenues.

Restrictions were put in place to control shipping movements and product distribution, prevent the formation of gangs and set minimum sizes of casks and chests, and smuggling became a capital offence by mid-century. Effective prevention of smuggling along the coastline of Britain, with its myriad coves and inlets, would have required a large and permanent army of customs officers. But the dedicated customs and excise preventative forces, at times backed up by the military, were far too thinly spread to have much impact. In any event, as an anonymous contributor to the press wrote in 1779, 'How in common sense, can forfeitures, penalties, &c. operate to prevent practices, where a clear and certain profit will arise.... Temptation to gain operates stronger upon the minds of bad men, than any laws, human or divine.'¹

¹ *St. James's Chronicle or the British Evening Post*, Issue 2832, May 22, 1779 - May 25, 1779.

Across the Channel in France, the situation was little different, although the historical system of granting rights and privileges to certain regions resulted in the further complication of a system of internal customs borders for certain products, most notably salt, which had been smuggled across these borders for many years. Indian textiles were banned until 1759, and subsequently taxed, and salt and tobacco were sold at inflated prices through government monopoly systems, all of which encouraged smuggling both into the country and from one region to another. One major difference was France's extended land border through which large quantities of contraband entered the country, favouring smaller, cheaper smuggling operations through Flanders, Lorraine and Savoy, although sea-borne smuggling remained a feature. Although smuggling was often smaller scale than in Britain, with many operations limited to individuals or small groups, the large gangs, assembled to accompany larger shipments and intimidate the preventative forces, did exist. France's enforcement was outsourced to the *Fermes Générales*, which was also the holder of the salt and tobacco monopolies, and their frequent lobbying of the French government resulted in restrictions and legal penalties comparable to those in Britain. But here too was the recognition that the tariff system worked against the prevention of smuggling: 'You will on the contrary only awaken the desire for illicit gain and increase smuggling.'²

Not surprisingly, there was a considerable amount of smuggling across the Channel between Britain and France, alongside legal trade.³ Much of the tobacco smuggled into France for instance came through Britain from its American colonies, and French brandy was a staple

² 'Vous ne ferez au contraire que reveiller l'apas du gain illicite et augmenter la contrebande.' TNA PC 1/123/36(X), Papers of Charles Alexandre de Calonne, letter of de Rayneval, 29 December 1785.

³ Christian Pfister, in 'Ports, navires et négociants à Dunkerque: 1662-1792', unpublished *texte remanié*, Université Charles de Gaulle, 1985, p. 481, estimates that illicit trade equalled 70% of 'normal' trade between Dunkirk and Britain by 1774.

of the smuggling trade into Britain throughout the century. Dunkirk and the Channel Islands operated as entrepôts for smugglers into both countries, alongside the Isle of Man (until 1765) and several smaller ports on the continental mainland and Ireland. Merchants in these entrepôts and elsewhere on both sides of the Channel imported, traded with smugglers, equipped smuggling vessels and financed illicit trade, often switching to privateering in times of war. Many were part of family, religious or political networks, able to rely on associates in other centres to assist with sourcing, payments or collection of debts.

Smuggling (also referred to as 'illicit trade', 'running goods' or 'fraudulent landing') in the context of this thesis requires the transfer across national or customs borders of goods in such a way as to avoid taxes, monopolies or outright prohibitions. For the most part these were consumer goods (tea, tobacco, spirits, textiles), but also included, in lesser volumes, books, industrial manufactured goods and raw materials. Smuggling also covers goods illegally exported, such as raw wool from Southern England (an activity also known as 'owling'), which had been going on since the Middle Ages, and goods 're-landed' or falsely exported for smuggling back, as in the case of much of the tobacco or Indian textiles sold illegally in Britain and France respectively. 'Fraud' was a term commonly used as a synonym for smuggling, as a large proportion of smuggling was achieved through practices such as inaccurate reporting, false labelling and bribery of officials as well as the adulteration and mixing of products such as tea and tobacco.

Traditionally, 'smugglers' have been identified as the individuals responsible for the transport of goods, the sailors, porters and armed escorts who often resorted to violence,

but smuggling was carried on by people at all levels of society, many, it is true, opportunistically (aristocratic travellers for instance returning to Britain with prohibited textiles) or only occasionally (the Count de Haslang, envoy of the Duke of Bavaria in London, was notorious for allowing the sale of smuggled goods from his premises under diplomatic immunity).⁴ But perhaps unsurprisingly, there are many instances of professional merchants being involved in smuggling, whether as knowing handlers of smuggled goods, such as the two tea dealers giving evidence to the 1745 first report of the House of Commons Committee who admitted to having been involved in 'running' tea, or as active promoters or financiers of smuggling operations, such as the textile merchants who commissioned smuggling bands to transport calicoes into Paris.⁵

Scope of the thesis

The central question addressed in this thesis is what was distinctive about smuggling as a business, comparing experiences in Britain and France to help identify key features. While economic historians have long been aware of the potential for smuggling to undermine the accuracy of available economic statistics, the scholarship on smuggling has for the most part been dominated by social and political historians concerned with its impact on local communities and how governments addressed the challenges. Muskett and Kwass, leading

⁴ Beverly Lemire, *Global Trade and the Transformation of Consumer Cultures: The Material World Remade, c.1500-1820*, Cambridge, 2018, pp. 154-5. For Lemire, the Count was more than an amateur as 'His extra-legal allies provided vital subventions on which he relied.'

⁵ *Journals of the House of Commons*, vol. xxv (1745-50), London, HMSO, pp. 101-110. Gabriel Tomkins also gave the earlier 1733 committee into smuggling a 'List of several Grocers and Shop-keepers in London, Westminster and Southwark, with whom he had had dealings, about Three Years ago, for the Quantity of 15 or 20,000 lb. wt. of Tea and Coffee in a Year.' See *The Report with the Appendix from the Committee of the House of Commons Appointed to enquire into the Frauds and Abuses in the Customs to the Prejudice of Trade, and Diminution of the Revenue*, published by order of the House of Commons, London, 1733, p. 16; for the textile merchants, see Nils Liander, 'Smuggling Bands in Eighteenth Century France,' Doctoral dissertation, Harvard University, 1981, pp. 241-3.

historians of smuggling in Britain and France respectively, provide detailed information from a wide range of sources to create coherent and detailed analyses of smuggling, thereby helping to bring the topic out of the romanticised cultural sphere and into the historical mainstream.⁶ Mui & Mui focus on Britain's tea trade, using this frequently smuggled commodity to chart the growth in smuggling during the century and show its impact on the legal trade, while their debate with W. A. Cole underlines the difficulties encountered for economic historians in trying to assess the actual volume of smuggled goods.⁷ None of these, however, looks at smuggling from a business perspective.

The purpose of this thesis is to show that a business perspective is central to understanding smuggling in Britain and France in this period. Smuggling was certainly in part a social crime, and at times it was also politically motivated, but profitability was key to its very existence: first and foremost, smuggling had to be a successful business. This thesis also compares smuggling in this period between Britain and France, two countries that were geographically close but politically very different, both of which have an extensive body of primary and secondary sources. This comparison is a way of, in Frederickson's words, 'illuminating the special features or particularities of the individual societies being examined', and helps to develop new findings about the extent, the nature and the social importance of smuggling.⁸ And indeed, studying smuggling on both sides of the Channel reveals equally strong business cases for smuggling, with plentiful demand, a wide variety of sources of supply and, to

⁶ Paul Muskett, 'English Smuggling in the Eighteenth Century', unpublished PhD Thesis, The Open University, 1996; Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground*, Cambridge, MA, 2014.

⁷ See in particular Hoh-Cheung and Lorna Mui 'Smuggling and the British Tea Trade before 1784', *American Historical Review*, 74, 1, 1968, pp. 44-73 and "Trends in Eighteenth-Century Smuggling" Reconsidered', *Economic History Review*, 28, 1975, pp. 28-43.

⁸ George Fredrickson, *The Comparative Imagination: On the History of Racism, Nationalism, and Social Movements*, Berkeley, CA, 1997, p. 24.

transport the contraband, many people prepared to risk capture for a level of pay well above their normal rates. Substantial profits were available, as was acknowledged in official documentation, often more than enough to offset the combination of the risks of seizure by preventative forces and the potential losses experienced in legal trade. In spite of the risks, there was the potential to make money at all stages of the process: companies set up on the Western seaboard of Europe to trade with the Far East ordered quantities far in excess of their national requirements, knowing they had a ready market of smugglers in Britain and France; merchants on both sides of the Channel assembled and shipped goods or sold them to smugglers; individuals and gangs were well paid for taking the goods across customs lines and rapidly distributing them; wholesalers and retailers reduced their cost of sales by combining smuggled goods with legal imports; and the end customer was able to purchase commodities in greater quantities at cheaper prices. But, by definition, risks do not always pay. Understanding the risks in the business helps develop a more rounded picture of smuggling in Britain and France at the time.

How and why did these businesses grow, how were they organised and financed, who were the main players in the value chain and what challenges faced them? These are critical questions in understanding why smuggling was so prevalent and why it was so hard to eradicate. In looking at smuggling as a business, this thesis highlights the similarities with legal businesses and the reality that in many cases there was an overlap between the two. It shows that licit and illicit trade could and often did go hand in hand rather than, as has usually been assumed, being simple alternatives. The exploration of merchant involvement will broaden the knowledge of mercantile networks and improve the understanding of how the illicit was managed alongside the legal trade. The thesis will also demonstrate how

smuggling tends to flourish where adequate demand exists and can be satisfied at a profit, even taking account of the risks, and insights gained in this process will shed light on the continuing problem of smuggling today, much of which copies the routes and techniques that were used in the eighteenth century.⁹ In spite of the considerable structural differences, the comparative nature of the analysis also highlights the strong similarities between smuggling in Britain and France in terms of gang operations, the use of violence, government reactions and the involvement of the local populations in the key smuggling areas. Most importantly, perhaps, the thesis provides insights into how governments can and should react to smuggling and what measures may or may not be effective. In the eighteenth century, both Britain and France took the view that tightening trading rules, trying to shore up preventative forces and ratcheting up the penalties for breaking the law were the solution, and yet smuggling as a business grew throughout the eighteenth and well into the nineteenth century. This had the effect of reducing government revenues, in the British case qualifying the integrity, coherence and power of Brewer's 'fiscal-military state', albeit without going so far as to undermine it.¹⁰ Although not within the scope of this thesis, the question of why the governments on both sides of the Channel persisted in creating profit opportunities for smugglers, and thereby contributed to increasing lawlessness, for as long as they did, in spite of the frequent advice they received, both unsolicited and commissioned, is an intriguing one. There seems to have been an understanding during the century – expressed as early as 1728 by Jonathan Swift – that at a certain point higher taxes result in lower tax income 'because they discourage taxable activity or encourage

⁹ One example is the merging of contraband with legal imports which happens when gold is smuggled from Africa through Dubai. See <https://www.reuters.com/investigates/special-report/gold-africa-smuggling/>.

¹⁰ John Brewer, *The Sinews of Power: War, Money and the English State 1688-1783*, London, 2002.

avoidance, smuggling and fraud'. But it was not until 1784 in Britain that steps started to be taken to implement these ideas with a lasting reduction to the tax on tea.¹¹

The focus of this thesis is on the illicit trade of tea, tobacco and spirits smuggled into Britain and salt, tobacco and Indian textiles smuggled across and into France. It pieces together the complex supply chains that brought smuggled goods to the end consumer, including how and by whom they were operated, and attempts to assess the physical and financial risks incurred and how these were mitigated. Most importantly, it addresses the question of who was behind the smuggling operations, who managed and funded them and how a whole parallel free market grew up alongside legal trade. Inspired partly by Morieux's *The Channel*, the focus geographically is primarily on the high density of contraband traffic across the Channel into southern Britain and northern France, using the long-established smuggling routes that remain active to this day, although examples from other areas of the two countries will be used for illustrative purposes.¹² In addition, in spite of significant structural differences between France and Britain in terms of geography, tax collection and enforcement, there are remarkable similarities in the mechanics of smuggling and the impact it had on the communities affected in both countries, for example the attractions for the poor, the growth and prevalence of gangs and the violence. Of even more significance are the trading relationships and the interaction, even integration in the case of Dunkirk,

¹¹ The quotation is from Julian Hoppit's description of what is now known as the 'Laffer curve' in *The Dreadful Monster and Its Poor Relations: Taxing, Spending and the United Kingdom, 1707-2021*, London, 2021, p. 16. He also makes the reference to Swift and quotes him on p. 61.

¹² In *The Channel: England, France and the Construction of a Maritime Border in the Eighteenth Century*, Cambridge, 2016, Renaud Morieux sees the border between England and France as a 'zone of contact' between people with similar concerns rather than as a national frontier.

between the people of the two nations along the Channel coasts, where doing business trumped national interests, even in wartime.

The eighteenth century was a watershed period in the development of smuggling in Britain and France. Although the business model had been developed in the previous century, along with mercantilist regulation, the growth in consumption of goods that had been considered luxuries and the increased income requirements of the two governments during the eighteenth century together provided a fertile environment in which smuggling grew substantially. Customs duties and prohibitions continued to be a feature into the nineteenth century and beyond, but free trade philosophies became stronger, enforcement became more professional and alternative sources of income for governments were developed, with the result that smuggling became less of a preoccupation. Consequently, the contents of this thesis are broadly limited to the eighteenth century, and in France effectively up to the time of the Revolution, when the tax structures of the *ancien régime* were substantially reorganised.

This thesis is written from the position that smuggling in the eighteenth century became a widespread business opportunity because of growing demand coupled with the burdens of the tax and regulatory environment of the time. A more traditional business analysis would rely on detailed quantitative and other business information being available, generally in an organised form, such as accounts, board or shareholder reports and marketing material. Unsurprisingly, smugglers generally sought to cover their tracks and any business records they may have kept are rare, and the nature of the data that is available means a more qualitative approach to the business must be taken. That said, the thesis is structured as far

as possible in terms of business themes – industry analysis, logistics, risk management and so on. Although the data is fragmentary, we have a reasonably clear picture of what was happening from a top-down perspective from official sources such as reports and legislation, as well as more detailed information coming primarily from court records. But gaps in the evidence do sometimes require resort to be made to informed hypothesis.

One of the features of smuggling as a business is its similarity to merchants' trading businesses in that it involved the procurement, transport and sale of products, and like 'legal' merchants, smugglers needed to assess demand and competition for particular products, finance their purchases, organise transport on land and sea, and dispose of their products as quickly as possible at an acceptable price. But on top of these usual concerns of trade, there were the additional risks of loss of goods to the preventive services, and, for the individual, the risk of discovery, capture, and prison or death if caught, and the elevated costs of mitigating those risks with bribery of officials, or the employment of large groups of individuals, sometimes armed and intimidating, to unload and distribute the goods as fast as possible. The thesis therefore highlights the sometimes narrow line between the licit and illicit markets. Once a commodity enters the distribution chain, there is nothing to distinguish its origins, and one feature of the smuggling of commodity products is the ease with which they can be blended with legal imports. Consequently, the dividing line between contraband and legal imports, and those responsible for their procurement and delivery, could be very narrow. In many instances, regulations were put in place in the eighteenth century, such as the requirement for how tobacco could be packed for legal transport into Britain, in an attempt to distinguish legally transported goods from those in the smuggling

trade supply chain.¹³ But with the excessive cost of legally imported goods on the one hand, and the ever-increasing complexity of the customs regulations on the other, it is perhaps no surprise that the temptation to make money sometimes drove merchants to cross the line.¹⁴ To further aggravate the position, it must also have been the case that the competitive pressure exerted by contraband on the market for certain commodities undercut the prices of the legal trade, forcing merchants to participate or risk going out of business.¹⁵

One recurring issue is the question of how much product actually was smuggled, and whether it was a static or growing problem for the governments. There is strong impressionistic evidence that smuggling was extensive and grew significantly over the course of the eighteenth century, although not necessarily steadily, but hard information is fragmentary and limited to specific products or places. This thesis will not focus heavily on quantities and growth overall, but will aim to point out where and when changes in underlying factors affected activity in the short term. One approach could have been to count legislation during the century – both successful and failed – to help gauge the extent of the problem as perceived at the time, but this has been ruled out due to the difficulty of unravelling attitudes to legislation from concerns about the growth in smuggling. Similarly, although it charts fluctuations in duties, this thesis will not focus specifically on the prices of

¹³ In Britain, a legal minimum size of two hundredweight was required from 1699, and this was doubled in 1751. See J.M. Price, 'The Tobacco Trade and the Treasury, 1685-1733: British Mercantilism in Its Fiscal Aspects', doctoral dissertation, Harvard University, 1954, pp. 227, 243.

¹⁴ 'Though the eighteenth century saw a marked growth in revenue and commerce, it saw as well the loss of millions of pounds due to illicit trade provoked by the incidence of excessive duties, and the introduction of hopeless complexity into the customs organization.' Elizabeth Hoon, *The Organization of the English Customs System, 1696-1786*, New York, 1938, p. 2.

¹⁵ A good example of this is the case of brandy merchant Thomas Ellis, who imported French brandy from Dunkirk under the label 'Flemish' for the customs authorities, in common with a number of other merchants, thereby paying considerably less in duty. See David Chan Smith, 'Fair Trade and the Political Economy of Brandy Smuggling In Early Eighteenth-Century Britain', *Past & Present*, gtaa008, 2020, p. 30, where merchants are described as 'struggling between heavy duties and competition from professional smugglers'.

commodities, how these changed during the century and the differential between the prices to wholesalers and consumers of legally traded and smuggled goods. The evidence is simply too sparse to be able to do so.

Summary economic and taxation background

The European economy experienced the early stages of a transformation from the second half of the seventeenth century, as improvements in agriculture started to increase yields from subsistence level to a point where surpluses could be traded.¹⁶ This seems to have been a phenomenon more obvious in the North Western parts of Europe, in the United Provinces, Britain and Northern France, where societal structures gave farmers greater freedom to change practices and more flexible markets encouraged them to trade surpluses, than in the more rigid societies of Southern and Central Europe.¹⁷ In those same regions, slower population growth and maintained agricultural output led to a gradual emergence of income available to improve standards of living and spend on luxuries, which in turn led to what de Vries calls an 'industrious revolution' where households were able to diversify their sources of income through household industry inside the home and wage labour outside, as well as increasing their consumption of purchased commodities and goods manufactured outside the home. As de Vries puts it, 'a growing number of households acted to reallocate their productive resources....in ways that increased *both* the

¹⁶ Jan De Vries, *Economy of Europe in an Age of Crisis, 1600-1750*, Cambridge, 1976; S. Ogilvie, 'The European Economy in the Eighteenth Century', in T. C. W. Blanning, ed., *The Eighteenth Century: Europe, 1688-1815*, Oxford, 2000.

¹⁷ Grain yields (seed harvested as a multiple of seed sown) increased in North-western Europe from an average 6.4 in 1600-49 to 11.1 by 1750-99, compared to a much slower increase to 7 for the Mediterranean countries. See Ogilvie, 'European Economy', p. 97.

supply of market-oriented, money-earning activities *and* the demand for goods offered in the marketplace.¹⁸

The second half of the seventeenth century was also a period of strengthening of international trade links after the crises of the first half, led by the Dutch Republic with the development of cheaper shipping and the emergence of Amsterdam as a trading, and subsequently a financial hub.¹⁹ After the Dutch successes, England and France started to exploit and expand their trade and colonial links, protecting them with the imposition of 'mercantilist' policies in reaction to the Dutch dominance of trade, so that by the beginning of the eighteenth century trade had expanded substantially and was now based on a number of European centres.²⁰

The eighteenth century saw Europe build on this position with accelerating economic growth, particularly in the second half of the century. Britain, probably the strongest in terms of growth, increased nominal GDP by 3.7 times (over 2 times real) during the century, and France, although behind Britain in terms of development at the beginning of the century, grew at a similar pace to Britain, losing ground once more as a result of the disruption caused by revolution and war from 1789.²¹ Consumer demand grew steadily as disposable income became a possibility for the poor and not just the middling sort and

¹⁸ Jan De Vries, *The Industrious Revolution: Consumer Behavior and the Household Economy, 1650 to the Present*, Cambridge, 2008, p. 10.

¹⁹ De Vries, *Economy of Europe*, pp. 113-121.

²⁰ Ibid., p128. The Navigation Acts were designed to bolster the English shipping and merchant sectors at the expense of the Dutch.

²¹ Stephen Broadberry and Bas van Leeuwen, 'British Economic Growth and the Business Cycle, 1700-1850: Annual Estimates', 2008, *Researchgate*, uploaded 2014; François Crouzet, 'Angleterre et France Au XVIIIe Siècle: Essai d'analyse Comparée de Deux Croissances Économiques', *Annales. Histoire, Sciences Sociales*, 21.2, 1966, pp. 254-91.

higher fertility rates fed through to population increases, and the luxuries of the seventeenth century, both imported groceries such as tea, coffee, sugar, spirits, tobacco, and silks, and locally manufactured consumer items such as furniture, chinaware and cotton textiles, gradually became daily necessities.²²

For the larger European nations, international trade grew substantially during the eighteenth century as they exploited the trade systems built up in the previous century and their own colonial acquisitions, and 'provided European consumers with new goods (sugar, coffee, tea, Asian manufactures, etc.) and producers with new inputs (indigo, cotton, etc.).'²³ British foreign trade grew five times during the course of the century, from an average of some £8.5 million per year (imports plus exports) in the early years to over £40 million by the end. France's trade grew even faster than that of Britain, albeit from a lower base, so that by the late 1780s, before the shock of the French Revolution and subsequent wars, but also before Britain's substantial trade growth in the final years of the century, the levels of trade are believed to have been roughly similar.²⁴ This trade pitted the European nations against each other, and they worked hard to maintain regulatory structures that benefited their own merchant communities in an effort to strengthen national economies, protect agriculture and industry and accumulate cash (at the expense of trading partners) through a surplus of exports over imports.²⁵ And the high profile international colonial ship-

²² De Vries, *Industrious Revolution*, p151-4. Maxine Berg, *Luxury and Pleasure in Eighteenth-Century Britain*, Oxford, 2005, p. 5.

²³ Loïc Charles and Guillaume Daudin, 'Eighteenth-Century International Trade Statistics, Sources and Methods', *Revue de l'OFCE*, 2015/4, 140, 2015, pp. 7–36, at p. 9.

²⁴ Phyllis Deane & W.A. Cole, *British Economic Growth, 1688-1959: Trends and Structure*, Cambridge, 1962, p. 48; Guillaume Daudin, *Commerce et prospérité: La France au XVIIIe siècle - 2e édition*, Paris, 2012, p. 221. There are issues with the statistics – for instance the imports into Britain are not net of re-exports - but they provide a reasonable indication of the growth during the eighteenth century.

²⁵ De Vries, *Economy of Europe*, pp. 236-8.

borne trade, while important in bringing in commodities, was only a part of the story as regional trade grew to service increasing urbanisation and growth in consumption across the nations.²⁶

Generally speaking, as the eighteenth century progressed, tax revenues in both Britain and France increased to keep pace with the demands for funds, not least for waging the frequent wars that occurred, leading them, to a greater or lesser extent, to levy taxes on trade in addition to direct taxes on land and wealth. In Britain, for example, customs (on imports) and excise duties (theoretically only on domestically produced goods) became increasingly important to a government intermittently at war, and the 'fiscal-military state' relied heavily on indirect taxes to back increasingly large loans as it shied away from excessive increases in direct taxation. Unredeemed debt increased from £16.7 million at the end of the Nine Years' War in 1697 to £245 million at the end of the American Revolutionary War in 1783, as the average annual net tax income increased from £3.6 million to £12 million.²⁷ As a result of the need for funds, tax levels more than doubled in both countries (at constant prices) up to 1800, based on Mathias & O'Brien's analysis, before accelerating yet faster as a result of the wars fought between 1793 and 1815.²⁸ Indirect taxation in the form of excise and customs duties was a critical element for both, in Britain's case, according to O'Brien, accounting for between 70 and 80 per cent. of tax revenues for most

²⁶ De Vries, *Economy of Europe*, pp. 147-175. Ogilvie goes further and casts doubts on the true extent of the net benefits overall of colonialism; for her, the real revolution was 'not in the glamorous long-distance expeditions to exotic lands, but in the seemingly mundane business of regional exchange and local shopkeeping.' See Ogilvie, 'European Economy', p. 124.

²⁷ See Brewer, *Sinews of Power*, pp. 89-114.

²⁸ See tables 1 and 2 on pages 604-5 of Peter Mathias & Patrick O'Brien, 'Taxation in Britain and France, 1715-1810; a Comparison of the Social and Economic Incidence of Taxes Collected for the Central Governments', *Journal of European Economic History*, 5.3, 1976, pp. 601-650.

of the eighteenth century.²⁹ In France, it was still critically important, but visibly less so at 52-57 per cent. of tax revenues across the same period.³⁰ Interestingly, the *per capita* tax burden in Britain was around double that in France during most of the eighteenth century, increasing during the Napoleonic wars to three times, again based on Mathias & O'Brien's analysis, which used wheat equivalents for the purposes of comparison.³¹ In addition, France operated a much more complex border system, with different customs zones within its international borders, further complicating customs collection and hindering the development of internal trade. In Ogilvie's words,

At the same time as the French absolutist government was building roads and canals, it was also carving up the largest economy in Europe into a multitude of separate economies, by a complex system of internal tariffs. It then sold off the right to collect these tariffs to a set of officials (the Farmers of the Royal Customs), creating an effective lobbying group for maintaining the internal trade barriers.³²

Adam Smith was also aware of the differential in the tax burden. In *The Wealth of Nations* (1776), after pointing out the 'absurd management' of France's customs boundary and criticising the *ferme* structure ('The best and most frugal way of levying tax can never be by farm'), he points out that, in spite of France's advantages, tax contributions are half what they should be on a comparable *per capita* basis, even though the French 'it is generally

²⁹ See table 4 on page 9 of Patrick O'Brien, 'The Political Economy of British Taxation, 1660-1815', *Economic History Review*, 41, 1, 1988, pp. 1-32.

³⁰ See page 314 of Michel Morineau, 'Budgets de l'Etat et Gestion Des Finances Royales En France Au Dix-Huitième Siècle', *Revue Historique*, 264, 2 (536), 1980, pp. 289-336.

³¹ Mathias & O'Brien, 'Taxation in Britain and France', tables 7 and 8 on pp. 618 and 620. The authors recognise that, in France, widespread exemptions to the 'taille' and the use of tax farming for collection and enforcement, which Britain had left behind in the last quarter of the seventeenth century, complicate the comparisons. Interestingly, they also conclude that in reality the British system of taxation was more regressive because it taxed commodities in high demand, helped after 1750 by a rising population.

³² Ogilvie, 'European Economy', p. 126.

acknowledged, are much more oppressed by taxes than the people of Great Britain.³³ These statistics make it perhaps more surprising that taxes should have played such an important part in the French Revolution, although other factors, not least the tax exemptions enjoyed by the upper echelons of society and the legitimacy and unpopularity of the *Ferme*, have been raised by various commentators. That said, Mathias & O'Brien show that *per capita* taxes, a number which is of course affected both by tax rises and population growth, grew faster in France between 1715 and 1785 (both non-war years) at 43 per cent compared to Britain's 23 per cent. With the exaggerating effect on taxpayers of exemptions, this could well have been a contributing factor.³⁴

The combination of taxes on trade, which became a major source of revenue for the governments of Britain and France in the eighteenth century, and 'mercantilist' policies which led to outright bans on the import of textiles into France for instance, or the continuing ban on the export of wool from Britain, created an environment where, so long as adequate demand existed, and at a price that justified the elevated risks of illegal trade, smuggling became a viable business proposition. Smuggling had long existed in the form of 'owling', the illegal export of raw wool from Britain to France, or salt smuggling ('*faux-saunage*') taking advantage of the sharply differing '*gabelle*' pricing system either side of internal French borders, but the eighteenth century saw a significant expansion in the volume and range of smuggled products alongside the increased demand for imported luxuries. In the 1770s for instance, smuggled goods are estimated to have equalled half or

³³ Adam Smith, *The Wealth of Nations*, 1776, Penguin edition, Great Britain, 1999, Book V, The Sources of Revenue, pp. 498-504.

³⁴ The tables on pp. 618 and 620 of the Mathias & O'Brien article show *per capita* taxes (in hectolitres of wheat equivalent) in France increasing from 0.7 to 1.0 between 1715 and 1785, those in Britain from 1.62 to 2.0.

more of the legal trade between England and France, although no evidence for this statement is offered.³⁵ The actual quantum of goods smuggled is, by the very nature of the activity, obscure, but there was sufficient concern expressed in Britain for three parliamentary inquiries on the topic to be held in 1733, 1745-6 and 1783-4, and in France the *Ferme's* 20,000-strong prevention army and the need to create special commissions to try smuggling cases show the extent of the problems faced by those in authority.³⁶ Every increase in tax rates widened the gap between the cost of smuggled products and the price they could be sold at once the customs border had been crossed, in the absence of better (and more costly) enforcement measures, and contemporaries were increasingly aware of this fact.³⁷ Moreover, all sorts of opportunities for making money arose to service the smuggling trade, ranging from sourcing and manufacture of products legally outside the jurisdiction to specialists in the local terrain or coastline working as part of the smuggling gangs. And for the rural poor recruited as gang members, many of them subsistence farmers or day labourers whose work was seasonal and unpredictable, in a period of economic uncertainty, the opportunity of earning as part of a smuggling operation was a clear attraction, in spite of the risks.³⁸

³⁵ 'Certains historiens estiment que dans les années 1770, la contrebande équivaut à la moitié du commerce légal dans le sens Angleterre-France et le dépasse dans le sens France-Angleterre.' Philippe Moulis, 'Frontières et contrebandes en France du nord 17e-18e siècles', *Dix-huitième siècle*, 45.1, 2013, pp. 541-63, at p. 551.

³⁶ See Shane Horwell, 'Taxation in British Political and Economic Thought, 1733-1816', unpublished PhD thesis, UCL, 2019, pp. 255-6 for a useful summary of attempts to quantify the extent of smuggling in Britain. Deane & Cole state that 'in the case of heavily taxed imports such as tea, tobacco and foreign spirits the illicit trade may well have been more important than the legal trade,' in *British Economic Growth*, p. 45.

³⁷ For Price the view in Britain was 'commonplace' that taxing too much led to smuggling, but 'near unanimity in diagnosis did not carry over to prescription of cure' and those responsible for raising revenue preferred to emphasize better prevention. See Price, 'The Tobacco Trade', p. 190.

³⁸ 'An adult male could in a single trip between Brittany & Maine carry enough to realise 20 livres, equivalent to a month's wages.' Olwen Hufton, *The Poor of Eighteenth-Century France, 1750-1789*, Oxford, 1974, p. 289.

This was the environment in which the smuggler-businessman had to operate. While the system of taxation on the one hand created enormous opportunities, prevailing legislation and the actions of the authorities on the other hand together represented significant business risks to smugglers in addition to the normal operational risks of trade at the time, and they had to be confident that sufficient returns were available to justify the risks overall. And confident they seem to have been. On both sides of the Channel, in light of the flagrant flouting of regulations, the violence and other problems caused by smuggling and the reactions of the authorities, it seems reasonable to conclude that sufficient profits were available to justify the continued growth in smuggling during the eighteenth century, even given the risks. The steady flow of contraband goods, much of it imported by international merchants and the national East India trading companies through the *entrepôts* of the Western European seaboard, formed the backbone of a sophisticated supply chain, and the ready supply of underpaid labour ensured their speedy clandestine distribution across Britain and France. Most importantly, there was strong demand for smuggled consumer goods at a discount to the official taxed prices which fed to the growing aspirations of all classes of society.³⁹

Sources and historiographical note

Primary Sources

Self-evidently, participants in the smuggling trade were unlikely to keep lasting records of their activity. Only when smugglers were caught and brought to trial is there any record of

³⁹ For Lemire, the influence of smuggling (alongside wrecking and scavenging) 'opened markets more widely, enabling more democratic consumption among the widest diversity of people', and she concludes that smuggling was a significant cog in commoditization and globalization. See Lemire, *Global Trade*, pp.138, 189.

the activities of individuals, and while these can yield a wealth of information about the logistics of smuggling and to an extent the motivations of the individual smuggler, they also give some clues as to the extent of smuggling organisations and how they operated and funded their activities. At the other end of the spectrum, papers of local and national government and customs officials provide a top-down perspective on the extent of the smuggling problem and the measures being taken to limit it and thereby maintain levels of income for the government, although here too details on individual smugglers or smuggling operations are often found. In between, there are the printed pamphlets and letters to newspapers of individuals and groups of merchants complaining about smuggling; these and the private papers of individual officials are helpful in providing an impression of how the issue was viewed in society, as well as further potential data points. Britain's parliamentary enquiries of 1733, 1745-6 and 1783-4 provide some of the richer data on smuggling through the submissions of witnesses, although, as in the pamphlets and petitions written by industry representatives, there may be bias and exaggeration inherent in them.

As a result, there is overall a significant quantity of information available for a thesis such as this. However, it is very fragmented and widely spread. The sources I am using are primarily the national and some regional archives of France and Britain. At the national level, the National Archives and the British Library in London, and the *Archives Nationales* in Paris contain government and legal papers addressing the issues of smuggling, as well as some personal archives of individuals in government at the time. Much is lost however because of fires, war and revolution, so the records are far from complete, although they do give a strong picture of public concern, government efforts to limit smuggling and the debates over the usefulness of various government measures. For information on Dunkirk, the

archives of the *Département du Nord* in Lille and the municipal archives of Dunkirk have proved valuable. Of particular note are the minutes of Dunkirk's *Chambre de Commerce* meetings from 1748 to 1791, the majority of which were transcribed in the 1950s. Regional archives in Britain and France hold some useful additional papers, and it would have been helpful to compare the various archives of Guernsey with those of Dunkirk, but, partly given the disruptions of the Covid pandemic, time did not permit a full exploration of all potential sources of primary information.

In addition to the papers of the Treasury and the Customs and Excise in Britain and the somewhat sparser equivalent in France, the principal direct primary sources used are court records of trials of smugglers. In Britain, these come from the Old Bailey Proceedings, with some helpful additional information from the prize papers of the High Court of Admiralty. In France, they come from the records of the special *Commission de Reims* set up at the urging of the *Ferme* to improve the record of convictions in cases involving smuggling into North West France, and operating from 1740 to 1789.⁴⁰ The records of the *Commission de Reims* were explored in detail in two studies, by Nils Liander in 1981 and by Nicolas Schapira in 1990, and given the scope of the thesis and the time available I have made considerable use of their analyses, delving into the underlying records where I felt my own perspective required further research.⁴¹ Records of merchants and merchant houses unsurprisingly reveal little about smuggling activities, and although a number of historians have been able to build a good picture from other records of the activities of particular individuals caught

⁴⁰ The records of the *Commission de Reims* are held in the *Archives Nationales* as part of the records of the *Cour des Aides* which inherited the records of the *Commission* when it was abolished in 1789.

⁴¹ Liander, 'Smuggling Bands'; Nicolas Schapira, 'Contrebande et Contrebandiers Dans Le Nord et l'Est de La France, 1740-1789; Les Archives de La Commission de Reims', unpublished thesis, Université de Paris 1, 1990.

up in smuggling, it has so far not been possible to do more than piece together information on a small number of individuals which point towards involvement in or around the trade in smuggled goods. Examples of this would be articles by Wilcox on local agent and part-time smuggler Zephaniah Job of Cornwall, and by White on the merchant Carteret Priaulx of Guernsey, in addition to the sources used more extensively in this thesis, including Thomas Ellis caught smuggling brandy in the 1720s and John Nisbet, merchant and smuggler of Eyemouth in South-East Scotland, who was bankrupted in the 1780s.⁴² One example of partial merchant records still in existence is those of the firm of Melchior Didier, based in Dunkirk from the 1740s to the 1770s, which sourced and sold French and Spanish brandy to clients in England and processed American tobacco for sale to clients in Germany.⁴³ Although there is no direct evidence of Melchior Didier's involvement in smuggling, both these commodities were extensively smuggled through Dunkirk, and were actively traded locally with known players in the illegal trade.

Secondary sources

Introduction

In the eighteenth century, smuggling between the British Isles and the European continent was intimately bound up with national policy, laws, commerce, social cohesion and even

⁴² Martin Wilcox, 'Maritime Business in Eighteenth-Century Cornwall, Zephaniah Job of Polperro', *Trove, the National Maritime Museum of Cornwall*, 2.2, 2010; Margaret White, 'The Carteret Priaulx Papers: The Influence of the Napoleonic Wars on Guernsey', *Transactions de La Société Guernesiaise*, XVII.4, 1963, p. 447; Chan Smith, 'Fair Trade'; Derek Janes, 'The Business of Smuggling in South-East Scotland. John and David Nisbet and Their Associates c.1740–1790,' unpublished PhD thesis, Exeter, 2018.

⁴³ See Romain Leclercq, 'Quand Dunkerque vendait à l'Europe du tabac américain. Melchior Didier, un manufacturier dunkerquois à la veille de la guerre d'Amérique (1770-1774)', *Revue du Nord*, 439.2, 2021, pp. 223–42. Leclercq was still working on the Melchior Didier accounts at the time this thesis was written.

war. The British government chose to address the problems of smuggling by introducing increasingly draconian laws and by investing in the preventative services, while regularly coming under pressure to reform the customs and excise system which created the problem in the first place. In France, where customs farming remained until 1791, it was a private company, the *Fermes Générales*, that was responsible for collecting duties and enforcing the law, while lobbying the government for legislative changes to facilitate its task. Smuggling blurred the lines for merchants and retailers between trading in honest, legitimate commodities on which duty had been paid and dealing in 'run goods' in order to preserve or enhance profitability. And on both sides of the Channel, ordinary people were daily faced with the opportunities and the risks of confronting or outwitting the authorities, sometimes becoming involved in violence, and helping smugglers by handling or hiding smuggled goods.

It is hardly surprising as a result that discussions of smuggling can be found in the work of many historians of eighteenth-century Britain and France, particularly since their concern with economic growth and foreign trade in the 1950s and 1960s brought attention to smuggling's potential impact on reported figures.⁴⁴ Studies of the national East India Companies or the Atlantic trade as well as trade in specific commodities vulnerable to smuggling, such as tea, silks, and tobacco, have addressed the issues surrounding smuggling. A new direction was taken with the increasing interest in social history from the 1970s, with explorations of the violence and social mores associated with smuggling gangs and the problems this caused the authorities of the time. Dating from the 1980s, a significant body

⁴⁴ An early example is G. D. Ramsay, 'The Smugglers' Trade: A Neglected Aspect of English Commercial Development', *Transactions of the Royal Historical Society*, 2, 1952, pp. 131–57.

of work now exists from which it is possible to build a clear picture of a number of aspects of smuggling in the eighteenth century, where and how it occurred and many of its causes and effects. More recent work on merchant networks relying on their different branches to source, finance, ship, receive and distribute both legally and illegally imported commodities has highlighted the ‘transnational’ nature of smuggling, but until then historical research was conducted mostly with a national or regional perspective.⁴⁵

Muskett’s 1996 thesis ‘English Smuggling in the Eighteenth Century’ provides the most complete factual review of cross-channel smuggling during this period, and an excellent introduction to the topic.⁴⁶ Although a strong focus of this work is the violence generated by the smuggling gangs and the preventative forces ranged against them, joining the debate on crime and violence covered below, Muskett charts the rise of the European supply centres, supported by the national companies importing from the Far East, the proliferation of smuggling routes into England and the effective distribution on land by networks of gangs, innkeepers and grocers. He rejects the contention that the violence of the smuggling gangs was a form of social protest, in spite of the high levels of popular support it enjoyed, and concludes that ‘smuggling was more of a business than a form of social protest’, and that ‘Focusing attention on the chartered companies, the sale and transportation of contraband in Europe, and the principal smuggling entrepôts, brings out the fact that smuggling was an organised business.’⁴⁷ Muskett mentions the networks required (for the trade in contraband tea, as an example) and the need for substantial investment, and he also

⁴⁵ Examples of national or regional studies would include Barker’s article on tobacco smuggling in Scotland and Saint-Leger’s volume on Dunkirk and Flanders. Exceptions include Crouzet and Morieux who embraced wholeheartedly the transnational aspects of smuggling between Britain and France.

⁴⁶ Muskett, ‘English Smuggling’.

⁴⁷ *Ibid.*, p. 118.

touches on the risks inherent in the contraband trade, the potential for delays and losses, and the need for a wide distribution capability to help in evading capture and seizure of goods.⁴⁸ But this is as far as he goes, and he stops short of any detailed analysis of smuggling as a business. This thesis aims to provide that analysis by focussing on the business features of smuggling.

Michael Kwass' *Contraband* on smuggling in France provides a useful starting point for a comparison between the two countries.⁴⁹ In France, many of the mechanics of smuggling were similar to Britain, with the use of churches and inns, the formation of gangs, frequent reports of violence, and bribery of local officials, and as in Britain, local populations (often including clerics and noblemen) who were sympathetic to the smugglers, not least because of the impact on the poor that smuggling could have. The main difference was the existence of internal customs borders as taxes were levied at different rates in different parts of the country for historical reasons, with, for example, salt prices in Artois some 7-8 *livres tournois* in 1785 compared to 57-59 *livres* across the internal border in Picardie.⁵⁰ Moreover France, unlike Britain, had two long land borders. The other difference was that tax collection continued to be delegated under farming arrangements, and it was the *Fermes Générales* and its private army of 20,000 which was responsible for enforcement measures.⁵¹ As in Britain, the French government in the eighteenth century relied heavily on taxing the rapidly growing consumer markets, thereby opening up opportunities to smuggle. Kwass touches

⁴⁸ Ibid., p. 90.

⁴⁹ Kwass, *Contraband*.

⁵⁰ Yves Durand summarises the different prices on p. 438 in *Les Fermiers Généraux Au XVIIIe Siècle*, Paris, 1971.

⁵¹ Kwass, *Contraband*, p. 48. George Matthews wrote a detailed history of the *Ferme* in the eighteenth century, how it came into being, its extended responsibilities and how it was brought down after the Revolution in *The Royal General Farms in Eighteenth-Century France*, New York, 1958.

on the globalization of consumption, and how smugglers took advantage of this trend: 'Many smuggling gangs in this period tapped into global commodity chains to exploit rising European consumer demand.' And with the tobacco and salt monopolies and Indian calico bans, smuggling grew to such a point that the government was forced to intervene by changing the law, reinforcing the *Ferme* and expanding prisons. But Kwass' aim in this book is to humanise the topic and present a 'history from below' of the ordinary people involved, as he explores the background, motivations and career of the legendary Mandrin leading up to his exploits directed against the *Ferme*. He also represents Mandrin's brief career in the South West of France in the 1750s as the starting point of the growing resistance to indirect taxes subsequently picked up by the press and the Enlightenment philosophers, and of a trade which 'generated cycles of repression and revolt that disrupted public order, destabilized border provinces, and, combined with other forms of collective action, shook the monarchy well before the French Revolution'.⁵²

A number of other historians such as Morieux have acknowledged that, fundamentally, the reason smuggling loomed so large in the eighteenth century is that it made economic sense, and was an activity whose money-making opportunities were driven by government taxation policy consisting of high customs and excise duties and, peculiar to France, the uneven application of taxes in different regions.⁵³ The economics of smuggling individual products, raised periodically in contemporary pamphlets, parliamentary enquiries and private correspondence, have been analysed by a number of historians. T.C. Barker in 1954 set out the economics of smuggling tobacco into Scotland in the 1720s, pointing out the

⁵² Kwass, *Contraband*, pp. 10-11.

⁵³ See Morieux, *The Channel*.

financial benefits of defrauding customs at the port at that time rather than actually smuggling in re-exported product, and concluding that, as Scots merchants at the time did not necessarily sell smuggled tobacco at a discount to legal imports, the additional profits would have been a very useful means for Scots traders of strengthening capital.⁵⁴

Awareness of the economics of smuggling remains a recurrent theme, with Cullen, for example, citing economics as the rationale for the creation of smuggling *entrepôts*.⁵⁵ Other works explore the impact of smuggling on the consumer markets, how illegally imported silks influenced fashion, for example, or how smuggled tea enabled provincial dealers and shopkeepers to compete with the London merchants.⁵⁶ Lemire even concludes that 'the porosity of early modern commercial systems was fundamentally important in enlarging consumerism worldwide, especially among the non-elites'.⁵⁷ But there is no work that examines cross-Channel smuggling as a business, a gap that this thesis aims to fill.

Extent of smuggling

One of the preoccupations of economic historians about smuggling, and why it is so relevant to histories of the eighteenth century, is how much smuggling actually went on and the impact it had on the government and the level of tax revenues. In Britain, estimates were made at the time in private pamphlets and parliamentary reports which show numbers that

⁵⁴ T.C. Barker, 'Smuggling in the 18th Century: The Evidence of the Scottish Tobacco Trade', *Virginia Magazine of History and Biography*, 62.4, 1954, pp. 387–99.

⁵⁵ L. M. Cullen, 'The Smuggling Trade in Ireland in the Eighteenth Century', *Proceedings of the Royal Irish Academy*, 67, 1968, pp. 149–75.

⁵⁶ William Farrell, 'Smuggling Silks into Eighteenth-Century Britain: Geography, Perpetrators, and Consumers', *Journal of British Studies*, 55.2, 2016, pp. 268–94; Hoh-Cheung and Lorna Mui, *Shops and Shopkeeping in Eighteenth-Century England*, London, 1989.

⁵⁷ Lemire, *Global Trade*, p. 139.

were sufficiently alarming to cause the government to take action. Smuggled tea, for example, was estimated in the context of parliamentary reports at 3 million lbs in 1745, and at a minimum of 7.5 million lbs by 1783, with smugglers and counterfeiters controlling two-thirds of the total market.⁵⁸ These estimates come from a number of authorities, ranging from ex-smugglers to customs and excise officials and employees of the East India Company, and to merchants active in the market.

Evan Jones' work on sixteenth-century Bristol provides a unique insight into illicit trade at the time and the impact it had on official statistics, and he urges the historian, in the absence of the parallel records he was able to use, to take note of the economic incentives to smuggle and the perceptions of the authorities on the extent of smuggling.⁵⁹ Looking at the eighteenth century in that light suggests that smuggling must have been very extensive. Nevertheless, economic historians have been looking for more precise ways to quantify the extent of smuggling since the increasing interest dating from the late 1950s noted above, starting with W.A. Cole.⁶⁰ Cole's article aimed to verify reported smuggled quantities of tea – the most important illegal import into England because of high duties and its ratio of value to weight – by demonstrating the sharp increases in per capita consumption of legal tea after reductions in duties particularly in 1745 and 1784.⁶¹ Given the concern that smuggling made eighteenth century foreign trade import and export statistics useless, Cole's aim was

⁵⁸ *Journals of the House of Commons*, p. 103 contains the figures for 1745. The *First Report from the Committee appointed to enquire into the illicit Practices used in defrauding the Revenue*, dated 24 December 1783, London, 1784 the latter figure. Richard Twining, in *Observations on the Tea and Window Act and on the Tea Trade*, London, 1784 had a clear vested interest in reducing tea smuggling.

⁵⁹ Evan Jones, 'Illicit Business: Accounting for Smuggling in Mid-Sixteenth-Century Bristol', *Economic History Review*, 2nd ser., 54.1, 2001, pp. 17–38.

⁶⁰ W. A. Cole, 'Trends in Eighteenth-Century Smuggling', *Economic History Review*, 10.3, 1958, pp. 395–410.

⁶¹ Cole's conclusions were subsequently called into question by Hoh-Cheung and Lorna Mui in their 1975 article, 'Trends Reconsidered'.

to provide some degree of certainty to the quantities smuggled, and he concludes that contemporary estimates were subject to some exaggeration, but that allowing for illegal trade, which seemed to be largely counter-cyclical, smuggling would have damped the fluctuations apparent in the legal trade statistics. Nash in 1982 follows Cole's example in attempting to quantify in the tobacco trade the importance of frauds committed in port and the smuggling, or re-landing, of exports, previously thought of as modest in relation to the total tobacco trade.⁶² By looking at per capita consumption of retained imports (i.e. net of re-exports), Nash concludes that 'In 1750 the total consumption of tobacco in England and Scotland is likely to have amounted to some 13,400,000 lb., of which only about 8,610,000 lb. (some 64 per cent.) had paid the full duty'.⁶³ Both these papers focus on the importance of smuggling in any appreciation of British foreign trade in the eighteenth century, and are convincing, if partial, attempts to narrow the gulf of knowledge that extensive smuggling created. Given the importance of the existing quantitative research, this thesis takes as given the fact that smuggling was a substantial and growing industry during the eighteenth century.

Focus on specific commodities

Although brandy, the subject of Chan Smith's article cited above, was smuggled into Britain consistently throughout the eighteenth century, tea was the largest volume commodity smuggled, at least until Pitt's 1784 Commutation Act took full effect. The EIC was the monopoly supplier, but the weight of tea, the ease of hiding it among officially declared

⁶² Robert Nash, 'The English and Scottish Tobacco Trades in the Seventeenth and Eighteenth Centuries: Legal and Illegal Trade', *Economic History Review*, 35.3, 1982, pp. 354–72.

⁶³ Nash, 'English and Scottish Tobacco Trades', p. 372.

stocks and the increasing levels of customs and excise duties made it an easy and highly profitable item for illegal importing and distribution. Hoh-Cheung and Lorna Mui have carefully studied the economics of tea trading in Britain during this period, and repeatedly address the issue of the quantities of tea smuggled, especially after mid-century.⁶⁴ Tea smuggling also features large in their book *Shops and Shopkeepers*, in which they return to the large quantities of tea smuggled.⁶⁵ They highlight the fact that, at least among grocers, smuggled tea was much more sold outside London than within, enabling provincial shopkeepers to compete with the London dealers.⁶⁶ The market in Scotland is an extreme example of this, where large scale smuggling prevailed and the principal dealers experienced little competition from London in the second half of the eighteenth century, and this is picked up by Andrew McKillop and Derek Janes who describe a rapidly growing market, distinct from the rest of Britain.⁶⁷ The distance from the EIC's import base in London, the Scottish connections of merchants in France, the United Provinces and subsequently Sweden and a sophisticated distribution system on the ground led to the market for tea in Scotland developing differently. Smuggled tea became a routine part of the tea market, and with the national East India companies of Denmark and Sweden estimated to be exporting 90 per cent. of their tea to Britain, 'Gottenburgh Tea' became a brand name and the better-quality *congou* variety it denoted was favoured over the mostly *bohea* supplied by the EIC.

⁶⁴ Hoh-Cheung and Lorna Mui, 'William Pitt and the Enforcement of the Commutation Act, 1784-1788', *English Historical Review*, 76.300, 1961, pp. 447-65; Mui & Mui, 'Smuggling and the British Tea Trade'; Mui & Mui, 'Trends Reconsidered'.

⁶⁵ Mui & Mui, *Shops and Shopkeeping*.

⁶⁶ *Ibid.*, p. 21.

⁶⁷ *Ibid.*, p. 263; Andrew Mackillop, 'A North Europe World of Tea: Scotland and the Tea Trade, c.1690-c.1790', in Maxine Berg, Felicia Gottmann, Hanna Hodacs, and Chris Nierstrasz, eds., *Goods from the East, 1600-1800: Trading Eurasia*, London, 2015, pp. 294-308; and Derek Charles Janes, 'Fine Gottenburgh Teas: The Import and Distribution of Smuggled Tea in Scotland and the North of England c. 1750-1780', *History of Retailing and Consumption*, 2.3, 2016, pp. 223-38.

Tobacco, particularly Virginia tobacco, is another commodity that saw significant growth in consumption during the eighteenth century and, because of the duty payable in Britain and the *Ferme's* monopoly in France, became a staple of cross-Channel smuggling and fraudulent import. In 1910 Gondolff produced a very detailed survey of the tobacco industry in Lille and the surrounding areas, including of locally grown tobacco.⁶⁸ The combination of different duty levels on either side of provincial borders, the profusion of small villages and the high incidence of poverty combined to make smuggling of tobacco into and around the country inevitable, and the large gangs and the support or intimidation of all sectors of the local population echo what was going on across the Channel in Britain. As in Britain, the risks and costs of smuggling were substantial, but with prices up to 8 times in Paris what they were in Flanders, Gondolff estimates that in 1749 up to one tenth of all tobacco consumed in the country was smuggled.⁶⁹

The most complete modern study of the tobacco market in France in the eighteenth century is Price's *France and the Chesapeake*.⁷⁰ This provides a history of the tobacco monopoly and how it came to rely on American tobacco to the extent that 90 per cent. of its purchases between 1720 and 1770 were made in Britain, which from 1723 allowed tobacco to be re-exported free of duty. Smuggling features extensively in this book, as the high cost of legal tobacco imposed by the *Fermes Générales* actively encouraged the smuggling of cheaper product from all sides into France, and thus became a major preoccupation for the *Ferme's*

⁶⁸ E. Gondolff, *Le Tabac Dans Le Nord de La France 1587-1814*, Vesoul, 1910.

⁶⁹ Ibid., p. 95.

⁷⁰ Jacob Price, *France and the Chesapeake: A History of the French Tobacco Monopoly, 1674-1791, and of its relationship to the British and American Tobacco Trades*, 2 vols., Ann Arbor, MI, 1973.

inspectors. The French consumer had developed a taste for Virginia tobacco when it first became available as a result of privateered cargoes being brought in during the Nine Years War at the end of the previous century. This preference, as well as the fact that overland smuggling of locally grown tobacco was harder to control, led the *Ferme* to concentrate on trying to prevent sea-borne illegal shipments of Virginia tobacco. The North Coast of France was particularly active for smuggling given the proximity of Britain and the United Provinces: vastly more tobacco was shipped from Britain to the Channel Islands than was required for local consumption, for instance, and there is much evidence of regular smuggling from there into Brittany and Normandy.⁷¹ Dunkirk, a freeport and major centre of wartime privateering and smuggling into southern Britain, rapidly became a processing centre for the tobacco industry in the first half of the eighteenth century, often mixing locally grown with Virginia leaf, and from there tobacco was illegally re-landed back into Britain, smuggled across the land border with France to Saint Omer or shipped down the coast to Normandy under false papers. With a 1749 imposition of duty on foreign tobacco entering provinces outside the regime of the *Ferme*, a substantial proportion of the tobacco workers emigrated to the Austrian Netherlands, but a significant capacity remained so that by 1789 there were still some 60 factories employing 4,000 people.⁷²

Price's earlier thesis on tobacco in Britain details the tobacco trade there and the duties and regulations that applied to it, and charts the growth and development of these in the first half of the eighteenth century.⁷³ The business of smuggling tobacco in Britain was more about port-based fraud and corruption, which included fraudulent re-exports for

⁷¹ Price, *France and the Chesapeake*, p. 130.

⁷² Ibid., p. 504.

⁷³ Price, 'The Tobacco Trade'.

subsequent re-landing, than direct smuggling (or ‘running of uncustomed goods’). Overall, Price speculates that direct tobacco smuggling amounted to no more than some 5% of tobacco imports net of re-exports, given the requirements for tobacco to be shipped in bulk, and that other products, such as tea and spirits were more profitable.⁷⁴ Re-landing, after re-export and re-packaging, on the other hand, using entrepôts such as the Isle of Man, Guernsey and Dunkirk, was more significant. Interestingly, Scotland later in the century became a major source for the *Ferme*’s purchases of Virginia tobacco, with Glasgow merchants able to undercut the London merchants by keeping costs low and selling in bulk. As Devine points out, Scotland accounted for as much as 70% of British tobacco exports to France in the 1770s.⁷⁵

Textile smuggling in France remained a problem throughout the life of the ban on *indiennes* which was imposed from 1686 to protect the domestic silk, woollen and linen trades, but, as Crosby describes in her thesis ‘First Impressions’, the poor policing of the ban and patchy enforcement meant it was of limited effect.⁷⁶ There were also wide-ranging exemptions for the *Compagnie des Indes*, resulting in imports intended for re-export finding their way into the domestic market as well as opening the door for the smuggling of products imported from the Far East by other European companies. After the ban was lifted in 1759 and replaced with tariffs, smuggling continued through London, Geneva and Marseilles, much of it by manufacturers relabelling imported product.⁷⁷ Salt and textile smuggling also feature in

⁷⁴ Price, ‘The Tobacco Trade’, pp. 190-91, 249-50.

⁷⁵ T. M. Devine, *The Tobacco Lords: A Study of the Tobacco Merchants of Glasgow and Their Trading Activities, c. 1740-90*, Edinburgh, 1975, p. 65.

⁷⁶ Gillian Crosby, ‘First Impressions: The Prohibition on Printed Calicoes in France, 1686-1759’, unpublished PhD Thesis, Nottingham Trent University, 2015.

⁷⁷ Katsumi Fukasawa, ‘Commerce et contrebande des indiennes en Provence dans la deuxième moitié du XVIII^e siècle’, *Annales du Midi*, 99.178, 1987, pp. 175-92.

a number of works focused on the regions of France, examples being Durand's analysis of the prosecutions for salt smuggling along the Brittany border by the *grenier à sel* at Laval, Ferrer's monograph on smuggling in the Franche Comté, which borders Switzerland and only became part of France in 1674, and Montenach's work on the Alpine regions bordering Savoy, a smuggling entrepot that Geneva merchants were able to traverse freely.⁷⁸ All three provide valuable background to smuggling and insight into the associated problems experienced in France's borderlands. However, Durand struggles to find a real explanation for the extent of smuggling, other than the relative poverty of the region, particularly in times of high grain prices, and Ferrer and Montenach both acknowledge the involvement of the merchant community in tobacco and textile smuggling in particular, but do not take the analysis further. Ferrer is focused more on the *Ferme* personnel and the tensions between it and the local community, while Montenach's interest is to correct how the region is typically portrayed, concluding that 'the frontier regions and mountain communities of the Dauphinois Alps cannot be considered cut off from the state and the market', and that, far from being a marginalised activity, contraband occupied a central position in the societies and economies of pre-industrial Europe.⁷⁹

Crime and violence

Violent crime was a concern for the British authorities in the eighteenth century, and smuggling played a significant part in its spread, with large, armed gangs deployed to unload

⁷⁸ Yves Durand, 'La contrebande du sel au XVIIIe siècle aux frontières de Bretagne, du Maine et de l'Anjou', *Histoire sociale*, 7.14, 1974; André Ferrer, *Tabac, sel, indiennes: Douane et contrebande en Franche-Comté au XVIIIe siècle*, Besançon, 2002; Anne Montenach, *Femmes, pouvoirs et contrebande dans les Alpes au XVIIIe siècle*, Grenoble, 2017.

⁷⁹ 'les espaces frontaliers et les communautés montagnardes des Alpes Dauphinoises ne peuvent être considérés comme coupés de l'Etat et du marché', Montenach, *Femmes, Pouvoirs*, p. 285.

goods at remote locations and distribute them rapidly. Philipson touches on the growth in violence and threatening behaviour by smugglers in the eighteenth century, growth to the point that the regular court system was unable to operate and the smugglers even started to lose the support of the local population.⁸⁰ Indeed, Rogers' study of the period immediately following the War of the Austrian Succession specifically focuses on violence.⁸¹ Successive governments ratcheted up the penalties for those caught smuggling in the first half of the eighteenth century, alongside the other violent crimes of the period, and this was a pattern similarly observable in France. As Liander and Schapira show, the increased penalties and the unpopularity of the *Ferme* and its heavy-handed attempts to crack down on smugglers only served to promote violence.⁸² Inevitably, the vast majority of those caught and condemned on both sides of the Channel were the modest foot-soldiers of the smuggling operations, rather than the more well-to-do merchants and financiers who, whether or not active promoters, were among the ultimate beneficiaries.

Smuggling features in the social historians' studies of crime in eighteenth century Britain which emerged from the 1960s on, primarily as one manifestation of ordinary people being unwilling to conform to societal rules imposed from above. Smugglers were classed as social criminals, and the violence seen in part as a response to 'the elimination of customary rights' by the Hanoverian state and its 'bloody legislation'.⁸³ E.P. Thompson in *Whigs and Hunters* focuses on the rapid increase in capital legislation with the Black Acts, on which the anti-smuggling legislation of 1746 was modelled, seeing this as a move by a ruthless ruling

⁸⁰ David Phillipson, *Smuggling: A History, 1700-1970*, Newton Abbot, 1973.

⁸¹ Nicholas Rogers, *Mayhem: Post-War Crime and Violence in Britain, 1748-53*, New Haven, CT, 2012.

⁸² See Liander, 'Smuggling Bands', and Schapira, 'Contrebande et Contrebandiers'.

⁸³ Quotations are from Joanna Innes & John Styles, 'The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England', *Journal of British Studies*, 25.4, 1986, pp. 380-435.

class to use the law for their own ends.⁸⁴ More recently, Peter King provides a more nuanced interpretation, questioning whether the law really did 'reinforce deference' or 'confirm the hegemony of the propertied élite' mainly as a result of how it was applied and how it was actually the middling sort that 'dominated its everyday workings'. He points out that, as the eighteenth century progressed, more and more capital convicts were being reprieved, and, while not denying the power the law gave to the élites or its importance in maintaining the *status quo*, saw the criminal justice system as being 'not so much about mystification as about accommodation' and 'a terrain of negotiation and compromise'.⁸⁵

Winslow in 'Sussex Smugglers' describes smuggling as a 'social crime', a term echoed by Linebaugh, whose approach in *The London Hanged* was to look at the lower orders in the face of the merchants with their propensity to use fraud when it suited them, and by Rule and Wells, who included it alongside poaching and wrecking in their essays on the links between crime and popular protest in Southern England.⁸⁶ But Winslow had gone further, seeing smuggling as a form of 'class war in the countryside'. For him, 'smuggling is the cause of a serious breakdown in authority in the countryside', with 'audacious smugglers' challenging the 'delicate balance of force and deference upon which order depended'.⁸⁷ What is true is that there were many instances of support for smugglers by the local populations in both Britain and France, including a willingness at times to participate up to a point in violent opposition to customs officials or *Ferme* employees, but to see this as 'class

⁸⁴ E. P. Thompson, *Whigs and Hunters: The Origin of the Black Act*, London, 1975.

⁸⁵ King, Peter, *Crime, Justice, and Discretion in England, 1740-1820*, Oxford, 2000, p. 371.

⁸⁶ Cal Winslow, 'Sussex Smugglers' in Douglas Hay, Peter Linebaugh, John Rule, E. P. Thompson, and Calvin Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London, 1975; Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century*, London, 1991; John Rule and Roger Wells, *Crime, Protest, and Popular Politics in Southern England, 1740-1850*, London, 1997.

⁸⁷ Hay et al., eds., *Albion's Fatal Tree*, Introduction to the second edition, p. xxviii.

'war' seems a stretch. Moreover, while Winslow's is an intriguing and persuasively argued thesis, it downplays the overriding financial motivation of the participants in the smuggling business, and glosses over the wide social network of interests, encompassing in Muskett's words 'the chartered companies trading in the Far East and the financiers and merchants investing in various types of contraband'.⁸⁸ Innes & Styles had already done much to present an alternative point of view stating that 'it is difficult to see smuggling, the greatest illegal business of all, as a form of resistance to commercial capitalism, whatever difficulties it posed for the eighteenth-century fiscal state'.⁸⁹ Frank McLynn picks up Winslow's comments on the existing social order when questioning why the legislation was not more rigorously enforced, but takes a different perspective, and for him the priority of the ruling elites at the time was legitimacy rather than concerns about 'class war', with 'authority' more important than 'property', and 'deference' more important than effectiveness in punishment and control of crime.⁹⁰ But ultimately, as this thesis will show, it was the necessity of running a profitable business operation that dictated the actions of the gangs, in spite of the risks from legislation and regardless of parliament's motivations.

Comparing Britain and France and cross-channel smuggling

As part of historical analysis, the comparative method, in this case studying the business of smuggling in different contexts, can help to shed new light on a topic. In his chapter on comparative history, Elliott describes the comparative method as 'one among the many useful devices at the disposal of the historian' in their quest to do their utmost to examine

⁸⁸ Muskett, 'English Smuggling', p. 8.

⁸⁹ Innes & Styles, 'Crime Wave', p. 398.

⁹⁰ Frank McLynn, *Crime and Punishment in Eighteenth-Century England*, London, 1991, p. xiv.

and interpret the past.⁹¹ While regretting the fact that too little comparative history was undertaken in the twentieth century, he looks back to Marc Bloch's enthusiasm for the method as a 'form of hypothesis testing', and one which broadened the horizons of historians, enabling them to identify common causes and to expand areas where a particular feature was more apparent in another society.⁹² In spite of Elliott's concern that more could have been done, there are a number of instances where comparisons between England or Britain and France have been made. As an example, in *Poverty and Policy in Tudor and Stuart England*, Slack, whom Elliott cites, uses comparison with France 'to illuminate some of the special characteristics of English poor relief by comparing England with *ancien régime* France', helping him to counter the prevalent belief that the differences were based on a divide between protestant and catholic countries.⁹³ Specifically on the eighteenth century, several comparisons and parallels have been drawn by economic historians seeking to explain the reasons for Britain emerging ahead of France from the second half of the century on, many of which are cited in the summary economic and taxation background above. Bonney explicitly explores the issues in comparing the two countries when he asks whether it is possible to compare the fiscal positions of Britain and France in the long eighteenth century, given the differences in the information that has survived.⁹⁴ His review of the secondary literature makes the valid point that comparisons can raise questions as much as answer them, and in the process he identifies a number of factors in attempting to explain the differences, in essentially an illustration of Bloch's

⁹¹ J. H. Elliott, *History in the Making*, New Haven, CT, 2012, p. 195.

⁹² Ibid., pp. 170, 175. Bloch's essay 'Pour une histoire comparée des sociétés européennes' was written in 1928.

⁹³ Slack, Paul, *Poverty and Policy in Tudor and Stuart England*, London, 1988, Introduction.

⁹⁴ Richard Bonney, 'Towards the Comparative Fiscal History of Britain and France during the "Long" Eighteenth Century', in Leandro Prados de la Escosura, ed., *Exceptionalism and Industrialisation*, Cambridge, 2004, pp. 191–215, at p. 192.

'device for widening the horizons of historians'.⁹⁵ This thesis identifies throughout the remarkable similarities between smuggling businesses in Britain and in France, both of whose governments persisted with economic and fiscal policies which perpetuated a robust smuggling market throughout the century, as well as highlighting the differences and the impact these had in each case.

In any comparison between Britain and France, the physical connections between the two are clearly of importance, and the cross-Channel smuggling links are an important aspect of the study. Morieux and others have identified two poles of smuggling between France and Britain, centred respectively on the Channel Islands and the port of Dunkirk in Northern France. As far as the Channel Islands are concerned, smuggling was undertaken from Jersey into the Normandy and Brittany coasts, and from Guernsey into the South-West and West of Britain and, after the shutdown of the Isle of Man as a smuggling entrepot in 1765, Ireland and North-West England. Dunkirk as a free port seems to have been the largest and longest surviving *entrepôt* for smuggling into the major consumer markets of South-East England, a position it shared at various points during this period, and to a greater or lesser extent, with Ostend, Flushing and Roscoff, but it also acted as a major point of entry for smuggling into France, primarily of tobacco.

Morieux's recent *The Channel* takes a 'transnational' approach to the border between the two countries, seeing it as liquid – conceptually as well as physically – rather than fixed. For the actors on the ground, substantially distant from the centres of national power, he

⁹⁵ Elliott, *History in the making*, p. 175.

describes it as a ‘zone of contact between the French and English people’ as much as a national delimitation, and an area where national beliefs and phobias that are much clearer some way inland can be less certain.⁹⁶ This provides an ingenious nuance to the reality of relations between people in the forefront of contact between Britain and France, in war and peace, and brings smuggling and fraud as well as privateering into the foreground of cross-channel economic activity. Morieux also highlights the economic and political importance to the *entrepôts* of smuggling, leading at times to active national as well as local support for the smuggling trade, in the process blurring the contrast between the national certainties – tax and trade policy which nurtured smuggling in the first place – and the local realities.

Of the centres of smuggling along the Western coast of Europe cited in the history of cross-Channel trade in the eighteenth century, ranging from Gothenburg in Scandinavia to Cadiz in Southern Spain, Dunkirk was pre-eminent as, due to its location and freeport status, it became a centre for smuggling into both Britain and France.⁹⁷ Saint-Léger’s 1900 *La Flandre Maritime* is the most complete general work on Dunkirk during this period.⁹⁸ French Flanders, the most northern province of France was assembled piecemeal, including the purchase of Dunkirk from Britain for £5m in 1662, as a semi-autonomous buffer between France and the United Provinces, with the definitive border established only in 1713 at the Treaty of Utrecht.⁹⁹ This treaty also contained requirements for the French to dismantle the fortifications of Dunkirk and destroy its port facilities, and this became a repeated source of tension between Britain and France with each new peace treaty right up until the Treaty of

⁹⁶ Morieux, *The Channel*, pp.20-1.

⁹⁷ At the time in France, the only port with the status of a freeport was Marseilles, although both ports were joined by Bayonne and Lorient in 1784.

⁹⁸ A. de Saint-Léger, *La Flandre Maritime et Dunkerque sous la domination française (1659-1789)*, Paris, 1900.

⁹⁹ *Ibid.*, p. 49.

Paris concluded the American war in 1783.¹⁰⁰ Saint-Léger focuses on the benefits of the town's free port status and its connections to the surrounding areas in its developing trade as a business friendly *entrepôt* for goods being exported from France as well as its salt refining, gin distilling and tobacco manufacture, and points out that smuggling, particularly in smaller boats because of the port restrictions imposed, was carried on throughout the period.

Christian Pfister's 1985 'Ports, navires et négociants' focuses on trade during the same period, both legal and illegal.¹⁰¹ The port was not the most convenient given its shallow channel and limited wharf space after the Treaty of Utrecht, but, if anything, this favoured smuggling, most of which took place in small and medium-sized vessels, at least in the first part of the century. Pfister's detailed analysis of official statistics charts the growth in smuggling during the eighteenth century, culminating in the period from 1765 when tea, wine, brandy and gin and luxury textiles were being shipped to 30 ports around Southern Britain, reflecting the increasing size of smuggling businesses. This growth was accompanied by a progressive reduction in the percentage of movements accounted for by local vessels, confirming the passive nature of trade as the port became increasingly a transit base. Trade with Britain, of which 70 per cent. was smuggled by 1774, remained important throughout the century.¹⁰² Pfister focuses on the importance of the English '*smuggleurs*' and the extent to which the merchant community and the local Admiralty officials supported and protected them, including during times of war with Britain, illustrating Morieux's point about the softening of national certainties in this border region. Even the manufacture of tobacco and

¹⁰⁰ Ibid., p. 337.

¹⁰¹ Pfister, 'Ports, navires et négociants'.

¹⁰² Ibid., p. 481.

gin was driven by smuggler demand.¹⁰³ As Pfister points out, even if smuggling was a two-way phenomenon, its advantages to the French state outweighed the disadvantages. However, neither Pfister nor Saint-Léger examines in detail the merchant community of Dunkirk and the extent to which it was involved in smuggling.

A balanced assessment of the importance of cross-Channel smuggling in trade between France and Britain can be found in Crouzet's 2006 essay.¹⁰⁴ Legal trade between Britain and France, once attempts to liberalise it had been denied by the Treaty of Utrecht, 'remained restrained by a straitjacket of prohibition,'¹⁰⁵ and grew at only a modest rate. But smuggling grew rapidly, with wines, spirits, lace and silks, tobacco and tea exported from France, much of it through the free port of Dunkirk whose role as *entrepôt* for this trade expanded as the century progressed. By 1783, the illegal trade was worth some £2-3 million per annum compared to legal imports of £12-13 million, resulting in substantial lost tax revenues for the British. Illegal imports of British goods into France, primarily of textiles, metal goods, ceramics and tobacco, reached 10-11 million l.t. by 1784, nearly as much as the 13 million l.t. of legal imports, but considerably less than the exports.¹⁰⁶ While on paper France benefited more from the cross-Channel smuggling trade, Crouzet concludes that Britain benefited in the long run because the protectionist system of the French state deprived its industry of the stimulants and competitive exposure needed to foster innovation.¹⁰⁷

¹⁰³ Ibid., p. 356.

¹⁰⁴ François Crouzet, 'La Contrebande Entre La France et Les Îles Britanniques Au XVIIIe Siècle', in Gérard Béaur, Hubert Bonin, Claire Lemercier, eds., *Fraude, contrefaçon et contrebande, de l'Antiquité à nos jours*, Geneva, 2006, pp. 35-59.

¹⁰⁵ 'resta enfermé dans un carcan prohibitionniste,' Crouzet, 'Contrebande', p. 36.

¹⁰⁶ Ibid., pp. 47, 57. Crouzet uses a rate of exchange of £1 to 24 *livres tournois*.

¹⁰⁷ Ibid., p. 59. Jeff Horn contests this view in his recent *Economic Development in Early Modern France: the Privilege of Liberty 1650-1820*, Cambridge, 2015, analysing the economic policies of the French government through the lens of 'privilege'. He points out that, although the system resulted in a complex puzzle of regulations and exemptions, and helped to exacerbate smuggling, it was a surprisingly effective way of

On the British side, where cross-Channel illegal trade was handled by numerous small harbours and remote coves, there seems to be no comparable body of history on Britain's smuggling centres, although a number of historians of smuggling have focused on the regions which saw the highest involvement. Examples of these include the general studies by Morley on Hampshire and Dorset, by Waugh on Kent and Sussex and Devon and Cornwall and by Jarvis on East Anglia as part of Countryside Books' series dating from the 1980s, as well as Morley's '*The Smuggling War*' from a similar period.¹⁰⁸ The Kent port of Deal is one whose name frequently crops up as a centre for smuggling in both primary and secondary sources, and Muskett has pulled together a number of anecdotes about it in 'Deal smugglers in the eighteenth century'.¹⁰⁹ In spite of its unpromising features as a port, it was an ideal location within reach of both London and the French coast *entrepot*s and as a place where East Indiamen could stop offshore on their way into London to offload private trade goods into the arms of smugglers. After the Commutation Act of 1784, tobacco smuggling assumed major importance with merchants importing Virginia tobacco into Guernsey or Dunkirk from where Deal seamen smuggled it across to processing points in Kent and East Sussex.¹¹⁰

Surprisingly, less also seems to have been written about smuggling in the eighteenth century from the base of the Channel Islands, although a number of articles appear in the

promoting industry for the good of the country. In fact, in the eighteenth century, French commerce 'performed admirably, both from a long-term perspective and compared to other economic sectors and its competitors', p. 100.

¹⁰⁸ Geoffrey Morley, *Smuggling in Hampshire and Dorset 1700-1850*, Newbury, 1983; Mary Waugh, *Smuggling in Kent & Sussex 1700-1840*, Newbury, 1985; Mary Waugh, *Smuggling in Devon and Cornwall, 1700-1850*, Newbury, 1991; S. M. Jarvis, *Smuggling in East Anglia, 1700-1840*, Newbury, 1987; Geoffrey Morley, *The Smuggling War: The Government's Fight against Smuggling in the 18th and 19th Centuries*, Stroud, 1994.

¹⁰⁹ Paul Muskett, 'Deal Smugglers in the Eighteenth Century', *Southern History*, VIII.57, 1986.

¹¹⁰ *Ibid.*, p.68.

local historical society journals, often focussed on one or other of the islands alone.¹¹¹ One exception is Jamieson's maritime history of the Channel Islands, which contains a long chapter on smuggling in the period 1680-1850. This notes the different roles of Jersey which specialised in smuggling tobacco into France, and Guernsey and Alderney which acted as a quasi-offshore *entrepôt* for smugglers into Britain, particularly after the purchase of the Isle of Man by the English crown put an effective end to that island's smuggling-related activities.¹¹² He also charts the frustrations of the English customs service in trying to limit smuggling into Britain against the repeated representations of the Guernsey government, an environment which provided security for merchants such as Carteret Priaulx to continue making money from the smuggling business until new laws in 1805 and 1807 finally put a stop to their activities.

Merchant networks

A substantial body of work on merchants and how they operated in the eighteenth century has built up since the 1950s at both the general and specific level, providing an understanding of the commercial context for smuggling as a business and aiding an analysis of the overlap with the legal trade. Jacob Price, also author of the works on tobacco cited above, has written frequently about merchants' activities, with perhaps the most useful starting point being his edition of the Herries family's 'Directions for the conduct of a merchant's counting house', while 'What did merchants do?' explains the workings of the

¹¹¹ One of the more notable of these is Peter Raban's 'Clandestine Trade in the Mid-Eighteenth Century', *Société Guernesiaise Report and Transactions*, 22, 1989, pp. 303-26.

¹¹² Alan Jamieson, *A People of the Sea: The Maritime History of the Channel Islands*, London, 1986.

credit system and its importance to the success of Britain's merchant community.¹¹³ While a number of historians have written about merchants outside London (Price himself in 'The rise of Glasgow' and Walter Minchinton in 'The Merchants in England' are examples), Perry Gauci's *Emporium of the World* is a vivid description of the life and workings of London's commercial world.¹¹⁴ A number of works over a similar period have covered the institutional background in which merchants operated in eighteenth century France, such as Taylor's 'Types of Capitalism' and Kessler's 'Revolution in Commerce', and there is a wide range of works on regional merchant communities, Teneur's 'Les Commercants Dunkerquois' being one example used in this thesis.¹¹⁵

A number of historians have, as part of the increased interest in transnational history in the last 20 years, examined the role of merchants, the networks that enabled them to operate on both sides of the Channel and across the Atlantic, and their involvement in smuggling as well as legal trade. A good example is Dickson et al.'s collection of essays '*Irish and Scottish Mercantile Networks*' focused on Atlantic and cross-Channel trade undertaken by the families, often Catholic or Jacobite, outside the direct empire routes, relying strongly on family networks to address the risks of doing business across great distances.¹¹⁶ As early as

¹¹³ Jacob Price, 'Directions for the Conduct of a Merchant's Counting House, 1766', *Business History*, 28.3, 1986, pp. 134–50 and 'What Did Merchants Do? Reflections on British Overseas Trade, 1660–1790', *The Journal of Economic History*, 49.2, 1989, pp. 267–84.

¹¹⁴ Walter Minchinton, 'The Merchants in England in the Eighteenth Century', *Explorations in Entrepreneurial History*, 10.2, 1957, pp. 22–31; Jacob Price, 'The Rise of Glasgow in the Chesapeake Tobacco Trade, 1707–1775', *The William and Mary Quarterly*, 11.2, 1954, pp. 179–99; Perry Gauci, *Emporium of the World: The Merchants of London, 1660–1800*, London, 2007.

¹¹⁵ George Taylor, 'Types of Capitalism in Eighteenth-Century France', *The English Historical Review*, 79.312, 1964, pp. 478–97; Amalia Kessler, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France*, New Haven, CT, 2007; J. Teneur, 'Les commerçants dunkerquois à la fin du XVIII^e siècle et les problèmes économiques de leur temps', *Revue du Nord*, 48.188, 1966, pp. 17–49.

¹¹⁶ David Dickson, Jan Parmentier, and Jane Ohlmeyer, Eds., *Irish and Scottish Mercantile Networks in Europe and Overseas in the Seventeenth and Eighteenth Century*, Ghent, 2007.

the 1640s, Irish merchants and shipowners had started to settle in Ostend, with a second wave in the 1690s, and smuggling networks linking London, Dublin and Scotland with European Western seaboard ports began to develop in the early eighteenth century as Scottish and Irish private merchants started to organise voyages to Canton for tea and other goods in what subsequently became the Austrian Empire's short-lived Ostend Company. Tea and other contraband was shipped under false papers for Norway to the East Coast of England, and for Lisbon to the South and West coasts. Once the Ostend Company was shut down in 1731 under international pressure, a number of the promoting merchants migrated to Gothenburg where the longer-lasting Swedish East India Company was set up. Dunkirk took up the mantle as an *entrepôt* location for trade – including smuggling – and had an unusual relationship with its foreign merchants: as a free port it was able to offer full rights to British merchants and even continued to welcome smugglers during the early nineteenth century wars with Britain.¹¹⁷ Dickson, Daly, Parmentier and von Brescius in her 2016 thesis on 'interlopers' build an extraordinary picture of sophisticated, mostly family-based, merchant networks active in legal trade and smuggling across the Channel.¹¹⁸

It is no coincidence that many of those traders were from Jacobite families looking for lives outside Britain, and there is a suggestion that the link between smuggling and Jacobitism is strong, with the attendant danger of 'clandestine communication with the enemy' in the

¹¹⁷ See Gavin Daly's description of the 'Ville des Smoggeurs' at Gravelines just outside Dunkirk in 'Napoleon and the "City of Smugglers", 1810-1814', *Historical Journal*, 50.2, 2007, pp. 333-52.

¹¹⁸ Gavin Daly, 'English Smugglers, the Channel, and the Napoleonic Wars, 1800-1814', *Journal of British Studies*, 46.1, 2007, pp. 30-46; Jan Parmentier, 'A Touch of Ireland: Migrants and Migrations in and to Ostend, Bruges and Dunkirk in the Seventeenth and Eighteenth Centuries', *International Journal of Maritime History*, 27.4, 2015, pp. 662-79; Meike Von Brescius, 'Private Enterprise and the China Trade: British Interlopers and Their Informal Networks in Europe, c.1720-1750', unpublished PhD thesis, University of Warwick, 2016.

words of Durrant Cooper in 1858.¹¹⁹ Chaussinand-Nogaret estimates there were 40-50,000 British and Irish Jacobite exiles in total across Europe at the beginning of the eighteenth century, many of them fighting in the French army, although after 1745 they began to be more assimilated.¹²⁰ As merchants (or indeed smugglers), they had the benefit of strong family links to Britain and Ireland. Paul Monod, in his essay 'Dangerous Merchandise...,' makes an argument for the links between Jacobites and smugglers, but this time on the British mainland, as an explanation for the growth in smuggling gangs from 1714 and for government concerns at the time.¹²¹ He also points out that two of the witnesses to the 1745/6 Commons Committee report, Matthew Blakiston and Richard Sclater, were believed to be active Jacobites. He charts the importance of Jacobite sympathisers among the landowners in the southern counties of England and he concludes that 'The interplay of paternalism with Jacobitism led to the politicization of the contraband trade.'¹²² It is a fascinating and convincingly argued idea, but one for which insufficient evidence exists and which has therefore been more commonly rejected.¹²³

Outline of the thesis

The remainder of this thesis will set out how the business of smuggling was run in the eighteenth century, the obstacles put in its place by government legislation and the

¹¹⁹ Durrant Cooper, 'Smuggling in Sussex', *Sussex Archaeological Collections*, 10, 1858, pp. 69-94. It is also worth noting that in *Winchelsea*, a 2022 historical novel by Alex Preston, the main protagonist's family is using the profits of smuggling to help fund the Jacobite cause.

¹²⁰ Guy Chaussinand-Nogaret, 'Une élite insulaire au service de l'Europe; les Jacobites au XVIIe siècle', *Annales: histoire, sciences sociales*, 28.5, 1973, pp. 1097-1122.

¹²¹ Paul Monod, 'Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690-1760', *Journal of British Studies*, 30, 1991, pp. 150-82.

¹²² Ibid., p. 159.

¹²³ Cal Winslow, for example, writing earlier, played down the importance of any Jacobite connections. See Winslow, 'Sussex Smugglers', pp. 156-7.

enforcement measures of the tax collection authorities, and how these obstacles were addressed and overcome. It will compare smuggling in Britain and France, in terms of the business techniques of smugglers as well as governments' approaches, helping to illuminate how the issue was dealt with by two very different regimes frequently at war with each other across the Channel. The second chapter of the thesis sets out the detailed mechanics of the smuggling business, with particular reference to the north-western provinces of France and the south-eastern counties of Britain. It shows how the traditional trading supply chain model was adapted for the smuggling business, and looks at the routes, the transport methods and the manpower required to deliver the smuggled products profitably. In the process it touches on the preventative measures and how these were evaded, and on the merchant communities at the centre of the activity. It then focuses on the roles of the two big *entrepôts* of cross-Channel smuggling, Dunkirk and the Channel Islands. There were others, but these two appear most frequently in the primary source material and secondary literature. The third chapter extends this description of smuggling further by looking in more detail at the world within which smuggling operated in the eighteenth century. It sets out the legal environment, the tax and monopoly structures and changes made during the century, and the enforcement regime, whose inadequate application by those same governments (or their proxies) offset the risks inherent in the illicit trading activities. The chapter also explores the impact smuggling had on local society, the violence it brought and the attitudes of local people to both sides in the running battle for control of the tariff borders.

The remainder of the thesis addresses the key business features of smuggling, respectively the organisation of smuggling and the risks and risk management. First, it aims to identify

the range of key promoters of smuggling, who they were, whether there was a political angle to their activities and how they operated and managed the process, in many cases handling 'run goods' alongside legal imports or operating as part-time smugglers. Funding was critical, both investment funds to fit out ships and other infrastructure and working capital to fund commodity purchases and overheads, and one of the intriguing aspects of smuggling in the eighteenth century is how normal trade credit arrangements were used in many cases. Perhaps the most important section of the thesis is the last chapter which deals with risk and risk management. In addition to the more evident risks of loss to seizure, or capture and conviction, there were the usual business risks of pricing and inventory management, but also others such as the impact of the outbreak of war or government policy change on investments. A whole range of mitigation strategies which were employed to address these risks are examined, such as faster ships, false bills of lading, larger gangs, or, arguably safer, bribery or intimidation of officials. It seems that there were even forms of insurance cover available to the smuggler. Most impressive is the flexibility many smugglers seem to have shown in being able to move base rapidly in order to protect the profitability of their ventures.

The conclusion of the thesis brings together the analysis to focus on the comparisons and differences between smuggling in Britain and France, and attempts to assess smuggling's contribution to the societies of those countries. There was a wide range of participants in smuggling businesses, often integrated into the local merchant communities, but their motivations were always clear. It also critiques the governments' approaches to smuggling and why they seemed unable to adjust tax and other regulations, or to adapt to the way smugglers were taking advantage of their policies. Finally, it attempts to draw lessons for

the present, pointing out that the traditional approaches of prohibition, monopoly or high taxes, accompanied by enforcement efforts necessarily limited by cost and public acceptance, work no better now than they did in the eighteenth century.

2 – The smuggling supply chains

Introduction

Although at its simplest, smuggling involved purchasing goods in one jurisdiction, carrying them across a border and reselling them as contraband in another, for the majority of smuggling operations the logistics were highly complex, involving multiple locations, a wide range of forms of transport and people with many different specialisations. The larger smuggling operations were on the face of it similar to the sophisticated trading operations of the time, indeed were often combined with legal trading, but the particular risks, secrecy and evasion needed to handle contraband profitably created a significant additional burden. As set out above, there is an extensive literature bringing together many of the available facts about smuggling, the most complete examples being Muskett's 'English Smuggling' and Kwass' *Contraband* which focus on the mechanics of smuggling respectively into southern Britain and across France.¹ In *The Channel*, Morieux' analysis identifies Dunkirk and the Channel Islands as *entrepôts* for smuggling into both Britain and France, emphasizing their critical importance in buying, processing, warehousing and selling a wide range of goods for smuggling.² And the work by Dickson et al. explores the cross-channel merchant networks behind the Ostend Company and Swedish East India Company and how they built largely specialist businesses to import and trade in goods for smuggling both directly and

¹ Paul Muskett, 'English Smuggling in the Eighteenth Century', unpublished PhD Thesis, The Open University, 1996; Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground*, Cambridge, MA, 2014.

² Renaud Morieux, *The Channel: England, France and the Construction of a Maritime Border in the Eighteenth Century*, Cambridge, 2016.

through the entrepôts.³ The aim of this chapter is to explore how these three elements – smuggling mechanics, *entrepôts* and merchant networks – came together to create smuggling supply chains, and to compare the way they operated in Britain and France. These supply chains were highly sophisticated and very varied, with a wide range of participants. This chapter also shows the way legal trade was in some cases entwined with smuggling rather than always being distinct, in contrast to the pure smuggling operations which proved highly specialised and adaptable in order to stay one step ahead of the authorities. As throughout this thesis, examples are mainly drawn from tea, tobacco and spirits smuggled into Britain and salt, tobacco and textiles into and around France, illustrating where supply chains could differ by product.

Like in any other business, smuggling supply chains could be short and very small-scale, local operations, such as in Northern France, with an individual buying in one location, crossing the border and selling in another, or they could be extensive networks with significant investment in warehousing and ships backed up by formidable logistics operations employing hundreds of individuals. As a result, it is difficult to generalise, but the central players were the shippers (or, in the case of France, land carriers) who purchased contraband goods and transported them across customs borders, in many cases supported by the carrier gangs ready to receive the goods and move them on to their ultimate destination. Crossing the customs border, and the subsequent evasion of customs officers and customs posts, is the point at which the shipment became illegal. The shipper could purchase a variety of contraband goods (brandy and tea were commonly shipped together

³ David Dickson, Jan Parmentier, and Jane Ohlmeyer, Eds., *Irish and Scottish Mercantile Networks in Europe and Overseas in the Seventeenth and Eighteenth Century*, Ghent, 2007.

into England, as were salt and tobacco into northern France) from conveniently located wholesalers with warehouse operations in the *entrepôts* and elsewhere containing goods which in many cases could have been destined as much for the legal trade as smuggling. The larger wholesalers in the *entrepôts* in turn bought from the importers of internationally traded goods (tea, tobacco, Indian textiles) which were not available locally, and from regional sources, participating in the auctions of the various national East India trading companies if necessary, enabling them to stock a wide range of products. The final link in the chain was the distributor to whom the shipper sold, whether the smaller scale local innkeeper or *cabaretier*, or the merchant or larger retailer able to merge the contraband with his legally procured supplies.

The goods would generally use a secluded route to avoid detection, with carriers, often in large, armed gangs for protection, ready to receive them and move them as quickly as possible into hiding places before subsequent delivery. Border crossings could occur anywhere, but the larger centres of population would attract the majority of smuggled goods, so the proximity of reception locations to these centres was important. The extent of smuggling in Sussex, Kent, Essex and Suffolk is explained by their accessibility from the European coast, as well as the relative proximity of London, with Rye only some 115 km away. By contrast, Paris is some 300 km from Dunkirk and 250 km from Bar-le-Duc in Lorraine, two of the larger centres outside the French customs area in the eighteenth century, and, although France was a more rural country with smaller towns, the capital still managed to exert a strong pull.⁴ The use of secluded locations for goods smuggled in by sea

⁴ 'the French economy, even at the end of the eighteenth century, was almost exclusively agricultural and artisan, and essentially autarchic, and ... the population as a whole bore very marked rural characteristics, towns being few and thinly populated,' Paul E. Vincent, 'French Demography in the Eighteenth Century',

led to the use of smaller, shallower and less easily detectable boats which were easy to hide and manoeuvre, but these vessels were consequently limited in their ability to endure long sea voyages. Smuggling operations were initiated by individuals, by the smuggling gangs themselves or by merchants in the *entrepôt* or at the destination. Either way, merchants were at the heart of smuggling supply chain operations, as suppliers whose actions purely as suppliers would not have been illegal, as ready buyers of contraband goods or as sponsors and ship owners. The role of the merchants and the extent to which they were implicated in smuggling will be explored in fuller detail in chapter 4 of this thesis.

The number of links in many of these smuggling supply chains made them extremely vulnerable to interference and disruption. Many of the risks, such as the unpredictability of the weather, failure of equipment or the outbreak of hostilities were similar in nature to those experienced in the legal supply chains, if somewhat heightened by the clandestine nature of the operations (night-time operation, lack of protection during wartime). But the greatest risks to smugglers were the possibility of discovery and seizure and the preventative activities of the forces charged with implementing the increasingly draconian anti-smuggling legislation. Any of these would require a last-minute change of plan, or could break a link in the supply chain, resulting in considerable extra cost or outright loss, leading in some cases to imprisonment and death. The risks of operation are explored in detail in chapter 5 of this thesis.

Population Studies, 1.1, 1947, pp. 44–71, p.45. London was clearly the larger city in relative as well as absolute terms, with 7 per cent. of the population of England at the end of the seventeenth century rising to 11 per cent. in 1801, whereas Paris had around 2.5 per cent. which seems not to have increased substantially. See Karen Newman, *Cultural Capitals: Early Modern London and Paris*, Princeton, 2021, p.2 and Jean-Noël Biraben and Didier Blanchet, 'Essai sur le mouvement de la population de Paris et de ses environs depuis le XVI^e siècle', *Population*, 53.1-2, 1998, pp. 215-248, at p. 243.

Similarities between the smuggling operations in Britain and France were strong on the back of broadly comparable approaches by their respective governments to helping local industries or taxing increasingly popular consumer products, with attempts at prevention relying on tighter legislation and increasingly active preventative forces. In both nations, these forces had the perverse effect of heightening tensions and increasing incidences of violence as the smugglers banded together in gangs for protection. But there were notable differences, not least in the geographical reality that France had a significant land border to patrol as well as an extended coastline.⁵ Moreover, France in the eighteenth century was made up of a collection of provinces and territories, with many individual areas enjoying different status and privileges, so the customs rules were not necessarily applied in the same way across the entire territory, with the result that the authorities were left with the complex task of dealing with different rules in different regions.⁶ Also, France outsourced the collection and enforcement of all indirect taxes to the private sector, a strategy Britain had moved away from in the previous century, adding to the antagonism between the population and the preventative forces in France. Details of the legislative and enforcement environment governing smuggling in both Britain and France are set out and compared in chapter 3 of this thesis.

⁵ The coastline of the United Kingdom is some 3 times the length of France's coastline, but France's land border is likely to have been even harder to patrol effectively. See 'Coastline - The World Factbook - CIA, Country Comparison, Nations Statistics' <<https://www.nationsencyclopedia.com/WorldStats/CIA-World-Factbook-Coastline.html>> (accessed 22 February 2022).

⁶ See Felicia Gottmann, *Global Trade, Smuggling, and the Making of Economic Liberalism: Asian Textiles in France 1680-1760*, London, 2016, pp. 55-9.

Smuggling into Britain

Goods were smuggled into Britain in a number of ways: they were carried illegally by travellers and diplomats, probably in relatively small scale operations;⁷ EIC personnel had an active trade in the private sale of goods from inbound ships on their way up the Channel to London, which was recognised as a problem by the EIC;⁸ and much was achieved through outright fraud or bribery of customs officials at the ports. But continental Europe was close by (see Figure 1), and substantial quantities of contraband goods were assembled by merchants in the *entrepôts* there, as well as in the Isle of Man and the Channel Islands, from a variety of sources, for smuggling onto the coasts of Britain.

⁷ Perhaps the most notorious example was the Count de Haslang, the Duke of Bavaria's envoy in London, who lived in Golden Square and sold tea to people bringing 'Tickets signed by the Count's housekeeper.' TNA, T 1/489/116-7, letter from the Excise Office, 10 July 1772.

⁸ 'when the last fleet of East India ships (consisting of 17 sail) was in the Downs very large quantities of goods, we believe to a much greater value than is mentioned in Lord Sheffield's letter were run on shore,' TNA, T 1/568/209, letter dated 13 November, 1781. Goods were also taken to ports in France and Guernsey. See also H. V. Bowen, "So Alarming an Evil": Smuggling, Pilfering and the English East India Company, 1750-1810', *International Journal of Maritime History*, 14, 2002, pp. 1-31, at p. 12.

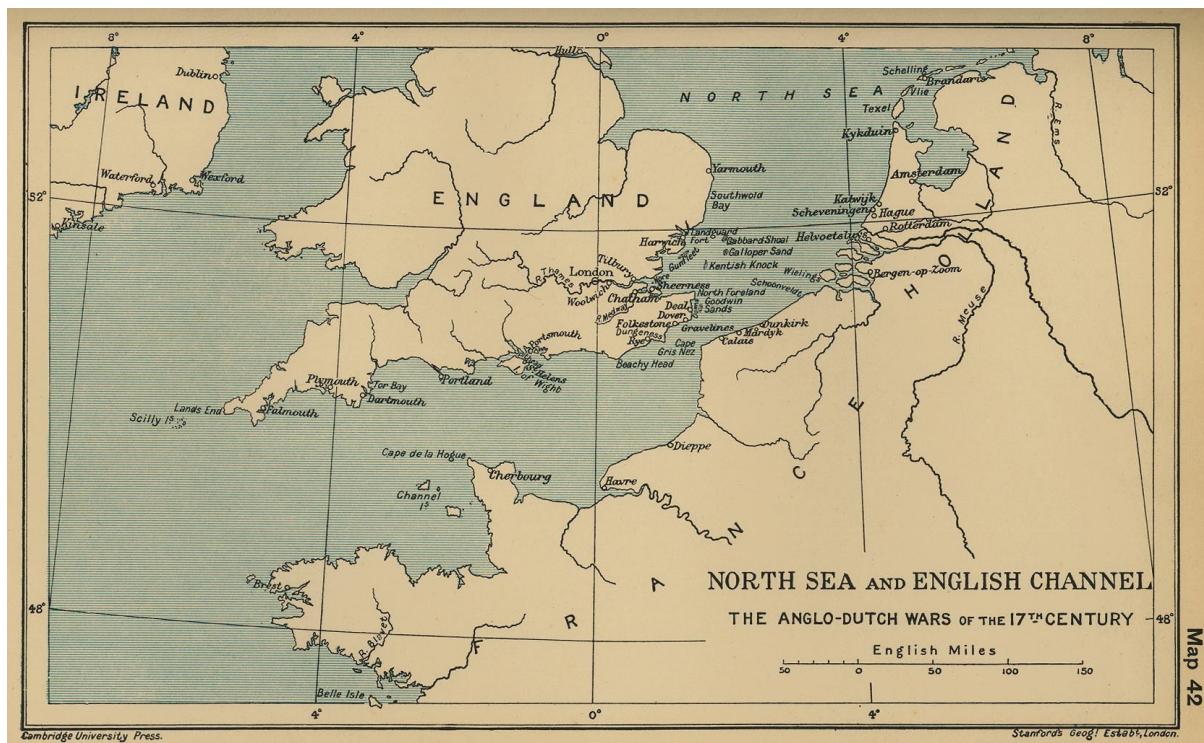


Figure 2.1: Historical Map of the North Sea and English Channel: The Anglo-Dutch Wars of the 17th Century, from the Cambridge Modern History Atlas, University of Texas at Austin, 1912.

Far eastern goods (principally tea and textiles) were imported by the national East Indies trading companies of France, the United Provinces and Scandinavia in increasing quantities to their home bases under national monopoly arrangements, and from there buyers for the smuggling trade shipped them to the *entrepôts* or direct onto the coast of Britain.⁹ Tea, it was acknowledged at the time, was the largest single commodity smuggled into Britain. Legal imports were controlled through the EIC's monopoly, and customs and excise duties were high until 1784. As a result, tea was the commodity with the best weight to value ratio and many other goods – most conspicuously in the Southern counties, brandy – were carried alongside tea.¹⁰ When it became clear early on in the eighteenth century that tea

⁹ In addition, between 1722 and 1731, the Ostend Company was licensed by the Austrian government to import goods from China, but was shut down under diplomatic pressure from the other European powers. Some of the promoters then went on to form the *Svenska ostindiska kompaniet* or Swedish East India Company. See Meike Von Brescius, 'Private Enterprise and the China Trade: British Interlopers and Their Informal Networks in Europe, c.1720-1750', unpublished PhD thesis, University of Warwick, 2016.

¹⁰ See OBPO, October 1747, trial of Thomas Fuller (t17471014-4). See also Frank McLynn, *Crime and Punishment in Eighteenth-Century England*, London, 2013, p. 178.

was in particularly high demand, the continental East Indies trading companies started importing significantly larger quantities than were needed in their home markets, with the specific intention of selling to the British smuggling trade. The EIC's Deputy Accountant estimated that on average over the 10-year period to 1781

about 13 Millions of Pounds Weight of Tea are brought by the Foreign Companies into Europe; 5% of which are computed, from the best Informations, to be the Consumption of the Continent of Europe; the remaining 7% must be presumed to be introduced into Great Britain and Ireland, and the Dependencies of Great Britain.¹¹

Virginia tobacco was shipped by merchants from the Americas. Importing merchants avoided paying duties on large quantities of tobacco as a result of systematic frauds perpetrated in the arrival ports. 'Your Committee have full proof that very notorious Frauds have been and still are committed on the Importation of Tobacco,' states the report of the 1733 committee of the House of Commons appointed to look into the 'Frauds and Abuses in the Customs', and then proceeds to catalogue them.¹² But tobacco could be legally re-exported, for which duty paid was reimbursed, and re-exports were equally open to fraud through false declarations.¹³ The concentration of the 1733 Committee on frauds as opposed to cross-border smuggling suggests that this might have been the greater problem at the time, but much of the illegal tobacco entering Britain was re-exported to the

¹¹ See the *First Report from the Committee appointed to enquire into the illicit practices used in defrauding the Revenue*, dated 24th December 1783, London, 1784.

¹² *The Report with the Appendix from the Committee of the House of Commons Appointed to enquire into the Frauds and Abuses in the Customs to the Prejudice of Trade, and Diminution of the Revenue*, published by order of the House of Commons, London, 1733, pp. 5-12. Beverly Lemire summarises it as follows: 'In Britain, the collusion of merchants and customs officers was commonplace with false listings of import weights, false declarations of damaged stocks and false statements on the re-export of tobacco. Extralegality prevailed.' Beverly Lemire, *Global Trade and the Transformation of Consumer Cultures: The Material World Remade, c. 1500-1820*, Cambridge, 2018, p. 220.

¹³ *The 1733 report*, p. 10.

entrepôts under bills of lading for elsewhere, and then, sometimes after further processing or re-packaging into smaller, easier to handle parcels, smuggled back in.¹⁴ Tobacco was also officially re-exported and then taken immediately to nearby coves or beaches for illegal re-landing.¹⁵

Various goods would be warehoused in the *entrepôt* by local merchants, many of whom were English, Scottish or Irish, and smugglers would sail over and purchase from these merchants and ship the goods across to Britain.¹⁶ In some cases local *entrepôt*-based merchants were behind the smuggling activity.¹⁷ The scale of the smuggling vessels would vary considerably, from small but seaworthy boats for the shorter channel crossings or from the Isle of Man to substantial ships able to cross the North Sea carrying contraband direct from Gothenburg to the east coast of Scotland. Crews and vessels were increasingly often armed as the century progressed.

Landing the goods on British soil and evading the customs authorities was the most hazardous link in the chain. Customs sloops at sea and riding officers on land patrolled the coast looking to prevent smuggling and seize contraband goods. Smugglers would signal to

¹⁴ Jacob M. Price, *France and the Chesapeake. A history of the French tobacco monopoly, 1674-1791, and of its relationship to the British and American tobacco trades*, 2 vols., Ann Arbor, MI, 1973, p. 496.

¹⁵ *The 1733 report*, p. 13 describes the process for West coast tobacco to be smuggled into Ireland.

¹⁶ A number of historians have shown strong links between these merchants, smuggling and exiled Jacobite-sympathising families. See Paul Monod, 'Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690-1760', *Journal of British Studies*, 30.2, 1991, pp. 150-82 and Guy Chaussinand-Nogaret, 'Une élite insulaire au service de l'Europe: les Jacobites au XVIIe siècle', *Annales: histoire, sciences sociales*, 28.5, 1973, pp. 1097-1122. Their analysis of merchant networks and the advantages these families enjoyed with good contacts in both Britain and Ireland and the major European commercial centres is convincing, but it is not clear that their political views were behind their involvement in smuggling.

¹⁷ A good example is the Guernsey-based merchant William Le Marchant who, with his associate John Channan, arranged for shipments of contraband to customers in Devon and Cornwall in the 1750s and 1760s, TNA, T 1/489/118-122.

associates waiting on the shore to check the coast was clear before approaching, and frequent delays were caused by the need to stand back out to sea or change the landing site at the last minute. Tea would be packed in oilskin bags¹⁸ and brandy would be weighted to be thrown overboard for subsequent recovery if the smuggling vessel felt threatened, as a deposition by Deal watermen in 1730 shows: 'they found the said boat to be laden with small casks called half ankers of brandy, the said casks being all slung with large ropes to stones and anchors in order to be sunk in the sea, as is known to be the practise of the smuglers who use the French trade from these parts.'¹⁹

Contraband goods were unloaded at the coast, often by large gangs of 30-100 men, and taken away by horse or wagon to be temporarily hidden to avoid searches by the preventative services, before being parcelled up for onward distribution as rapidly as possible.²⁰ This stage was also extremely hazardous, sometimes with soldiers or riding officers in pursuit, and gangs were important not only to speed up the unloading process but for protection and intimidation, and gangs such as the Hawkhurst Gang were notoriously violent.²¹ As Abraham Walter said in his testimony to the 1745 Commons Committee enquiring into the 'Causes of the most infamous Practice of Smuggling':

it is extremely dangerous for Custom-house Officers, or others, to attempt to seize goods in the Coast Counties; because the Smugglers are very numerous there, and can assemble to a great Number, whenever they have occasion; and that in

¹⁸ OBPO, July 1749, trial of Uriah Creed, alias Morgan (t17490705-48).

¹⁹ TNA, SP 36/20/142, Forwarding a report from the Commissioners of Customs, 10 September 1730.

²⁰ The testimonies of witnesses and suspects in the OBPO in the first half of the century suggest a landing gang would consist of a range of 30-100 men at any one time, even if gang members overall could exceed that. While there is the strong suggestion from official reports such as the 1783 Commons report that smuggling and associated violence were getting worse, it is not clear that gang sizes had increased.

²¹ See Muskett, 'English Smuggling', p. 237.

particular, at the village of Hawkhurst in Kent, 500 can get together, armed, in less than an Hour.²²

However, as shown above, based on the testimony available from the records of the trials of smugglers at the Old Bailey, this number would seem to be an exaggeration. Many customs officers were content to take bribes, or were allowed modest seizures of contraband to maintain their credibility with the authorities and supplement their meagre pay, but honest individuals or small groups of customs officers stood little chance against large, often armed and extremely violent, gangs.²³ The support of soldiers garrisoned nearby was rarely sought because of the financial implications for the customs officials, with as much as two-thirds of the reward money needing to be paid.²⁴

Once safely unloaded and hidden, the goods were then divided up for transportation between smaller groups of 10-20 men and horses, or even between individuals, and distributed, usually hidden or transported under cover of darkness, to the end user, to shopkeepers or to merchants.²⁵ Transport would be by horse (a packhorse could carry up to a hundredweight and a half and six to seven half ankers of brandy) or by man ('Tubmen' carried half ankers of brandy, one front and one back, 'Dollop' or 'Dollet' men carried tea on foot; and 'Duffers' were involved in the final stage of distribution and had specially designed

²² *Journals of the House of Commons*, vol. xxv (1745-50), London, HMSO, p. 105.

²³ McLynn, *Crime and Punishment*, p. 189.

²⁴ *Ibid.*, p. 193.

²⁵ At the Trial of Thomas Puryour in 1747, Robert Worthington confirmed that the original gang (part of the Hawkhurst Gang) of 40-50, of whom 30-40 were armed (other testimony quotes somewhat higher numbers), broke into smaller groups: 'They afterwards go seven or eight in a Gang; some ten, some twenty, in a Gang'. OBPO, September 1747, trial of Thomas Puryour, otherwise called and known by the Name of Blacktooth (t17470909-36).

clothing in which 25-30 pounds of tea would be quilted).²⁶ Some would have found itself into the local market, but the majority would have been destined for London and the other large centres of population, often via storage hubs in villages close to the metropolis such as Stockwell, to which merchants or their associates would travel to make their purchases.²⁷ At this point many goods became indistinguishable from those imported legally. It seems to have been generally known that London merchants were ready buyers of contraband goods, and a number admitted as such under the legal indemnity system. Samuel Wilson, a grocer, and Abraham Walter, a 'Dealer in Tea', were two of the experts giving statements to the 1745 Commons Committee enquiring into the 'Causes of the most infamous Practice of Smuggling', and they are referred to as having formerly been involved in tea smuggling 'but took the Benefit of the Act of Indemnity' of 1736.²⁸ Abraham Walter was the brother-in-law of a smuggler and Dunkirk-based merchant, Robert Hanning, so would presumably have had ready access to cheap supplies of tea.²⁹ For merchants for whom goods such as tea and tobacco were important parts of their business, the sheer quantity of contraband products entering the supply chain, and the low prices at which they could be sold, must have put them at a distinct competitive disadvantage, prompting them to find ways to circumvent regulations. The tea dealers' memorial to the Treasury sets out the prices at which tea is

²⁶ For the carrying capacity of a horse, see OBPO, October 1747, trial of Thomas Fuller (t17471014-4). The information on individuals comes from the testimonies of Samuel Wilson and Barnaby Bland in the 1745 report, *Journals of the House of Commons*, pp. 104-6. See also Richard Platt, *Smuggling in the British Isles: A History*, Stroud, 2007.

²⁷ Cal Winslow, 'Sussex Smugglers' in Douglas Hay, Peter Linebaugh, John Rule, E. P. Thompson, and Calvin Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London, 1975, p. 126.

²⁸ *Journals of the House of Commons*, p. 104. See also Sir Stephen Theodore Janssen, *Smuggling laid open, In all its Extensive and Destructive Branches; with Proposals for the effectual Remedy of that most iniquitous Practice*, London, 1763, pp. 73-76.

²⁹ Ibid. Robert Hanning was a smuggler wanted in connection with a failed operation in Bunhill Row, London, who fled abroad to become a merchant based first in Dunkirk and then in Flushing selling contraband goods to British smugglers. The smuggling incident is recorded in OBPO, June 1736, trial of George Watson otherwise Yorkshire George (t17360610-54) and OBPO, *Ordinary of Newgate's Account*, July 1736 (OA17360705).

sold by 'duffers or hawkers whose business it is to make up the tea in parcels, which they carry and sell to private families...' and these are as low as half the prices at which the 'fair traders' sell.³⁰ An example of a brandy merchant attempting to reduce his liability to high duties, and he was far from alone in this, is the use by the London merchant Thomas Ellis of the term 'Flemish brandy'. Clearly no such thing existed, but buying French brandy, shipping it via Dunkirk in French Flanders and then calling it 'Flemish' for shipping across to London resulted in a significant reduction in the duty payable, at least until legislation in 1733 removed the premium tariffs applied until then on French brandy.³¹

Smuggling into Scotland, particularly in the second half of the century, at some distance from the authorities in London and the base of the EIC, was a different matter. On the south-west coast, smuggling was very similar to the rest of England, relying heavily on the nearby *entrepôt* of the Isle of Man, until its purchase by the Crown in 1765, and subsequently on Ireland. On the south east coast however, many goods were shipped directly from Scandinavia, the length of the journey across the North Sea requiring more substantial vessels, with some smuggling conducted under cover of legal trades such as the timber trade.³² There also seems to have been more direct merchant involvement, relatively less use of violence, and more use of bribery and fraud, for example in the business of tobacco smuggling, where the simplicity of bribing customs officers and the ability to then sell the tobacco thus imported at official prices outweighed the higher transportation costs

³⁰ TNA, T 1/512/314-5, Memorial and petition of the dealers in tea to the Right Honourable the Lords Commissioners of His Majesty's Treasury, 30 January 1779. The prices listed range from 2s to 2s/9d for bohea (compared to the 3s/11d to 4s/3d for tea sold by the fair trader) to 3s/6d to 5s/6d for souchong (compared to 7s to 12s).

³¹ See David Chan Smith, 'Fair Trade and the Political Economy of Brandy Smuggling In Early Eighteenth-Century Britain', *Past & Present*, gtaa008, 2020.

³² Derek Charles Janes, 'The Business of Smuggling in South-East Scotland. John and David Nisbet and Their Associates c.1740–1790', Unpublished thesis, Exeter, 2018, p. 98.

of running tobacco in remote areas and the lower sale prices for smuggled tobacco.³³ In the local tea market a taste for better quality *congou* developed in contrast to the predominance of lower grade *bohea* teas which had become the staple of the English smuggling trade. By the latter part of the eighteenth century, Scotland had become a different market for tea, with the development of a brand, 'Gottenburgh Tea,' which was distributed across Scotland and as far south as Newcastle and Leeds, effectively undercutting the EIC in that area and undermining its monopoly, seemingly with impunity.³⁴

Many of the smuggling routes into southern Britain followed the old 'owling' routes in reverse. Wool exports had been restricted and taxed for many centuries, and raw wool exports were completely banned from 1660 until 1824, creating the opportunity for wool growers particularly in the south-east of the country to make better profits by illegally transporting their wool by sea to the near continent.³⁵ And although the volumes of illegal exports are thought to have peaked by the end of the seventeenth century, there were still frequent occurrences of 'owling' in the eighteenth century.³⁶ Large amounts of silver (and later gold) were carried across the Channel to purchase contraband goods during the century, but as late as the 1780s there were still mentions of wool as a form of currency in

³³ See Thomas C. Barker, 'Smuggling in the 18th Century: The Evidence of the Scottish Tobacco Trade', *Virginia Magazine of History and Biography*, 62.4, 1954, p. 388. In the climate of antagonism between the English and the Scots in the years after the Union, 'all the tricks of the smugglers' trade were developed to a high pitch of efficiency,' p.390.

³⁴ Janes, 'The Business of Smuggling', p. 175. See also Derek Charles Janes, 'Fine Gottenburgh Teas: The Import and Distribution of Smuggled Tea in Scotland and the North of England c. 1750–1780', *History of Retailing and Consumption* vol. 2, no. 3, 2016, pp. 223–38.

³⁵ Julian Hoppit, *Britain's Political Economies: Parliament and Economic Life, 1660-1800*, Cambridge, 2017, p. 219.

³⁶ Neville Williams, *Contraband Cargoes: Seven Centuries of Smuggling*, London, 1959, p. 89.

the *entrepôts*.³⁷ Significant quantities of wool were smuggled out through the Channel Islands: a 1748 report sets out how wool is smuggled out of Alderney to Cherbourg, and points out that 'all the chief inhabitants...are concerned in this clandestine and unlawful trade, which is the reason they have carried it on so long.'³⁸ Ireland was also a problem, as Horace Walpole reported in 1755: 'I am credibly informed that 5 or 6 French armed vessels are constantly employed in a smuggling trade with tea brandy & other goods on the Western coast of Ireland from whence they carry wool to France in return.'³⁹ The economic benefits of smuggling goods in both directions must have been significant, given that there seem to have been more than adequate profits to be made from one-way traffic using ballast on the second leg.

The response of the government to the increasing trade in contraband goods was a series of increasingly complex rules on how goods should be packaged for import, measures to prevent gangs from forming near the coast and ever harsher penalties for those caught, which in turn influenced the smugglers' actions, leading to increased gang sizes, numbers of armed gang members and the violence with which they confronted the preventative services. However, inadequate resources, intimidation by gangs and problems with the local court system meant that enforcement was problematic. In spite of one notable effort in mid-century to curb violent smuggling using the court system, the Duke of Richmond's crusade against the Hawkhurst Gang in the late 1740s using a special commission, little was

³⁷ The *Report from the Committee appointed to consider the several laws now in being for preventing the exportation of live sheep and lambs, wool, wool fells etc.*, 1788, p7, contains an estimate that 10,000 packs of wool a year (at 240 lbs each) were still being sent over to France illegally as well as woollen and worsted yarn.

³⁸ TNA, T 1/332/41, Report of the Customs Commissioners on the smuggling of wool from Alderney to France, 27 July 1748.

³⁹ TNA, T 1/361/38, Walpole's observations on the report of the Irish Revenue Commissioners on the smuggling of wool from Ireland to France, 9 May 1755.

done to address the root causes – high import tariffs – until Pitt's Commutation Act in 1784.

These issues will be addressed in the next chapter.⁴⁰

Smuggling into and within France

Smuggling in France was characterised by a greater degree of product specialisation than in Britain, with different routes for different products, although salt and tobacco were frequently smuggled together in the north of the country and tobacco and textiles together in the east. To match this, there was a hierarchy of smugglers based on the profits available from smuggling, with distinct names for each: at the bottom were the salt smugglers, the '*fraudeurs*' or '*faux sauniers*' who were mostly local peasants operating part time in small gangs across the internal customs borders of France (and, much like the '*owlers*' of southern England, had been doing this for generations); tobacco smugglers ('*contrebandiers*') were more professionally organised, sometimes full time gangs buying abroad for distribution within France; and at the top of the hierarchy were the textiles smugglers, often operating as agents of merchants in Paris and elsewhere ('*assureurs*'), with some becoming merchants in their own rights as their wealth increased.⁴¹

Unlike Britain's single customs border, France's internal customs lines were defined primarily by the *gabelle* or salt tax, which had existed since the fourteenth century as a permanent tax and was made a monopoly in the sixteenth century. By the eighteenth

⁴⁰ The Duke of Richmond's campaign is described in *The Whole Proceedings on the Special Commissions of Oyer and Terminer and Goal Delivery, for the County of Sussex*, London, 1749.

⁴¹ Nils Liander, 'Smuggling Bands in Eighteenth Century France', PhD thesis, Harvard University, 1981. Liander's thesis is based on 1,700 cases found in the AN's Z1a series in Paris involving more than 5,000 smugglers tried before the *Commission de Reims* from the 1740s until 1789.

century, France had become a patchwork of seven different salt tax regions, with some enjoying special privileges and some exempt entirely. The map in Figure 2 below shows the different salt tax areas of France in 1789 and the resulting variation in prices of salt. Inevitably, the discrepancy in prices gave rise to smuggling across these internal customs borders. The *faux-saulniers*, often peasants operating part-time as individuals or in small ad-hoc groups (sometimes with soldiers or impoverished nobles) to supplement their meagre incomes, had existed for centuries without being viewed as a major problem, and the authorities in any case lacked the resources to control this level of petty smuggling, at least until tobacco smuggling raised the stakes.⁴²

⁴² Liander, 'Smuggling Bands', p. 13. Kwass cites an internal memorandum of the *Ferme* written in 1774 which estimates that a salt-smuggler would earn upwards of 20 *livres tournois* for transporting a single 50-pound load of salt. See Kwass, *Contraband*, p. 93.

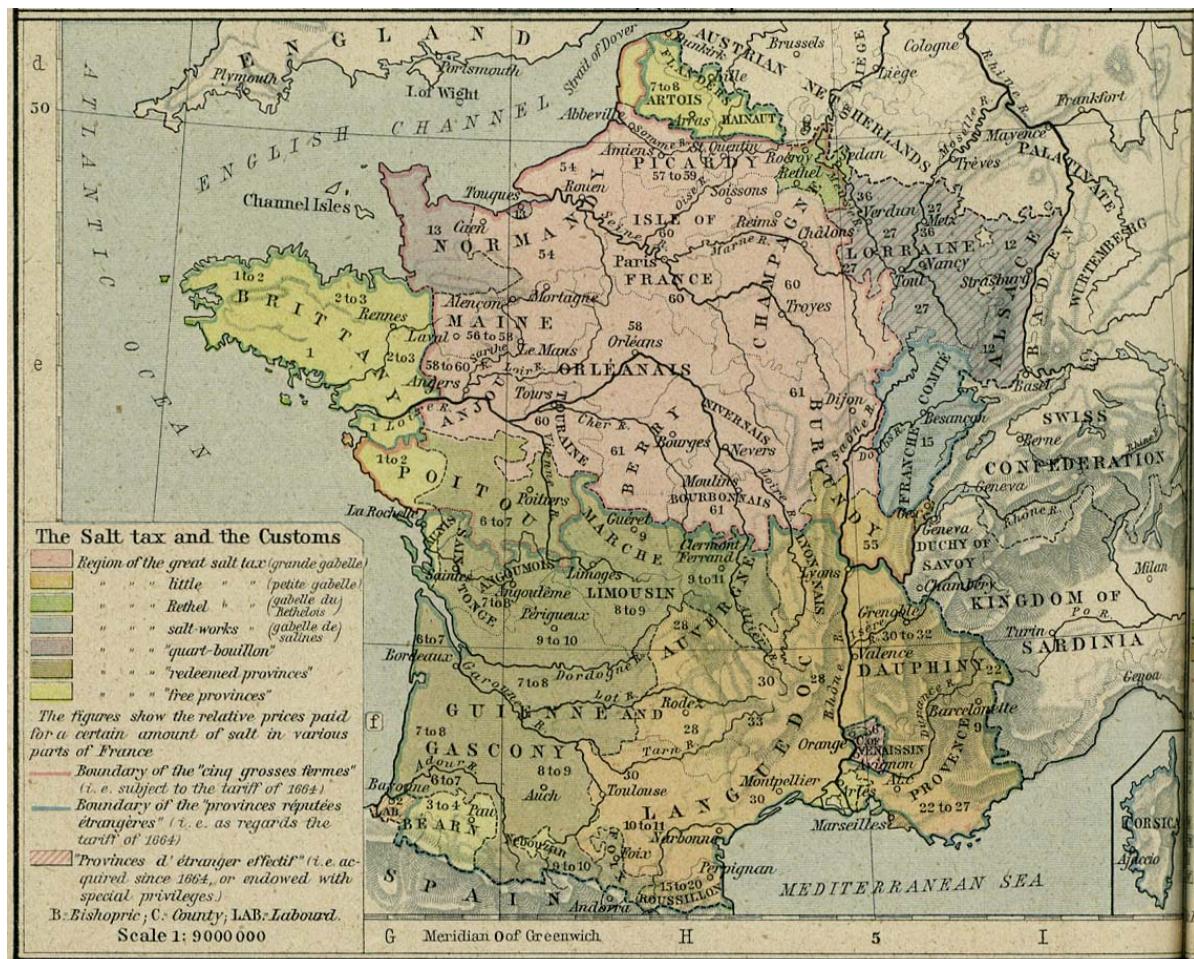


Figure 2.2: France: The Salt Tax and the Customs. From William R. Shepherd, *The Historical Atlas; 1789 Map of France showing different regions of the 'gabelle' and resulting variations in prices of salt*, Perry-Castañeda Library, 1926.

During the seventeenth century, taxes started to be imposed on tobacco, consumption increased and in due course a monopoly was set up (in 1674), and subsequently taken over by the *Fermes Générales* in 1730, imposing a system of maximum prices and covering essentially all the country except the newly acquired territories along the northern and eastern fringes of Dunkirk and French Flanders, Artois, Hainault, Cambrésis, Alsace, Franche-Comté and later Lorraine (annexed by France in 1766).⁴³ From early in the eighteenth century, tobacco smuggling proved far more profitable than salt smuggling because of the price differential between tobacco sold legally in France and that available abroad, and this

⁴³ Price, *France and the Chesapeake*, pp. 22, 361.

led to a degree of professionalisation, with full time *contrebandiers* forming bands and smuggling tobacco across the land borders patrolled by the *Ferme*.⁴⁴ In the early part of the eighteenth century, tobacco sold in France was a mixture of imported and locally grown. In contrast to Britain where tobacco growing had been abolished by the end of the seventeenth century, tobacco growing was banned within France's customs border only from 1721.⁴⁵ Significant quantities continued to be grown in the Flanders region, which was outside the customs border, around cities such as Lille, and to prevent smuggling into the rest of France, various restrictions were imposed, such as the prohibition on growing tobacco within three leagues of the Picardy border where the *Ferme*'s customs posts were set up.⁴⁶ However, the seizure of large quantities of British colonial tobacco by the French during the Nine Years' War of 1688-1697, and its subsequent distribution in France, had led to the French developing a taste for Virginia tobacco which the *Ferme* went on to encourage on the basis that it was easier to prevent contraband tobacco arriving by sea than across the land borders. This, combined with the progressive decline in the French West Indies tobacco industry caused by soil exhaustion, poor quality and uncompetitive prices, resulted in as much as 90 per cent. of tobacco purchases over time by the *Ferme* in its role as monopoly supplier being made in Britain.⁴⁷

Salt and tobacco were easily smuggled together across the customs border into Picardy and Champagne. In some cases, smugglers would buy from a merchant, pay a *passeur* to take it

⁴⁴ For the price differential, Liander references de Fontanieu, Intendant of Dauphiné in the 1730s in 'Smuggling Bands', p. 14.

⁴⁵ Ronald Duncan, 'The History & Present Position of Tobacco Growing in England', *Journal of the Royal Society of Arts*, 100.4869, 1952, pp. 316-28. Price, *France and the Chesapeake*, p. 268.

⁴⁶ E. Gondolff, *Le Tabac Dans Le Nord de La France 1587-1814*, Vesoul, 1910, p. 57.

⁴⁷ Price, *France and the Chesapeake*, pp. 93, 113, 142, 179.

across the customs border (the going rate was 6 *livres* per horseload, although payment in kind was also possible) and then take it back for selling once the border had been crossed. This could be scaled up where an intermediary would be paid to arrange a group of *passeurs* for a fee.⁴⁸ Alternatively, generally smaller-scale smugglers would buy from a merchant, transport and sell the goods themselves, with ready buyers of contraband goods to be found once the *Ferme* employees had been avoided.⁴⁹ With villages clustered along the borders, there were myriad ways of transporting contraband, and gangs were a regular feature of smuggling for the same reasons as in Britain, speed of distribution and self-protection, and their activities were close parallels to those of the Hawkhurst or Mayfield gangs.

The Bande de Maurepas was an example of the many small *colporteur* smuggling gangs (part-time salt and tobacco smugglers on foot as distinct from full-time, larger scale groups of *contrebandiers*) based around villages in Picardy within easy reach of the Artois border. These were set up between the 1720s when the *Ferme* strengthened its forces and the 1750s when larger, more organised gangs were needed.⁵⁰ Maurepas is a village in Picardy located between Artois and the Somme river, a natural border that was easier for the *Ferme* to police than the Artois border itself. Generally not merchants, or working for merchants, the *colporteurs* were peasants supplementing their incomes with smuggling who came together in informal gangs, unarmed except for sticks, purely to intimidate the *Ferme* employees, and they would disperse after crossing the Somme to sell their goods

⁴⁸ Nicolas Schapira, 'Contrebande et Contrebandiers Dans Le Nord et l'est de La France, 1740-1789; Les Archives de La Commission de Reims', unpublished thesis, Université de Paris 1, 1990, pp. 80-1.

⁴⁹ *Ibid.*, p. 85.

⁵⁰ Liander, 'Smuggling Bands', pp. 352-391.

individually. *Colporteurs* could earn 2 *sols* per pound of smuggled tobacco, and on the basis that each could carry around 70 pounds per trip, and would make the trip only twice a month, the profit would still only amount to half what a family needed to survive. Slightly richer peasants would pay unemployed workers as *colporteurs*, paying them 30 *sols* per night.⁵¹

Further up the scale was the Bande de Wignhies, from a village in Hainault just outside the *gabelle* and tobacco monopoly, but close to the Austrian Netherlands, a source of cheap tobacco, and ideally located for smuggling into Picardy, with Soissons one of its main markets. This gang was also an informal grouping for mutual protection, with individuals responsible for purchasing tobacco and selling it after the border crossing, although some individuals owned larger amounts of tobacco and paid *valets* to transport it. These were full-time smugglers (even if some claimed professions at trial) transporting tobacco on horseback (200 pounds each) about once a month into Picardy through the 1730s and 1740s, and they were armed, although seem to have used their rifles relatively rarely, preferring to abandon the contraband than risk armed confrontation. Tobacco was purchased for cash and brought back to Wignhies (often as not to an inn) to discuss tactics and timing, a leader was designated and potential buyers alerted. On the route, the contraband would be hidden in daytime, either in farms or in foxholes in the woods. At a river such as the Thon, larger and well-patrolled, if the *Ferme* officers had not been bribed, the gang would hide the contraband until nightfall when the *passeur* would arrange to get it across the river in large leather bags. Once arrived at Soissons, the bags of tobacco would be

⁵¹ Ibid., p. 376.

thrown over the walls at a location pre-arranged with a corrupt local *Ferme* official and hidden in a monastery before onward sale to a small number of wholesalers.⁵²

In some cases, tobacco smugglers ended up running sizeable businesses. One example was an entrepreneur called Jean Savigny, an innkeeper in the Thiérache region near the customs border of Hainault and the national border with the Austrian Netherlands, who started his career as a solo smuggler buying tobacco in Hainault for his customers. Over time he developed an entire business network: he paid *passeurs* to bring tobacco from Dunkirk, attached fake licences to the goods and sold them through a network of dealers he had recruited at least as far away as Beauvais some 200 km distant. A true entrepreneur, he even sold his technique for creating fake licences to a group of tobacco manufacturers in Saint-Omer.⁵³ Colingris, another example, was a deserter from the army in the North of France, where he is likely to have come across smuggling given the temptations – soldiers were also poorly paid – and was active in the 1750s smuggling tobacco from the Austrian Netherlands into France, and also raw wool from 1756. His speciality was to provide a guarantee to merchants by making a substantial payment in advance for the goods he transported which was reimbursed in the form of a commission on safe arrival.⁵⁴

Textile smuggling was altogether more sophisticated, with widespread involvement of merchants, although smuggling by individuals did occur. As a result, the illegal trade developed to a stage where credit and different forms of insurance were a feature.⁵⁵

⁵² Ibid., pp. 292-344.

⁵³ Schapira, 'Contrebande et Contrebandiers', p. 83-4.

⁵⁴ Harald Deceulaer, 'Violence, magie populaire et contrats transfrontaliers', in Gérard Béaur, Hubert Bonin et Claire Lemercier, eds., *Fraude, contrefaçon et contrabande, de l'Antiquité à nos jour*, Geneva, 2006, pp. 61-90.

⁵⁵ See Liander, 'Smuggling Bands', pp. 273, 277, for examples.

Textiles imported from India proved popular, and local producers were unable to match their quality until the late eighteenth century, with the result that they were completely banned from 1686 in order to protect the French textile industry, although to little effect. ‘That French consumers could continue to indulge in their love of Asian-style fabrics was due to the pervasive culture of smuggling in early modern France and testimony to the fact that the mercantilist state’s ambitions to regulate trade and consumption were profoundly unequal to its means actually to do so.’⁵⁶ The ban lasted until 1759, when it was replaced by an import duty of 15% for white and 25% for coloured fabrics.⁵⁷ During the ban and as a result of the subsequent duty structure, textiles of all sorts, both ‘indiennes’ imported from India and European copies, were smuggled across the eastern borders of France from centres such as Geneva, and from the enclaves within France not subject to the *Ferme*’s jurisdiction, such as Bar-le-Duc in Lorraine or Avignon.⁵⁸ There was also an active smuggling route from Brittany in the west of textiles sourced from the EIC in Britain or fraudulently obtained from the CdI based in Lorient.⁵⁹ Possession of contraband goods was only a civil crime, so Paris merchants would employ *assureurs* and their *valets* to undertake the criminal activity, which was to carry the contraband goods purchased using bills of exchange into the customs zone. The *assureurs*, as their name suggests, would also take the financial risk of seizure. Goods would be left at villages or *châteaux* outside Paris and subsequently handed over the walls of Paris or driven into the city through gates where the guards had been bribed.⁶⁰ Within Paris were a number of sites where goods could be warehoused,

⁵⁶ Gottmann, *Global Trade*, p 54.

⁵⁷ Gillian Crosby, ‘First Impressions: The Prohibition on Printed Calicoes in France, 1686-1759’, unpublished PhD Thesis, Nottingham Trent University, 2015, pp. 183-4.

⁵⁸ Geneva was described as the Hong Kong of the eighteenth century, ‘a city of corruption and speculation and an international centre in which anything could be acquired’, Olwen H. Hufton, *The Poor of Eighteenth-Century France, 1750-1789*, Oxford, 1974, pp. 284-305.

⁵⁹ Gottmann, *Global Trade*, pp. 57, 61.

⁶⁰ Liander, ‘Smuggling Bands’, Chapter 6 - Professional Calico Smugglers, 1730-50.

often the houses of noblemen, with or without the knowledge of the owners, or religious houses such as the Abbey of Saint-Germain.⁶¹ Gangs were again a feature, for mutual protection and intimidation of the *Ferme*'s forces, the best known being Louis Mandrin's gang which, in its short-lived rampage across the border with Savoy until Mandrin's trial and execution in 1755, would occupy whole towns while selling his contraband textiles and tobacco goods openly.⁶²

This wide range of forms of smuggling, taken together, represented a significant challenge to the *Ferme* and its 20,000-strong army of enforcement agents. As in Britain, the smugglers had a lot of support from their local communities across the social scale, with *châteaux* and churches being used to store contraband as well as inns and farms and a tendency to close ranks when local smugglers were charged with crimes. They ganged together for protection, were often armed and used bribery or collusion as well as concealment as a key method of transporting goods safely across customs borders.⁶³ If anything the *Ferme* was even more hated than its British counterpart because it was a private sector organisation seen to be levying taxes unfairly for its own gain. This feeling was particularly strong in communities where smuggling was a major feature, with the employees of the *Ferme* seen as thieves, and the frequent battles with them seen as protecting a legitimate source of revenue for the smugglers and cheap goods for the rest of the population.⁶⁴ As with London, Paris was a natural magnet for contraband goods, and in 1784 the *Ferme* erected a customs wall around the city, and it is notable that this was attacked by the French revolutionary mobs in 1789

⁶¹ Ibid., p. 263.

⁶² Kwass, *Contraband*, p. 123.

⁶³ Ibid., pp. 96-106.

⁶⁴ Schapira, 'Contrebande et Contrebandiers', p. 101. In this context, Schapira also quotes Agnes Barruol's phrase of '*légitimité sociale de cette contrebande*'.

even before the Bastille, such was the *Ferme*'s unpopularity and its ability to incite revolutionary fervour.⁶⁵

Initially, as in Britain, the *Ferme* had great difficulty in getting local courts to enforce the increasingly strict legislation against smuggling, because of the severity of punishments. As a result, Special *Commissions* were set up by Royal decree, at the request of and paid for by the *Ferme* and against the resistance of the legal establishment, as a means of bypassing the normal court process. The *Commission de Reims*, covering smuggling in the Picardy, Champagne, Soissons and Three Bishopric regions was set up in 1740.⁶⁶ This was a highly unusual step, attesting to the severity of the problem of enforcing customs regulations, and far exceeded the legal efforts in Britain at the time. Further details of the *Commissions* will be discussed in the next chapter.

Smuggling Entrepôts

The supply chain for smuggled goods centred on the *entrepôts* where goods were assembled for onward delivery. Individual *entrepôts* varied in importance during the century, depending on wars, on legal changes or on new opportunities for profit from smuggling. For smugglers into Britain, the frequently used *entrepôts* were many of the ports up the western seaboard of mainland Europe from Brittany to the United Provinces (including Roscoff, Boulogne, Dunkirk, Ostend, Flushing and Rotterdam) as well as the Isle of Man and the Channel Islands. The Channel Islands and Dunkirk were also entry points for

⁶⁵ Kwass, *Contraband*, p. 327.

⁶⁶ Schapira, 'Contrebande et Contrebandiers', p. 23.

smugglers into France, as were a number of towns outside the principal customs borders but within French territory, such as Bar-le-Duc in Lorraine, Avignon and Orange.⁶⁷ Geneva and Savoy were two of the principal extra-territorial *entrepôts* for smuggling into France's eastern border, whereas southern and western France were relatively less vulnerable.⁶⁸ To varying degrees, these *entrepôts* were centres of legal trade, with their own merchant communities but many came to rely heavily on the smuggling business so that disruptions caused by war, or changes to customs regulations, could have a dramatic impact on the wealth and success of the community. The Isle of Man, for example, lost its status as a smuggling centre in 1765 when it was purchased by the Crown specifically to address the problem of smuggling, and Dunkirk experienced mass emigration when increases in the French tobacco duties in 1749 removed in one go the rationale for local processing of that product, and lost many of its foreign merchants to the neutral ports of Ostend or Flushing on the outbreak of the eighteenth century's wars between France and Britain.⁶⁹ Similarly, unlike commercial centres less reliant on the contraband trade, they tended to be slow to develop as centres of manufacturing for the legal trade because of the *entrepôt* status and overseas trade focus.⁷⁰

Renaud Morieux, in his book on the maritime frontier between Northern France and Southern England, identifies 'legal enclaves' at the centre of two zones of smuggling activity

⁶⁷ Alan Jamieson, *A People of the Sea: The Maritime History of the Channel Islands*, London, 1986, ch.8; Liander, 'Smuggling Bands', p. 264; Gottmann, *Global Trade*, p. 57.

⁶⁸ Price, *France and the Chesapeake*, p. 446.

⁶⁹ On the purchase of the Isle of Man, see the letter dated 25th July 1764 in *Letters between the Commissioners of His Majesty's Treasury and the Duke of Athol in 1764 and 1765, relative to the Isle of Man ...*, Ordered to be printed 24 March 1790. For Dunkirk, see Price, *France and the Chesapeake*, p. 502 for tobacco and ADN, C/4654/40 and 189 as an example of emigration after the outbreak of war with Britain in 1778.

⁷⁰ J. Teneur, 'Les commerçants dunkerquois à la fin du XVIII^e siècle et les problèmes économiques de leur temps', *Revue du Nord*, 48.188, 1966, pp. 17–49. Page 20 is specifically about Dunkirk, but of more general relevance.

between the French and English coasts, the Channel Islands and Dunkirk.⁷¹ This section looks in more detail at these two, which are in some ways mirror images of each other: the British tolerated smuggling centred on the Channel Islands, even though it was also a centre for contraband shipments into Britain, whereas the French actively encouraged smuggling out of Dunkirk in order to undermine the economy of its frequent enemy, even though Dunkirk was also a centre for the smuggling of tobacco into France. But both were also major centres of legal trade between the two nations, and had been before smuggling grew to be a sizeable part of the business during the eighteenth century, and this is in part the story of how and to what extent smuggling displaced legal trade or merged with it.

Dunkirk

Dunkirk in the eighteenth century acted as an *entrepôt* (and, in a more limited way, manufacturing centre) for contraband goods for smuggling primarily into Britain, and arguably its 'greatest economic contribution came as France's most important smuggling centre.'⁷² Purchased from Britain by Louis XIV for £5 million in 1662, it is the port city of the part of the former Spanish Netherlands which was taken over by France as a result of the treaties of Nijmegen in 1678-9 and Utrecht in 1713. In common with other parts of the Flanders, Artois and Hainault regions as a recent addition to the crown, it enjoyed certain tax privileges offered at the time of its purchase, putting it outside the customs border with the rest of France.⁷³ Dunkirk itself enjoyed the further advantages of being designated the

⁷¹ Renaud Morieux, *The Channel: England, France and the Construction of a Maritime Border in the Eighteenth Century*, Cambridge, 2016, pp. 251, 259.

⁷² Jeff Horn, *Economic Development in Early Modern France: The Privilege of Liberty, 1650–1820*, Cambridge, 2015, p. 109.

⁷³ A. de Saint-Léger, *La Flandre Maritime et Dunkerque sous la domination française (1659-1789)*, Paris, 1900, pp. 49, 82. See also Philippe Moulis, 'Frontières et contrebandes en France du nord 17e-18e siècles', *Dix-huitième siècle*, 45.1, 2013, pp. 541–63.

only true free port in France, where all merchants, of whatever nationality, could operate freely and without any duties whatsoever. Its extraterritorial status was further emphasised by the exemption from the '*droit d'aubaine*' which gave the state the right to claim the inheritance of foreigners who died within its borders, a move specifically aimed at attracting foreign merchants.⁷⁴ Initially an important naval and privateer base, it was due to be dismantled, with the basin partially filled in, as a result of the 1713 Treaty of Utrecht, but in reality preserved enough of its critical infrastructure to operate as a commercial port for medium-sized and smaller vessels, even though Calais took over much of its tonnage for a while.⁷⁵ Figure 3 shows a plan of Dunkirk in 1713. British pressure to return to the terms of the Treaty of Utrecht re-emerged after both the War of the Austrian Succession and the Seven Years' War, and it was only in 1783 that Dunkirk finally officially rid itself of peacetime constraints on the development of its port.⁷⁶ The restrictions on size of vessel demanded by the British treaties at a time when legal trade was using larger and larger shipping is probably one of the reasons that smuggling became an increasingly important part of the Dunkirk economy. This no doubt accounts for the support smugglers received from the commercial leaders of the town represented in the Chamber of Commerce. Positioned at the head of a system of canals and roads into centres such as Saint-Omer and Lille, Dunkirk developed a steady trade in agricultural and manufactured exports from the region as well as operating as a smuggling *entrepôt*. Fishing for herring and cod was a significant employer

⁷⁴ Louis Dermigny, *Escales, Échelles et Ports Francs Au Moyen Âge et Aux Temps Modernes*, 1974, p. 597 draws the distinction between ports that enjoyed certain exemptions not available to others, and Dunkirk '*où il n'est dû aucune déclaration, ni aucuns droits et où même il n'existe aucun établissement du fisc.*' The point about the *droit d'aubaine* is from Dermigny, *Escales*, pp. 598-600.

⁷⁵ Christian Pfister, 'Ports, navires et négociants à Dunkerque: 1662-1792', unpublished *texte remanié*, Université Charles de Gaulle, 1985, p. 478.

⁷⁶ Saint-Léger, *La Flandre Maritime*, pp. 327, 331-2, 337.

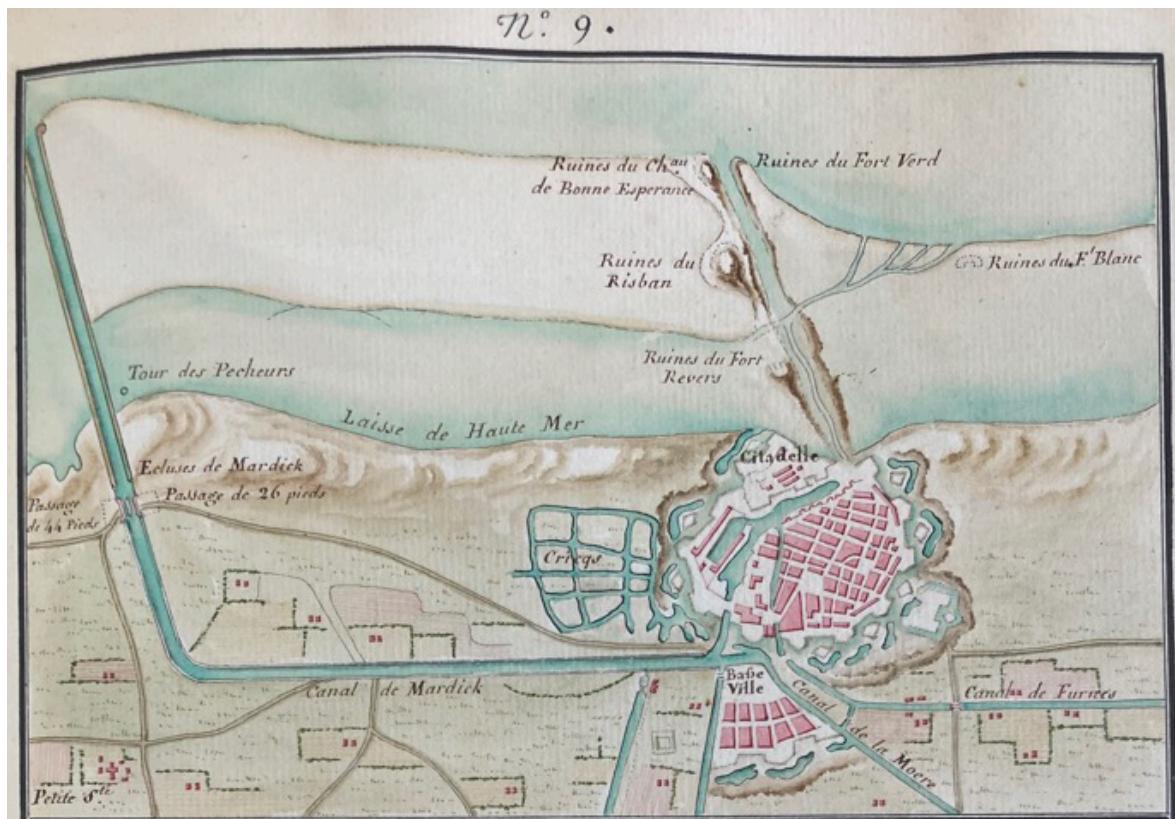


Figure 2.3: 'Plan des ville et port de Dunkerque en 1713' after the Treaty of Utrecht, from the *Description Historique de Dunkerque depuis l'an 646 jusqu'en 1768*, DK, 122, Fonds du Maréchal de Castries. This shows the destroyed forts as well as the canals and locks of Mardyck designed to circumvent the treaty restrictions.

in the town in the first half of the century, employing more than 2,000 people in the town, and even in the 1770s accounted for 20-25 per cent. of trade.⁷⁷ Dunkirk was authorised from 1721 to trade with France's American colonies and added trade with Southern Europe and subsequently the Baltic.⁷⁸ Legal trade reduced substantially during wartime, to some extent offset by privateering ventures as the port expanded again to admit larger vessels in the lead up to war. But all this time, Dunkirk was developing also as the principal and most

⁷⁷ Pfister, 'Ports, navires et négociants', pp. 232, 236.

⁷⁸ Pfister's detailed analysis of such statistics as are available suggests there was limited traffic in the first half of the century, but that there was a steady trade between Dunkirk and France's Caribbean colonies from the end of the Seven Years' War in local and regional commodities and manufactured goods shipped out in return for sugar, coffee and indigo. See 'Ports, navires et négociants', pp. 295-321.

enduring *entrepôt* for contraband trade into Britain located on the West coast of Europe, welcoming the ‘smuggleurs’ who came to buy tea, wine, brandy and tobacco.⁷⁹

‘Smuggling was one of the essential bases of its prosperity, which explains the presence of many dozens of English merchants, fully integrated into the Dunkirk business establishment,’ according to Christian Pfister.⁸⁰ And indeed, in 1777, 94 English, Scottish and Irish families numbering 391 individuals were domiciled in Dunkirk, according to the tax roll for that year.⁸¹ Primarily a trading centre for both legal trade and smuggling, Dunkirk did develop some manufacturing capability, although less strongly than ports such as Nantes or Bordeaux, presumably because of its concentration on *entrepôt* services.⁸² Dunkirk had some salt and sugar refining, and it became a centre for the distillation of alcohol from grains leading to gin production, but the principal manufacturing industry by the middle of the eighteenth century was tobacco, which at its peak employed 4,000 people, mixing Virginia with local tobacco for sale legally in the German and Dutch markets as well for illegal sale in France and Britain.⁸³

Smuggling of contraband into Britain was a major part of Dunkirk’s trade, and already by the late 1720s it was the preferred port for the transhipment of brandy which was then imported into Britain as ‘Flemish’ so as to bear a significantly lower customs duty.⁸⁴ Tobacco manufacturing was started shortly thereafter and grew until 1749 when taxes on foreign

⁷⁹ Dermigny, *Escales*, pp. 602-3. ‘Smuggleurs’ was the name given to smugglers into Britain from Dunkirk and other nearby ports.

⁸⁰ Christian Pfister, ‘Smuggling from Dunkirk in 1787’, in Walter Minchinton, Ed., *Britain and the Northern Seas*, Pontefract, 1988, p. 113.

⁸¹ DK, AncDK, 280, *Etat des familles angloises, irlandoises et écossoises domiciliées à Dunkerque*, 1777.

⁸² Pfister, ‘Ports, navires et négociants’, pp. 482-3.

⁸³ Saint-Léger, *La Flandre Maritime*, p. 362.

⁸⁴ Smith, ‘Fair Trade’, p. 26.

tobacco were extended to the French border provinces, which resulted in most of it being relocated across the national border to Ostend.⁸⁵ Smuggling activity was relatively stable until the late 1760s with some 300 vessels a year shipping contraband into Britain, but increased substantially thereafter on the back of the growth in the tea market and the addition of locally manufactured gin to the spirits trade, so that by the 1770s there were a startling 1,100-1,500 smuggling vessels putting into Dunkirk annually.⁸⁶ Contraband trade was estimated to account for as much as 70 per cent. of Dunkirk's legal trade with Britain.⁸⁷ Smuggling at these sorts of levels continued through to the Revolutionary and Napoleonic wars and beyond, with records kept by the French admiralty of the name of each ship, the name of the captain, the destination of the voyage and the cargo carried, as analysis by Christian Pfister of the Dunkirk archives shows. In just one year, 1787, Pfister calculates that 864 smuggling ships left Dunkirk to over 60 British and Irish destinations, chief among them being Deal, Folkestone and Hastings. They carried principally spirits (gin, brandy and rum), tobacco and tea (in smaller quantities as this was after the reduction in duties on tea in the 1784 Commutation Act), but also a wide variety of other contraband items such as wine, coffee, sugar and textiles.⁸⁸

Smuggling continued from Dunkirk even during wartime, when the arrival of enemy sailors would naturally be regarded as a threat, although here was a reduction during the American War, with much of the tea smuggling moving to other, neutral, bases such as Ostend,

⁸⁵ Price, *France and the Chesapeake*, p. 386.

⁸⁶ Pfister, 'Ports, navires et négociants', p. 340. François Crouzet, 'La Contrebande Entre La France et Les îles Britanniques Au XVIIIe Siècle', in Gérard Béaur, Hubert Bonin, Claire Lemercier, eds., *Fraude, contrefaçon et contrebande, de l'Antiquité à nos jours*, Geneva, 2006, pp. 35-59, at p. 44.

⁸⁷ Pfister, 'Ports, navires et négociants', p. 350.

⁸⁸ Pfister, 'Smuggling from Dunkirk'.

Copenhagen and Lisbon. However, some smuggling was permitted, in a controlled way, and indeed later, during the later Napoleonic Wars, the Dunkirk authorities went out of their way to welcome English smugglers.⁸⁹ From the British perspective of course this represented a huge security risk, as smugglers could be tempted to provide useful information on the state of British ports. In an example from the war of the Austrian succession, there were two smuggling cutters at Boulogne, 'the Masters of which agreed to pilot the French Fleet over to England, for which service they were had to Paris, & discussed a gratuity.'⁹⁰

Dunkirk's role as an *entrepôt* for smuggling into Britain worked to France's advantage, supporting the local economy as it undermined that of its frequent enemy across the water by syphoning out cash and depriving the government of revenue. But it was also a centre for smuggling into France, principally of Virginia tobacco and tobacco products. An indication of the extent of smuggling comes from the records of the *Ferme* of tobacco shipments from Dunkirk to Artois and Flanders, which show a significant increase in the quantities from the mid-1730s of 875,000 lbs annually to 2.275 million lbs by 1740, of which 1.5 million lbs went to Artois alone. The *Ferme* concluded that, together with their estimate of tobacco that was locally grown or imported through the Austrian Netherlands, Artois received a total of 2-4 million lbs of tobacco annually, clearly excessive when regional rates of consumption would justify only 600,000 lbs.⁹¹ Based on the information available, however, it would seem that

⁸⁹ See the description of a 'city of smugglers' in Gavin Daly, 'Napoleon and the "City of Smugglers", 1810-1814', *The Historical Journal*; Cambridge, 50.2, 2007, pp. 333-52.

⁹⁰ TNA, SP 36/92/2/55, Information of Mr Greenhow concerning smuggling between England and France at Dunkirk, Boulogne, and Calais, Secretary of State's Papers, 1746.

⁹¹ Price, *France and the Chesapeake*, p. 499.

the volume of smuggling business with Britain far outweighed Dunkirk's role as an entry point for smuggled goods into France.

The Channel Islands

The Channel Islands were an active smuggling hub from 1689, when William III revoked its historical neutrality and therefore its right to trade directly with France.⁹² A permanent customs representation had been present on the Islands since 1679 to enforce the Navigation Acts, but this was removed in 1709 when the benefits of the Channel Islands as a privateering base during wartime were perceived as outweighing the need to protect customs revenues, and for much of the rest of the century smuggling was a way of life for the Channel Islanders.⁹³ By 1733, the Channel Islands, and particularly Guernsey, had a reputation for being a source of 'relanded' tobacco and other contraband goods for Britain, as a 1733 report by the Commissioners of the Customs to the House of Commons makes clear:

There are about 25 Sail of Vessels, which are about twelve or fourteen Ton each, betwixt Plymouth and the Land's End, that make it a constant Practice to go over to Guernsey, and bring over Tea, Brandy, Rum, Tobacco, Soap, Cloath, Wine and other Goods, and run it ashore in Defiance of all Officers...⁹⁴

But such were the attractions of the Channel Islands' privateering expertise in time of war that it was not until the 1760s that serious efforts began to be made to restrict smuggling from there into Britain. In 1764-5, a series of reports commissioned by the customs

⁹² Jamieson, *A People of the Sea*, p. 203.

⁹³ Morieux, *The Channel*, p. 254.

⁹⁴ *The 1733 report*, p. 63.

authorities on smuggling activities in the Channel Islands was produced, highlighting the role of Guernsey and, to a lesser extent, Alderney as *entrepôts* for smuggling into Britain, and recommendations were made to re-establish a proper customs presence there.⁹⁵ Mr James Major, sent there to enforce customs regulations, complained that in 1768 from Guernsey alone illicit trade amounted to £300,000 per annum, of which £100,000 was profit for Guernsey and the remainder paid to France for tea, brandy, India goods etc. Major's ship was destroyed in 1769 and when he did make seizures, he was taken to court, and he reported that 'the proceedings in the court being carried on under the influence of Mr Le Marchant and others concerned in smuggling were open to the most flagrant irregularities and injustice'.⁹⁶ Of the customs officers sent to the islands, as Morieux points out, 'the hostility of the population forced them to withdraw after two years' and the return of war meant there was no follow up until the smuggling acts of 1805 and 1807.⁹⁷ As a result, the eighteenth century was the heyday of smuggling in the Channel Islands.⁹⁸

The Channel Islands, and particularly Jersey, were also an *entrepôt* for smuggling into France, mainly of wool and tobacco exported from Britain, together with some local processing of these commodities. The British state papers frequently reference complaints from the French about smuggling activity. In 1710, in a letter to Lord Dartmouth (Southern Secretary), Pontchartrain (French secretary of state for the navy) complained about Channel Islander '*corsaires*' continuing to make 'daily incursions' and fishing vessels bringing

⁹⁵ TNA, T 1/429/10-19, Letter from Customhouse, London, 5 September 1764; T 1/439/108, Memorial of Customs Commission revenue collectors on the smuggling of goods from Copenhagen to the Channel Islands, 15 August 1765; T 1/459/87-92, Report on enclosed representation of Thomas Bates of the illicit trade said to be carried on in islands of Guernsey, Jersey and Alderney, 6 June 1767.

⁹⁶ TNA, T 1/499/206-10, Commissioner of Customs, summary of the case of James Major, 1774.

⁹⁷ Morieux, *The Channel*, pp. 254-5.

⁹⁸ Jamieson, *A People of the Sea*, p. 205.

contraband to exchange with French fishermen or land on the Normandy coast. He also enclosed a report from the *Ferme* about the activities of a Jersey captain, Etienne Rondel, caught smuggling tobacco and Jersey-made stockings.⁹⁹ A memorandum in Walpole's papers describes legal wool imports into Jersey and Guernsey as being half for local stocking manufacture and half being sold in France, presumably illicitly. At that time, little was smuggled into England from Jersey because of its position.¹⁰⁰ In 1767, not long after the conclusion of the Seven Years' War, the Comte de Guerchy (French ambassador to London) complained to Lord Shelburne (Southern Secretary) about smuggling activities from the Channel Islands to Normandy. His complaints are illustrated by the description of an armed Jersey smuggling vessel, captained by a rogue Frenchman called Gautier, which repeatedly landed near Honfleur on the Normandy coast salt and tobacco from the Channel Islands and 'only left that coast for the time it took to return to Jersey and restock his ship'.¹⁰¹ The quantities of tobacco re-exported from Britain to the Channel Islands with drawback was far in excess of what the local population could consume. It is unclear how much was smuggled back into Britain, but it is likely the majority was smuggled into France.¹⁰² There was also processing of tobacco in Jersey specifically for smuggling into France, and this lasted well into the nineteenth century.¹⁰³

⁹⁹ TNA, SP 78/155/76, Pontchartrain to Dartmouth, 17 December, 1710.

¹⁰⁰ 'en Jersey seulement sur la laine netant pas a portée comme l'est Guernezey', CUL Ch(H) 41,30, *Mémoire des fraudes que le nommé fraize habitant de Guernezay déposera par serment...*, undated, seventh point.

¹⁰¹ TNA, SP 78/272/281-290 contains in f289 a memo from the officers of the *Ferme* describing 'une golette armée à Gerzey qui, depuis près de 18 mois n'a quitté les côtes de Normandie que le tems nécessaire pour aller prendre aux isles Anglaises des chargemens de faux sel et de faux tabac pour remplacer ceux qu'elle avait versés sur cette même côte.'

¹⁰² Price, *France and the Chesapeake*, pp. 497-8

¹⁰³ Jamieson, *A People of the Sea*, p. 201.

St. Peter Port in Guernsey had long been known as a safe anchorage where larger ships were able to dock, and as a freeport and an *entrepôt* for trade between France and England which was able to ignore British navigation acts and receive goods in foreign shipping. Much of the town's merchant community and warehouse infrastructure had developed as a result of playing an active role in the wine trade – English merchants shipped wine in bulk from France to Guernsey where it was stored before being shipped in smaller amounts to England to avoid paying large amounts of duty in one go.¹⁰⁴ Goods for smuggling into Britain were purchased by Guernsey merchants principally from France, Spain and Portugal, while tobacco would come from Britain with the duty drawn back, and tea and 'geneva' would also be purchased from the United Provinces, Denmark and Sweden.¹⁰⁵ Textiles from India would come from the ships of the EIC on their way up the Channel or from the auctions of the CdI in Lorient at which Guernsey merchants would be present.¹⁰⁶ Fraize's memorandum gives more detail, with his reference to Guernsey merchants who annually bought tea at CdI auction, 'which some bought for themselves under borrowed names and others had agents buy for them'. There were also Guernsey ships that sailed to 'Holland' and Ostend, returning with tea, coffee and textiles.¹⁰⁷ On top of all this, there was also an active trade in shipping to France and selling at a profit 'all the new guineas they could collect in England' and to the United Provinces 'all the English ecus and half ecus they can have collected'.¹⁰⁸

¹⁰⁴ Gregory Stevens Cox, *St Peter Port, 1680-1830: The History of an International Entrepôt*, England, 1999, pp. 7, 19, 21.

¹⁰⁵ Jamieson, *A People of the Sea*, p. 206.

¹⁰⁶ Gottmann, *Global Trade*, p. 40.

¹⁰⁷ 'que quelqu'uns ont achetés eux même sous des noms empruntés et d'autres fait acheter par commission,' CUL Ch(H) 41,30, *Mémoire des fraudes*, second point.

¹⁰⁸ 'toutes les guinées neuves qu'ils peuvent ramasser en angleterre'; 'touts les ecus et demy-ecus d'angleterre qu'ils peuvent y faire ramasser', *Ibid.*, fifth and sixth points.

All the leading merchant families were involved, and most of the contraband was shipped into Southern England on English ships, with substantial quantities shipped to Alderney first because it was closer to England and more convenient for the smugglers. Although the English smugglers were in the majority, and ‘the harbour of this island is always full of these boats because there are a great number of warehouses on this island...,’ there is also evidence of Guernsey merchants shipping goods direct: ‘the Guernsey merchants each have two, three, four boats depending on their standing, which transport these goods all through the year, all along the coasts of England, and particularly in winter, when the nights are longer, and so introduce them illegally’.¹⁰⁹ Later on in the century, sophisticated distribution systems were developed in southern Britain by Guernsey merchants, including the use of bills of exchange drawn on London in payment.¹¹⁰ Cartaret Priaulx, for example, employed the agents Lawrence Banks for Wales and James Randle for Cornwall.¹¹¹ William Le Marchant, the Guernsey merchant mentioned above, was clearly struggling in 1768 to get paid for smuggled goods and sent his partner John Channan to collect debts and continue to coordinate their smuggling activities from the British side. Le Marchant was himself tried and convicted in 1770, but continued to protect his contraband trade, as the complaints of James Major make clear.¹¹²

¹⁰⁹ ‘le havre de l’isle est toujours remply de ces bateaux, parce qu’il y a dans cette isle un grand nombre de magazins...’; ‘les marchands de guernezy ont chacun deux, trois, quatre batteaux... a proportion de leur etat, lesquels transportent pendant tout le courant de l’année sur toutes les cottes d’ngleterre, ces marchandises et surtout dans l’hyver où les nuits sont plus longues et les y introduisent ainsi frauduleusement.’ Ibid., second point.

¹¹⁰ Gregory Stevens Cox, ‘The transformation of St Peter Port, Guernsey, 1680-1831’, unpublished thesis, University of Leicester, 1995, p. 133; Jamieson, *A People of the Sea*, pp. 209-10.

¹¹¹ Jacques Blanken, *Contrebandiers! Smogleurs En Manche: Histoire d’un commerce interlope*, Châteaulin, 2015, p. 142.

¹¹² TNA, T 1/499/206-10, Commissioner of Customs, summary of the case of James Major, 1774.

Conclusion

Smuggling supply chains in the eighteenth century in Britain and France were remarkably sophisticated, involving clergy, nobles, merchants, soldiers and casual labourers, and they shifted significant quantities of contraband goods. The additional complexity made the business costly to operate, but it is safe to assume from the evidence of observers of smuggling at the time that smuggling was profitable, even if some participants, such as Le Marchant in Guernsey or the Nisbets in Eyemouth were not ultimately financially successful.¹¹³ Smuggling continued to thrive in peacetime and in war up to and including the Napoleonic Wars, not just because of the prohibitions and the duties levied on consumer goods, nor the inability of the legal environments and preventative services to provide a sufficient deterrent, but also because of the flexibility of smuggling as a business in adapting to frequent changes in circumstances. Smugglers displayed extraordinary inventiveness in ways to carry and hide contraband goods, merchants seemed to be able to relocate when war or local taxes threatened their business model and suppliers were prepared to take significant financial risks to obtain sufficient product to feed a seemingly unstoppable pipeline of contraband goods. That said, people did get caught and convicted, merchants got into difficulties and *entrepôts* struggled with smuggling regulation changes, so it was not by any means a one-way bet.

As we have seen, the central link in the supply chain – the carrier over the customs border and distributor of contraband product – is where the activity occurred that is unique to

¹¹³ For the Nisbets of Eyemouth see Janes, 'The Business of Smuggling'.

smuggling. Landings or river crossings had to be in obscure places distant from the end market, resulting in longer, slower and more expensive land journeys, and the vessels used for many sea crossings needed to be smaller and shallow-drafted, limiting their usefulness on other routes. While equipment became highly specialised for sea-borne smuggling into Britain (ships, containers such as waterproof bags and half-ankers), in France this was less so because of the extent of land-border smuggling. There were examples of depots of goods being stored, in buildings in Stockwell, for instance, or the textile hubs found in the noble or religious houses of Paris, but warehousing was rarely an issue as many of the products smuggled were commodities, and smugglers and smuggling bands were able to dispose of their goods fast, either to welcoming populations direct or to merchants who could mix them in with their existing stocks. They were then free to return for more.

Of particular interest is the distinction between legal and contraband trade. For merchants, the act of procuring goods, warehousing them and selling them was not of itself illegal, even if their customers were themselves smugglers intending to carry the goods across the customs border, and even if the activity was aimed specifically or partly at the smuggling trade. Any that promoted smuggling trips or sent their own merchandise across the border illegally clearly crossed a line, but most of those remained anonymous or kept to foreign jurisdictions. At the other end of the chain, the handling of 'uncustomed' goods was probably not legal, but generally seems to have been regarded as less of a crime than carrying contraband goods across the border, so that Scotland's 'Gottenburgh Tea' came to seem normal and Parisian ladies openly wore their illegally obtained Indian fabrics.

Government preventative measures and reactions to smuggling had some impact on operations, causing significant disruption at times, but clearly not enough to deter smugglers. There were some highly successful anti-smuggling operations prompted by the extremes of violence and rebellion such as the gratuitous violence of the Hawkhurst Gang in southern England in the 1740s or the rampage of Louis Mandrin in Eastern France in the 1750s. But for the most part, smuggling seems to have kept a low enough profile, and the income from duties even after smuggling seems to have been sufficient, so that the resources devoted to prevention never needed to be so great that they made the business of smuggling unprofitable.

In the remainder of this thesis, I will look in more detail at the legal environment within which the business of smuggling operated, and the way the law was enforced, while exploring how smuggling could be regarded as a weapon of war in addition to its purely commercial benefits in places like Dunkirk. Smuggling also had a significant impact on local economies and people's attitudes, generally benefiting the smuggler and impeding the forces of law. I will then examine more closely the various actors in the business, and in particular the merchants who seemed to be at the centre of so much smuggling, and the issues they faced. Were the English, Irish and Scottish wholesalers of Dunkirk 'merchants', or were they just smugglers moving up the chain, like Robert Hanning, or like Jean Savigny in the Thiérache? As any merchant, smugglers were concerned about the risks they ran, whether those of the legal merchant or the additional risks posed by the preventative services, the additional costs of business and the ever-present risk that the governments would change the tax structure to undermine their whole business rationale. In my final chapter I will look at these and at smugglers' strategies for handling risk.

3 – The legal environment within which smuggling flourished

‘Smuggling is a crime at times created by the State.’¹

Introduction

The profitability of smuggling, an essential aspect of its history, depends fundamentally on the regulatory and fiscal contexts in which it operated. Understanding those contexts is, therefore, essential for this thesis, and this chapter sets them out. This can be descriptive at times, but comparing the experiences of Britain and France highlights some important issues. On the one hand there were important similarities regarding the governments’ broad approaches to raising money and to legislation which led to heightened risks for smugglers. But there were also clear differences relating to the presence of a land border and internal tax zones in France and their absence in Britain, and to the way the respective governments enforced the law. Perhaps the most glaring difference was the sharper sense in France of a lack of legitimacy for the tax system, strengthened by the perception of the ruthlessness of the *Ferme* as a private sector enforcer.

Seventeenth and eighteenth century governments frequently intervened in the markets and, in the words of David Chan Smith, ‘sought to use economic regulation to pursue political ends, including the promotion or suppression of industries or social behaviours, or

¹ Harald Deceulaer, ‘Violence, magie populaire et contrats transfrontaliers’, in Gérard Béaur, Hubert Bonin et Claire Lemercier, eds., *Fraude, contrefaçon et contrebande, de l’Antiquité à nos jour*, Geneva, 2006, pp. 61-90, at p. 88. The full quote, in relation specifically to cross-border smuggling between the Austrian Netherlands and France in the 1750s, is: ‘*La contrebande est parfois un crime créé par l’État (criminalisant certains flux d’un commerce préexistant), appuyé sélectivement par l’État (l’exportation des produits industriels, l’importation des matières premières) et pratiqué partiellement par des fraudeurs entraînés par l’État (des déserteurs).*’

the punishing of national rivals.² In doing so they shaped the commercial world in which merchants operated, setting up regulatory systems to restrict trade routes, raise revenue, protect local industry and prevent cash moving out of the country. As a by-product of regulation and taxation, they created the opportunity for smuggling to thrive: any product that is forbidden, subject to a monopoly or highly taxed can artificially put up the cost of that product to the legitimate buyer and, where the same is available elsewhere, give rise to an opportunity for the sharp-eyed entrepreneur to circumvent the legal restrictions and offer the product at a discount. As the increase in population and levels of consumption gathered pace at the end of the seventeenth century, the environment developed in which it made sense for smuggling businesses to proliferate and for a wide range of commodities to become available on parallel illicit markets, making the eighteenth century, in Ashworth's words, 'a vast world of pilfering and smuggling'.³

At the same time, those given the responsibility to administer the regulations created by governments discovered early on how difficult it was to maintain the resulting artificial market structures and to preserve the integrity of the desired regulations. The situation was exacerbated in the case of cross-border trade by the length and accessibility of the customs boundaries. Moreover, the greater the differential between the prices prevailing in the legal trade and those of illegally sourced goods, the harder it became to collect dues and prevent circumvention. As a result, alongside the regulations was developed an enforcement structure to support the authorities and provide a framework to enable them to take

² David Chan Smith, 'Fair Trade and the Political Economy of Brandy Smuggling in Early Eighteenth-Century Britain', *Past & Present*, gtaa008, at pp. 34-5.

³ William J. Ashworth, *Customs and Excise: Trade, Production, and Consumption in England, 1640-1845*, Oxford, 2003, p. 9.

appropriate action. In Britain, the authorities seem to have underinvested dramatically in the battle against smugglers, given what was required of the enforcement officers on the front line, presumably on the grounds of cost as much as the acceptance that some smuggling was inevitable. They did however put in place legislation in an attempt to protect the officers of the customs and excise. In France, where taxes were farmed out, enforcement was delegated to the *Ferme*, and investment in prevention was a commercial decision by the Farmers General backed up by government decrees, it is not obvious that the enforcement capability was any more effective. Nevertheless, in both countries, enforcement efforts were a major challenge for the smuggler-businessman, although these varied with the location of the enforcement effort, the attitude of the local populace, the manpower available to the authorities and the diligence (or openness to bribery) of the individual officers.

As customs and other duties in both Britain and France increased, and the growth in smuggling accelerated, a dangerous spiral of enforcement legislation and violence developed. As demand grew, there was an increased need for enforcement to protect government revenue and prevent the damage being done to the business of legal traders by high prices that smugglers could easily undercut. Similarly, as cargoes of contraband became more valuable, violence ensued as a means for smugglers to protect their investment and deflect interference, resulting in further regulatory intervention to protect those tasked with enforcement. Pushing in the other direction, at least in the second half of the century, was an increasing public awareness of the inappropriateness in many cases of the punishments that were believed to be required to keep smuggling activities in check. The only solution was going to be a reduction in customs duties to undermine the smugglers'

business model, but until the funds could be raised elsewhere, governments were unable to act decisively.

The result of this process was a bewildering array of parliamentary acts and royal decrees setting up the regulatory structure in the first place, but then amending it, tightening rules around it, criminalising breaches, strengthening and protecting enforcement actions and generally addressing political issues that arose because of smuggling. Anti-smuggling legislation by the end of the eighteenth century had become an integral part of the commercial and legal fabric of life at the time. Consequently, the tax and legal environments were a critical factor in running a smuggling business in the eighteenth century. They created the opportunities in the first place, but they also set up obstacles to the smuggling business throughout the century, increasing surveillance and prevention, and frequently changing the nature of the risks that needed to be considered. But that was not the whole story, because the authorities seemed at times to have turned a blind eye to smuggling, and been deaf to appeals from the affected industries, traders and retailers and a public concerned about what was going on, whether from a lack of will, from inertia because the system was working well enough or from a lack of the financial flexibility to implement radical change in taxation policy. Governments were even known to encourage smuggling, specifically where it could harm the enemy, in spite of the security risks arising from the potential for espionage, on the grounds that what undermined an enemy's economy was clearly in the national interest.

Legislation as it affected smuggling is covered by a number of historians, most notably, in relation to the UK, by Ashworth, who charts the progress of the legislation on tea and

tobacco which gave rise to smuggling, and the subsequent efforts to limit it.⁴ In relation to France, Matthews provides a similar overview, even if the main focus is on the *Ferme* and its key role in administering the salt and tobacco monopolies and a range of other duties.⁵ Generally, however, much of what has been written about the legislative background has been in support of regional analyses of smuggling or the illicit trade in specific products.⁶ What is lacking is any detail on how legislation and the frequent legislative changes affected the business of running a smuggling operation. Consequently, the purpose of this chapter is to describe the regulatory environment within which smuggling thrived, and within which attempts were made to suppress it, to characterise the authorities' efforts at enforcement and to address the political and social impact of enforcement attempts. It is not my intention to provide an exhaustive list of laws, decrees and tax changes during the period, to describe every cut and thrust of the battle between the smugglers and the authorities, but rather to give an overview, focusing on those key dates and changes in legislation during the eighteenth century that were of particular significance to the products highlighted in this thesis and the smuggling community in general. In the process, I will build a picture of the challenges faced by the smuggler intent on pursuing the contraband business. In addition, comparing anti-smuggling legislation in Britain and France will reveal how similar the approaches of the two governments were to taxation, and how, in spite of structural differences in collection and enforcement, smugglers' ability to make money thrived on both sides of the Channel.

⁴ Ashworth, *Customs and Excise*.

⁵ George Matthews, *The Royal General Farms in Eighteenth-Century France*, New York, 1958.

⁶ Examples would be Alfred Rive, 'A Brief History of Regulation and Taxation of Tobacco in England', *The William and Mary Quarterly*, 9.2, 1929, pp. 73–87 and Yves Durand, 'La contrebande du sel au XVIIIe siècle aux frontières de Bretagne, du Maine et de l'Anjou', *Histoire sociale*, vol. 7.14, 1974.

Legal and tax environment

Despite their significant institutional differences, the rationale for and the effect of legislation by the governments of France and Britain to regulate overseas trade and address smuggling were remarkably similar. A simple starting concept – the granting of a monopoly for example or fixed duty on a specific product – immediately developed complex implications on contact with on-the-ground reality. How should the rates be calculated, to what forms or grades of the product does it apply (cheap bohea tea vs. high priced singlo)? Who should be exempt (eg. exporters) and to what extent? Who collects the duties and how are fines applied for non-compliance? Enforcement brought its own set of issues. How much less should women be fined than men for salt smuggling? And what about children? What should happen to confiscated goods and how should rewards for seizures be divided up? Answering these questions is not the aim of this thesis, but asking them serves to highlight and explain the complexity of the anti-smuggling legislation that arose in both countries, which was both difficult to understand and confusing to apply.

This section, therefore, attempts to characterise the complexity of anti-smuggling legislation as it relates to the principal products smuggled into each of Britain and France, and how this developed during the eighteenth century, without being drawn into overly detailed explanations. In both countries, legislation falls broadly into three types: first, the banning of products, creation of monopolies, changes in duty rates, how they were applied, whether drawback on re-exports should be allowed and so on; then, specific measures to limit the smuggling of a specific commodity; and, finally, general anti-smuggling legislation to limit the activities of the smugglers, improve enforcement and protect the customs and excise

officers charged with that enforcement. There was often considerable overlap between these aims in the drafting of the legislation.

Britain's Customs and Excise regime

By the beginning of the eighteenth century, there was already a well-established customs and excise regime in Britain, complete with anti-smuggling legislation. Excise 'had only come into being, reluctantly, in 1643, during the English Civil War,'⁷ but customs duties had been levied on many imports for centuries. However, perhaps the most significant problem faced by the customs authorities, at least along the south coast closest to France, was the illegal export of wool by 'owlers', and much legislation was aimed at enforcing the ban, and, in line with mercantilist thinking, preventing the export of wool altogether.⁸ In effect, as Ashworth described it, legislation at the time required 'that all owners of wool within ten miles of the Kent and Sussex coast must give a record of the number of fleeces and the location of their storage, while no one could sell wool unless they were registered at the Custom House. In effect this was an attempt to locate and identify all owlers, and ban the transport of wool along the Kent and Sussex coast.'⁹ Canterbury had become a centre for smuggling wool to France, with its sizeable Huguenot community headed by the merchant Seignoret, who in 1698 was fined £10,000 for smuggling silks into Britain.¹⁰ Northern France was still a major

⁷ Ashworth, *Customs and Excise*, pp. 3-4.

⁸ An outright ban on the export of raw wool lasted from 1660 to 1824 (see Julian Hoppit, *Britain's Political Economies: Parliament and Economic Life, 1660-1800*, Cambridge, 2017, pp. 219ff). The death penalty was introduced in 1662 for illegally exporting wool, subsequently downgraded in 1695 to a system of fines and imprisonment. See Shane Horwell, 'Taxation in British Political and Economic Thought, 1733-1816,' unpublished PhD thesis, UCL, 2019, p. 254.

⁹ Ashworth, *Customs and Excise*, p. 167.

¹⁰ Ibid., p. 168. According to Ashworth the group was fined £80,000 altogether. Francois Crouzet states that Seignoret was fined £10,000 in *Britain, France, and International Commerce: From Louis XIV to Victoria*, Aldershot, 1996, pp. 239, 261.

destination for illegal wool exports throughout the eighteenth century, often via the Channel Islands and Dunkirk, as English wool was finer and longer and seems to have been an essential ingredient in French manufacture of many woollen goods, particularly combing wool used by 'the manufacturers of worsted and other light goods' according to the 1788 parliamentary committee appointed to assess the current state of the wool export ban. Combing wool fetched nearly twice the price in France (35 shillings per tod) as locally in England (19-20 shillings).¹¹ Live sheep were also smuggled out, and one witness to the parliamentary committee claimed to know of a farm called La Capelle near Boulogne that had a flock of 800-1,000 English sheep owned by an entrepreneurial family 'who, within these twelve years, was in a state of penury – there are five, six or seven brothers of them – they now live in opulence, have letters of noblesse, and have a very good domain at La Capelle.'¹²

Illegal wool exports helped to establish a significant smuggling infrastructure between southern England and northern France in particular, integrating the smuggling trade with legal commercial networks. Appendix no. 7 of the 1788 parliamentary committee report describes French manufacturers in town such as Amiens and Abbeville receiving smuggled wool from correspondents in England through agents in the ports of Dunkirk and Boulogne.¹³ The importers of smuggled commodities into Britain built on this network, but while illegal wool exports remained important to some smugglers throughout the eighteenth century, even leading to a repeal and combination of previous laws as late as

¹¹ *Report from the committee appointed to consider the several laws now in being, for the exportation of live sheep and lambs, wool, wool fells..., 1788*, evidence of John Anstie Esq., Chairman of the Wool Meeting, p. 9.

¹² *Ibid.*, evidence of Jacob Thomas Speidel, Blackwell Hall factor, pp. 26-7.

¹³ *Ibid.*, appendix no. 7, pp. 47-49.

1788 ('whereas it would tend more effectually to prevent the exportation of the said several articles, if the said acts....were repealed'),¹⁴ it was the smuggled imports that grew fastest during the century. This growth was driven by increases in duties, as the government's need for revenue escalated during the century's frequent wars, as well as by demand for the products smuggled.

Tobacco

Headline import duty on tobacco was increased from 2d to 5d per pound in 1685, to 6d in 1697, and to 6.33d in 1704, so was already high by the beginning of the eighteenth century, after tobacco growing in Britain had been effectively suppressed between 1660 and 1681. The final decade of this period, after the last customs farm was abolished in 1671, gave closer control to the government. The rationale for eradicating the domestic growing of tobacco, in common with other European countries, was that it was easier to tax imported tobacco arriving by sea. It also protected merchants' trade with the colonies. Duties were further increased by 1d in both 1747 and 1759 to 8.33p per pound (see chart below).¹⁵ But there were a number of additional charges around imported tobacco and in 1787 the government imposed the single rate of 1s. 3d. for tobacco from the British colonies and the United States of America, with 100 per cent. allowable as drawback on export (rates were higher for tobacco imported from Spanish and Portuguese colonies).¹⁶ The 1787 act was designed to consolidate what had become a fiendishly complicated system of duties and

¹⁴ 28 Geo. III, c.38, 'An act to explain, amend, and reduce into one act of parliament, several laws now in being for preventing the exportation of live sheep, rams, and lambs, wool, woolfels....' *The Statutes at Large*, vol. 36, pp. 432ff.

¹⁵ Jacob Price, 'The Tobacco Trade and the Treasury, 1685-1733: British Mercantilism in Its Fiscal Aspects', unpublished PhD Thesis, Harvard University, 1954, pp. 2, 118, 122, 157 and 188.

¹⁶ 27 Geo. III, c.13, An act for repealing the several duties of customs and excise...', 1787, *Statutes at Large*, vol. 36, pp. 23ff.

levies for all imports, but tobacco was particularly problematic for customs officials. Because the duties had been applied piecemeal at different times to raise revenue, they 'were so complicated as to require both time and skill on the part of the customs officers to work out the duties on each parcel of tobacco.'¹⁷

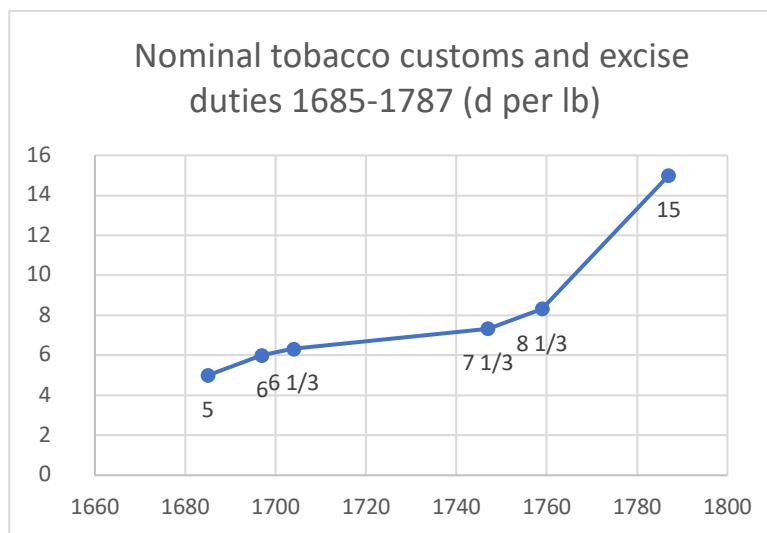


Figure 3.1: Nominal tobacco customs and excise duties in Britain, 1685-1787. Sourced from Price, *The Tobacco Trade*. Note that the 1787 increase in rates also reflects the abolition of other duties and levies.

Driven by high prices, tobacco smuggling had become widespread, consisting of two distinct types of activity: re-export of tobacco (benefiting from the drawback arrangements) and subsequent re-landing or 'running', after re-packaging, and often alongside other smuggled goods; and fraud in and around the port of entry of the tobacco, involving falsifying of records or pilfering. Indeed, many of the customs officers were themselves involved in tobacco smuggling: 'Most of the fraud in the customs was carried on with the active co-operation of the officers and men in the service. Smuggling was frequently engaged in by men who were of, or closely connected with the customs.'¹⁸ As a result, smuggling

¹⁷ Rive, 'Brief History', pp. 82-3.

¹⁸ *Ibid.*, p. 81.

prevention legislation had a number of specific aims, for instance to make all handling of smaller quantities of tobacco illegal by imposing minimum package sizes of 2 hundredweight (implemented in 1700),¹⁹ subsequently raised in 1751 to 450 pounds.²⁰ In 1789, Pitt, having been repeatedly urged to cut tobacco duties to reduce smuggling, dealt with the problem in a different way. He revived Walpole's aim of fifty-five years earlier of involving the more closely managed Excise in the collection of taxes by splitting the existing duties between Customs (6d.) and Excise (9d.). Alongside hovering rules and ship minimum sizes, he also introduced a 'comprehensive warehousing scheme' and limited imports to specific ports, backing this up with manufacturing restrictions and a 'system of permit and survey' to control the retail trade and movement around the country.²¹ Although these efforts were partly successful, by 1815 duties had increased again to a total of 3s. 2d. per pound to fund the wars against France, allowing smuggling to revive.²²

French Brandy

French brandy similarly had long been subject to import taxes, with the first duties being imposed during the reign of Charles II and outright bans in 1678-1685 and again in 1690, reflecting the twin aims of banning imports from a hostile neighbour and encouraging a domestic industry to develop. An additional duty of £30 per tun for single proof French brandy was imposed in a 1695 act (with twice that sum for double proof), which brought the

¹⁹ 10 Gul. III, c.10, An act for laying further duties upon sweets..., 1698, s.26, www.british-history.ac.uk/statutes-realm/vol7/pp501-508, accessed 18 April 2024.

²⁰ Price, 'Tobacco Trade', pp. 227, 243.

²¹ Frank McLynn, *Crime and Punishment in Eighteenth-Century England*, London, 2013, p. 182; Rive, 'Brief History', p. 84; 29 Geo. III, c.68, An act for repealing the duties on tobacco and snuff..., 1789, *Statutes at Large*, vol. 36, pp. 705ff.

²² McLynn, *Crime and Punishment*, p. 182.

total tariff to £35 5s 6d per tun by 1726, and remained on the statute books until 1733.²³

The result of course was that ‘the import of legal brandy shrunk dramatically from the highs of the 1670s even after hostilities with France ended in 1713.’²⁴ The extra tariff was removed in 1733 in order to reduce smuggling and address the ‘Flemish’ brandy anomaly, described in detail in chapter 4 below, by bringing the import duties on the specifically French product into line with other foreign brandies. As the act states, ‘the high duties upon French brandies have tempted many of the traders therein to import great quantities thereof from Flemish ports, and as German or Flemish brandy, to the great prejudice of the revenue and the fair trader.’²⁵ From 1751, tax on domestic spirits in Britain resulted in another surge in smuggling (principally from Dunkirk and Boulogne).²⁶ The Anglo-French Commercial Treaty of 1786 called for a reduction in duties on French brandy to 7s. and subsequently 5s. per gallon, leading to a substantial increase in legal imports in the following years.²⁷ The authorities also tried other mechanisms for reducing brandy smuggling, and in the 1779 Smuggling Act, a minimum cask size of 60 gallons for imported spirits was introduced, otherwise the ship and her contents were liable for seizure,²⁸ increased from 1 October 1786 to 100 gallons.²⁹

²³ A ‘tun’ is defined in the contemporary books of rates as 252 gallons, so this amounts to some 2s 4d or 2s 5d per gallon. See Great Britain, *The Act of Tonnage and Poundage, and Rates of Merchandise...*, London 1726, p. xiv. The resulting total duty is itemised on pp. 898-9 of the same publication. The 1695 act is 7 & 8 Gul. III, c. 20, entitled ‘An Act for granting to His Majesty an additionall Duty upon all French Goods and Merchandise’, www.british-history.ac.uk/statutes-realm/vol7/pp97-98, accessed 6 September 2023.

²⁴ Chan Smith, ‘Fair Trade’, p. 11.

²⁵ 6 Geo. II, c.17, from <https://archive.org/details/statutesatlarge01pickgoog/page/382/mode/2up>, accessed 6 September 2023.

²⁶ François Crouzet, ‘La Contrebande Entre La France et Les îles Britanniques Au XVIIIe Siècle’, in Gérard Béaur, Hubert Bonin, Claire Lemercier, eds., *Fraude, contrefaçon et contrebande, de l’Antiquité à nos jours*, Geneva, 2006, pp. 35–59, at p. 39. The 1751 act mentioned is 24 Geo. II, c.40.

²⁷ Marie Donaghay, ‘The Exchange of Products of the Soil and Industrial Goods in the Anglo-French Commercial Treaty of 1786’, *Journal of European Economic History*, 19.2, 1990, pp. 377–401, at pp. 391-2, 396.

²⁸ 19 Geo. III, c.69, para. 1, *Statutes at Large*, vol. 32, p. 387.

²⁹ 26 Geo. III, c.73, para. 59, *Statutes at Large*, vol. 35, p. 738.

Tea

Tea, by contrast, was a newer consumer item, and, in spite of smaller quantities imported by the EIC, whose records refer to tea from the 1660s, and growth in consumer demand from the early years of the eighteenth century, regular shipments of tea brought directly from Canton only started in 1717.³⁰ Duties were already at a high rate, however, with a five shilling per pound flat rate from the 1690s. In the early days, the resulting high prices affected the EIC's ability to sell lower priced teas, and by 1718, with cheaper tea available in European ports, tea had joined the list of articles carried by smugglers into Britain.³¹ In 1724, a four shilling per pound duty was transferred to the Excise, payable by the buyer from the EIC, leaving customs duties of 14 per cent. of gross value payable by the EIC itself.³²

In his 1958 article 'Trends in Eighteenth-Century Smuggling', W. A. Cole shows the following rates of duty as a percentage of the net cost of tea in five-year periods in his attempt to quantify the effects of smuggling on official trade statistics.³³

³⁰ K. N. Chaudhuri, *The Trading World of Asia and the English East India Company, 1660-1760*, Cambridge, 1978, pp. 386-8.

³¹ Ibid., p. 387; Hoh-Cheung and Lorna H. Mui, "Trends in Eighteenth-Century Smuggling" Reconsidered', *Economic History Review*, 28, 1975, pp. 28-43.

³² Mui & Mui, 'Trends Reconsidered', p.29.

³³ W. A. Cole, 'Trends in Eighteenth-Century Smuggling', *Economic History Review*, 10.3, 1958, pp. 395-410.

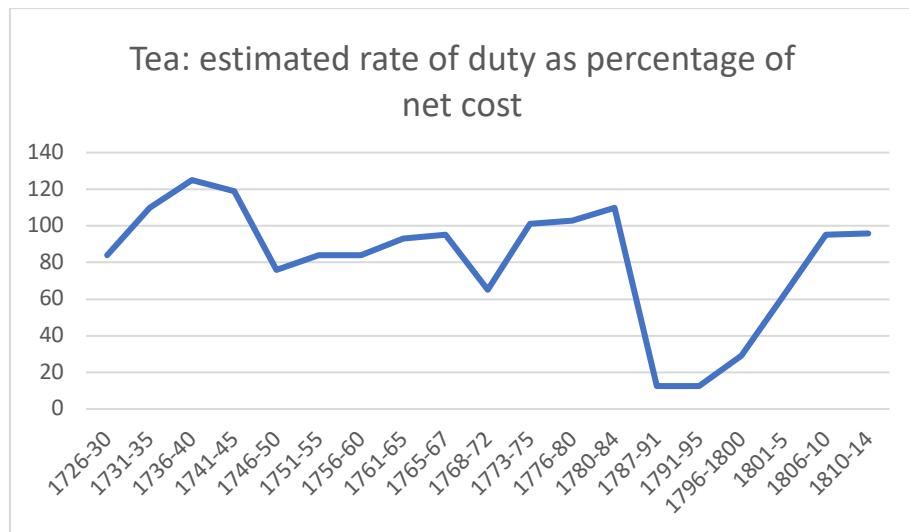


Figure 3.2: Estimated rate of duty on tea in Britain as a percentage of net cost. Sourced from W. A. Cole, 'Trends in Eighteenth-Century Smuggling', *Economic History Review*, 10.3, 1958, p. 399.

There are issues with the underlying data which were highlighted in Mui & Mui's article "Trends in Eighteenth-Century Smuggling" reconsidered', and which Cole acknowledges, but they provide a useful picture of the extent of the opportunity for smugglers to undercut the legal market for tea and how these fluctuated during the century.³⁴

From the 1720s on, the overall level of tax proved unsustainable in the face of huge illicit imports of tea brought by the European trading companies from China and sold to British smugglers, and the next big change in the taxation of tea came when the excise component was reduced by act of Parliament in 1745 to one shilling per pound and 25 per cent. of value on the grounds that 'great frauds and abuses have been committed by the clandestine importation of tea from ports beyond the seas, as also by fraudulent re-landing thereof...'.

The act also abolished the drawback on re-exports of tea, legislated for a more orderly market in the commodity by permitting the EIC to buy tea on the continent, and allowed for

³⁴ For example, Mui & Mui recalculate duties as a percentage of net cost in 1771-5 as 110 per cent. rather than 84 per cent. Mui & Mui, 'Trends Reconsidered', p.35.

competing companies to be set up if the EIC failed to provide enough.³⁵ These moves seem to have had a big immediate impact, even doubling the volumes on which the duty was paid, according to evidence given to the subsequent 1745-6 Commons Committee on smuggling.³⁶ The temptation to tax remained high, however, and customs duties rose to 19 per cent. in 1747 and 24 per cent. in 1759, and, because of the way duties were calculated, total taxes by the 1750s were already estimated to be in excess of 100 per cent.³⁷ In spite of adjustments to duties in the intervening years, including removing the one shilling excise duty for 5 years from 1767 and the reinstatement of drawback, taxes on tea remained high, providing ample opportunity for smugglers to take advantage of the high prices of legal tea, until Pitt's 1784 Commutation Act, which is described in detail below.³⁸

Britain: anti-smuggling legislation

Anti-smuggling legislation was divided into that which sought to limit the smuggling of a specific product, much of which was focused on imposing restrictions on how trading of the product was carried out, and more general anti-smuggling legislation focused partly on the mechanics of smuggling itself but also, more significantly, on the penalties for breaking the law. Smuggling grew from illicit trading by merchants at the end of the seventeenth century, a crime which was capable of being addressed by a system of fines, into a large-scale specialised business employing many people in often violent gangs capable of threatening local communities, undermining local court processes and endangering the lives of those

³⁵ 18 Geo. II, c.26, *The Statutes at Large*, Vol. 18, pp. 362, 364. See also Horwell, 'Taxation in British political and economic thought', p. 257.

³⁶ *Journals of the House of Commons*, vol. xxv (1745-50), London, HMSO, p. 102.

³⁷ Mui & Mui, 'Trends Reconsidered', pp.29, 35.

³⁸ The temporary drop in excise duty comes in 7 Geo. III, c.56, *Statutes at Large*, vol. 27, pp. 600ff.

charged with prevention. General anti-smuggling legislation underwent a complete transformation during the first half of the eighteenth century as it was forced to develop in response to this change.

Legislation started in the first two decades of the eighteenth century with the so-called 'Hovering Acts' which attempted to limit the presence of smuggling vessels off the coasts of Britain. The 1718 Act, entitled 'An act against clandestine running of uncustomed goods, and for the more effectual preventing of frauds against the custom', provided, among a wide range of other measures, for customs officers to be able to board ships of less than 50 tons, 'laden with customable or prohibited goods,' found 'hovering on the coasts of this kingdom, within the limits of any port, and not proceeding on her voyage...' and demand security of up to treble the value of the goods.³⁹ Three years later, the 1721 Act added the ability to seize any rowing boat of more than four oars (and thus deemed to be seaworthy).⁴⁰ A number of other acts during the century strengthened and amended these provisions, as is set out in the '*Abstract of various penal and other statutes...*' by one of the Customs solicitors, James Earnshaw, towards the end of the century.⁴¹ It is not clear how useful these acts were, and Charles Lutwidge, Receiver and Surveyor General of the Isle of Man after it had been purchased by the Crown, pointed out in 1766 'it becomes extremely difficult to convict them [smugglers] upon the Hovering Acts.' Stratagems for avoiding seizure included 'providing themselves with false dispatches or bills of lading' so that they

³⁹ 5 Geo. I, c.11, *Statutes at Large*, vol. 14, pp. 33ff.

⁴⁰ 8 Geo. I, c.18, *Statutes at Large*, vol. 14, pp. 408ff. This was limited to boats of 6 oars later in the century by 19 Geo. III, c.69 (1779), *Statutes at Large*, vol. 32, pp. 387ff.

⁴¹ James Earnshaw, *Abstract of various penal and other statutes relating to the revenue of Customs from 28 Edw. III to 32 Geo. III inclusive, for the use of merchants, brokers, and officers of the Customs in general, and the masters of trading vessels in particular*, London, 1793-99, vol. 1, pp. 14-16.

could claim the goods were foreign property, and pretending ‘to be drove in by stress of weather, the want of water, or some such plausible pretext.’⁴²

During the 1730s and 1740s, there was a step-change in the authorities’ approach to limiting smuggling in the face of increasing violence on the part of smuggling gangs. As the 1733 Commons Committee report stated in relation to tea and brandy smuggling,

These frauds are grown to so great a height, and carried on in such a violent and outrageous manner by the persons concerned in them, as seems to call very strongly for the assistance of the Legislature to put a stop to their progress; the smugglers being grown to such a degree of insolence, as to carry on their wicked practices by force and violence ...; going in gangs, armed with swords, pistols, and other weapons, even to the number of forty or fifty ...⁴³

The Indemnity Act of 1736 was an ingenious combination of stick and carrot which attempted to dislodge the smuggling community by allowing smugglers ‘to obtain a free pardon for past offences, provided they fully disclosed them and gave the names of their fellow-conspirators,’⁴⁴ while the 1746 Act took the brutal penalties of the Black Acts of 1723 and applied them to smuggling, after which ‘death rather than transportation was to be the usual punishment for smuggling.’⁴⁵

⁴² TNA, T 1/445/558, Charles Lutwidge, with proposals for suppressing illicit trade from foreign parts, 20 November 1766.

⁴³ *The Report with the Appendix from the Committee of the House of Commons appointed to enquire into the frauds and abuses in the Customs ...*, London, 1733, p. 16.

⁴⁴ 9 Geo. II, c.35, *Statutes at Large*, vol. 17, pp. 63ff.

⁴⁵ McLynn, *Crime and Punishment*, p. 184.

The Indemnity Act started with a blanket indemnity for anyone who had been involved in smuggling, including, perhaps surprisingly, those persons 'who have beat, abused, obstructed, or hindered, any officer of the Customs or Excise in the due execution of their duty, or who have given or offered a bribe to any officer of the Customs or Excise...'. On the other hand, there were severe penalties for anyone taking benefit of the indemnity and subsequently re-offending, for whom both offences would be taken into account, even leading to death if both offences would normally have carried the liability to transportation.

The act then went on to proscribe armed gatherings of more than three people near the coast for the purposes of 'aiding and assisting in the clandestine running, landing, or carrying away prohibited or uncustomed goods' (with a £50 reward for those apprehending a successfully convicted smuggler). There was also the presumption that two or more people, armed or disguised, with horses or carts laden with tea, brandy or other contraband without receipts or permits, within 5 miles of the coast 'shall be deemed to be runners of foreign goods' unless they could prove otherwise.⁴⁶ The punishment for this was seven years' transportation with death for anyone escaping and returning early. However, there was a way out if, before conviction, a detained suspect named two accomplices who were themselves subsequently convicted, in which case he could be discharged with a £50 reward. This was an extraordinary and very detailed attempt to identify and isolate smugglers and their activities in the future, while being prepared to overlook past crimes, and then provide a clear legal route to their prosecution, while at the same time offering those same offenders a bribe to identify their smuggling colleagues.

⁴⁶ 9 Geo. II, c.35, *Statutes at Large*, vol. 17, pp. 63ff., para. XIII.

It is unclear whether the Government expected the rules to be followed and smuggling to fall away, in the belief that smuggling was less entrenched than in fact it clearly was, but the Indemnity Act had little impact, as appeared from the 1745/6 report to the Commons Committee just ten years later.⁴⁷ There was some evidence in the report that merchants had made use of the indemnity provisions (Abraham Walter and Samuel Wilson, both witnesses to the committee, had), but the smuggling problems were clearly no better. With the 1746 'Act for the further punishment of persons going armed or disguised, in defiance of the laws of customs or excise...',⁴⁸ which came as a result of the Commons Committee report, instead of trying something different, Parliament rather chose to strengthen significantly the penalties prescribed. As the introduction to the act makes clear, it was aimed specifically at the armed smuggling gangs that had built up across the south coast:

Whereas divers dissolute persons have associated themselves and entered into confederacies to support one another, and have appeared in great gangs in several parts of this kingdom, carrying firearms or other offensive weapons...

and the threat they posed to the preventative services:

whereas several officers of the customs and excise, and their assistants, have been wounded, maimed, and some of them killed, when in the execution of their office but also at the way their activities were undermining the rule of law:

to the utter subversion of all civil authority and power whatsoever.⁴⁹

The principal change was to make the activity of smuggling a felony punishable by death in an extension to the smuggling gangs of the severe penalties introduced in the Black Act of

⁴⁷ *Journals of the House of Commons*, p. 102.

⁴⁸ 19 Geo. II, c.34, *Statutes at Large*, vol. 18, pp. 490ff.

⁴⁹ *Ibid.*

1723.⁵⁰ It also introduced to smuggling offences the concept of 'gazetting' (named after the procedure which involved the publication of a name in two issues of the *London Gazette*), where a single witness could inform on a smuggler who, if he then did not hand himself in within 40 days, could be summarily convicted and hanged, even many years later. In practice however convictions in this way seem to have been limited to the decade or so after the 1746 Act.⁵¹ Anyone apprehending a gazetted criminal would be eligible for a £500 reward, a substantial sum, amounting to some 25 times the average labourer's annual salary.⁵² Anyone harbouring a smuggler identified in this way would be liable for transportation for seven years. In a reform to court procedure, to avoid issues of local intimidation or partiality, it became possible to try a smuggler in any county of England, and, in an attempt to undermine support for the smugglers, local areas could become responsible for funding compensation for wounded, maimed or killed revenue officers. The indemnity provisions of the 1736 act were repeated, with offenders before the act came into effect being discharged, provided they served in the Navy for at least a year (the act was passed during wartime), and, after the act came into effect, enabling an offender to be discharged in the event of naming two accomplices who were subsequently successfully prosecuted.

⁵⁰ 9 Geo. I, c. 22, so-called because it was enacted to put a stop to crimes in the Waltham area of Hampshire by people in disguise or with their faces blacked. 'No other single statute passed during the eighteenth century equalled 9 Geo. I, c.22, in severity, and none appointed the punishment of death in so many cases.' L. Radzinowicz, 'The Waltham Black Act: A Study of the Legislative Attitude Towards Crime in the Eighteenth Century', *The Cambridge Law Journal*, 9.1, 1945, p. 57.

⁵¹ A review of the OBPO database suggests that the last such conviction was that of Robert Hoggard or Hogger in 1754 for not surrendering himself after an order published in the London Gazette in July 1751 for an incident that took place on 8 February 1746 in Norfolk. See OBPO, September 1754, trial of Robert Hoggard, otherwise Hogger (t17540911-40).

⁵² Bob Allen's research shows agricultural labourers in the southern England earning as little as one shilling a day, with building labourers in London earning double that sum. See <https://www.nuffield.ox.ac.uk/people/sites/allen-research-pages/> cited in J. Humphries and J. Weisdorf, 'Unreal wages? Real income and economic growth in England, 1260–1850', *Economic Journal*, 129, 2019, pp. 2867–87.

The thinking behind this act is a testament to the concerns of the authorities as well as the levels of violence and intimidation experienced by the local communities and their judiciary. But it was viewed even at the time as excessive. Rogers describes it as ‘an extraordinary statute that essentially outlawed smugglers before they had been technically indicted for a crime, simply on the basis of an information or deposition forwarded by the secretary of state to the Privy Council.’ He goes on to quote the Crown Prosecutor at the time as saying “‘Nobody could detect them [smugglers] to the Satisfaction of a Jury,’ and ‘therefore the Legislature thought fit to take a Method for preventing this Practice, by anticipating, if I may so say, that Offence.’”⁵³ McLynn goes further in saying that it ‘conflicted with traditional liberties’ citing William Eden, barrister and future Lord Auckland, in his book *The Principles of Penal Law* (1772).⁵⁴ The new act unleashed a large number of prosecutions, the best known being the Duke of Richmond’s crusade against the Hawkhurst gang, with more Old Bailey convictions for smuggling recorded in the few years after its introduction than at any other time in the eighteenth century.⁵⁵ However, the effects were relatively short lived, in part because its clauses were so out of step with the general political culture ‘that held illicit trading to be a peccadillo caused solely by inept government fiscal policies.’⁵⁶

Additional legislative efforts to clamp down on smuggling and change the rules of engagement between smuggler and customs official continued to be made in the second

⁵³ Nicholas Rogers, *Mayhem: Post-War Crime and Violence in Britain, 1748-53*, Yale University Press, 2012, p. 129.

⁵⁴ McLynn, *Crime and Punishment*, p. 184.

⁵⁵ Annie Tock Morisette, “‘They would have a law of their own’: The discourse on Smuggling at the Old Bailey, 1736-1814”, unpublished MA Thesis, East Carolina University, 2013, p. 3.

⁵⁶ McLynn, *Crime and Punishment*, pp. 184-5.

half of the eighteenth century, but these were minor tweaks to the legislation, and little really changed in the face-off between the Government and the smugglers. In the 1779 Act, for example, the same sentiments were expressed as were seen in previous Smuggling Acts.

Great quantities of prohibited and uncustomed goods, and particularly of tea, foreign brandy, and other foreign spirits, continue to be illegally imported into and landed in this kingdom; and such goods are run, carried, and conveyed from the sea coasts through the country, as well by secret frauds and clandestine practices as by open force, and by gangs of dissolute persons, armed with offensive weapons...⁵⁷

Particular attention during wartime was made to allowing both convicted smugglers and smugglers wanting to take advantage of repeated indemnities to serve in the forces,⁵⁸ and, although the clauses of the 1746 Act remained in force (and were explicitly confirmed by the 1779 Act⁵⁹), there seems to have been less focus on aggressive application of the act after the initial attempts to break the stranglehold of the south coast smuggling gangs.⁶⁰ Further 'acts of oblivion' were passed in 1782, to enable smugglers to fight in the American War, and 1792 so that they were able to enlist in the Navy.⁶¹

Pitt's Commutation Act was a 'turning-point in the history of the British tea trade,' an official attempt to undermine the smuggling business (and partly in response to the EIC being in financial difficulties), primarily by sharply reducing the tax on tea imports and thus reducing

⁵⁷ 19 Geo. III, c.69, An act for the more effectually preventing the more pernicious practices of smuggling in this kingdom..., *Statutes at Large*, vol. 32, para. 1, p. 387.

⁵⁸ *Ibid.*, paras. XIII and XXIX.

⁵⁹ *Ibid.*, para. XXIII.

⁶⁰ Morisette, "They would have a law of their own", p. 3, for example, points out that 'The Old Bailey court heard only six smuggling trials between 1754 and 1783.'

⁶¹ Simon Harvey, *Smuggling: Seven Centuries of Contraband*, London, 2016, p. 118.

the official price of tea in the market.⁶² The plan to replace the lost revenues by a window tax seems to have originated within the EIC and was proposed by William Richardson, their deputy accountant in 'A plan to prevent smuggling tea, by taking off all the present duties of Customs and Excise on tea, and laying a small tax on such houses only as pay the Window Tax; by which means the Kingdom at large would be greatly benefited...'⁶³ Around the same time, a parliamentary committee 'appointed to enquire into the illicit practices now used in defrauding the revenue of this Kingdom, and the most effectual methods of preventing the same' was set up to review the state of smuggling under William Eden and produced three reports in 1783 and 1784.⁶⁴ The first report analysed the state of smuggling in England and Wales, which, led by tea smuggling from the continent, was depriving the revenue of upwards of £1 million annually.⁶⁵ The second report concentrated on Scotland, for which information had not been received in time for the first report, and the third presented a very detailed set of recommendations on ways to address the smuggling problem, including strengthening the Hovering Acts and improving the effectiveness of the preventative forces at sea, improving prevention on land, including better communication and the use of troops, making changes to the permit and licensing systems, cracking down on collusion, simplifying the system of rates, and so on. But the most important point made was that 'the great and infallible remedy towards the prevention of frauds against the revenue is, undoubtedly, to be sought only in the reduction of duties,' although the committee declined

⁶² Hoh-Cheung and Lorna Mui, 'The Commutation Act and the Tea Trade in Britain, 1784-1793', *Economic History Review*, 16.2, 1963, pp. 234-53, at p.234.

⁶³ BL, IOR H/61, ff. 139-149 is a detailed plan containing a range of calculations showing the benefits to everyone, and pointing out that even those who do not drink tea will benefit from the money currently spent on smuggled tea being kept in the country.

⁶⁴ *First Report from the Committee appointed to enquire into the illicit practices used in defrauding the revenue*, dated 24 December 1783, London, 1784. The second and third reports were dated respectively 1 March 1784 and 23 March 1784.

⁶⁵ *First report*, p. 15.

to be precise on this point as ‘the experiment is of such delicacy in respect of public credit, and of such risk and magnitude in every point of view.’⁶⁶ In the specific case of tea, however, the committee was quite prepared to present Richardson’s plan to replace customs and excise revenues, which amounted at the time to ‘more than cent. per cent. of the prime cost’ of the cheaper teas, with an increase of the window tax.⁶⁷ ‘The management of the window tax is so well arranged and settled, that such a plan, if not liable to other objections, would at least have the advantage of being executed easily, and without expence,’ as the committee pointed out.⁶⁸

The subsequent Commutation Act took the recommendations on tea and replaced the current system of duty with a single 12.5 per cent. of gross value at which tea was sold by the EIC. The act replaced the lost revenue with additional window tax in the form of an increase in the rates applied under earlier acts ‘for repealing the several duties upon houses, windows and lights’ and ‘for repealing the duties on all inhabited houses’ according to the number of windows of the dwelling house, even going so far as to specify different numbers in such detail that the act went up to an extra £20 for houses with 180 or more windows. Additional duties were also put on coffee and cocoa. But the act also undermined the Company’s monopoly, attempted to micro-manage the transition, and urged the EIC to ‘contribute their utmost endeavours for securing to the publick the full benefit that will arise from an immediate and permanent reduction of prices.’⁶⁹ As a result, according to Mui & Mui, ‘the Company’s monopoly became no more than an exclusive right to import tea into

⁶⁶ *Third report*, p. 17.

⁶⁷ *First report*, p. 11.

⁶⁸ *Third report*, p. 19.

⁶⁹ 24 Geo. III, c.38, *Statutes at Large*, vol. 34, pp. 564 ff. The earlier acts were 6 Geo. III, c.38 and 19 Geo. III, c.39.

Britain', and 'a previous law enabled the Government to authorize merchants to import tea from the continent if the Company's supply was judged insufficient.'⁷⁰ The second half of the government's anti-smuggling strategy, picking up on the committee's recommendations, came in a later act in the same year, which tightened up the rules governing hovering with potential contraband on board, together with banning certain vessels and adding the crime of shooting at customs or naval ships to the list of felonies punishable by death. It also renewed the concept of gazetting for those charged with felonies, with transportation for those harbouring gazetted criminals, and added a range of provisions 'more effectually to prevent those destructive and growing evils.'⁷¹

The Commutation Act was designed to undermine the smugglers' business model, based on the assumption that tea was the most prevalent and most profitable of the goods commonly smuggled into Britain, and that many others, and particularly brandy and tobacco, were smuggled in alongside illicit tea. It was not possible for the EIC to replace smuggled with legally imported tea overnight, however, because of the 2-year lead time for importing tea from Canton, and the smugglers – or at least their continental suppliers – fought back for a while, so that it was not until 1790 that the EIC was confident of importing sufficient supplies without having to resort to purchases from its European competitors.⁷²

The Act may also have been part of a strategy to gain political support at the expense of the public. It was this, as much as the necessity of suppressing smuggling, which gave rise to the Commutation Act of 1784, in so far as the

⁷⁰ Mui & Mui, 'Commutation Act', p. 235.

⁷¹ 24 Geo. III, c. 47, *Statutes at Large*, vol. 34, pp. 660 ff.

⁷² In the decade 1773-1783, less than 30% of Canton's tea exports were taken up by English ships; this increased to 58% in 1783-93 and to 77% in the 1790s. Mui & Mui, 'Commutation Act', pp. 236-7.

provisions respecting tea were concerned. The minister wanted the support of the East-India Company in order to defeat his opponents, and instead of throwing open the China trade, he struck off 107.5% of the tea duties in order that the Company might enjoy its monopoly, and then coolly turned round upon the nation, and imposed an additional House and Window-tax to cover the loss sustained by the Revenue.⁷³

In time, pressures on government finance led to increases again in the tea duties from 12.5 per cent., initially to 20 per cent. in 1795 and

in the course of the war they were advanced on the bulk of the teas to thirty, to thirty-five, to forty, to fifty, to ninety-five, to ninety-six and ultimately to 100 per cent, with a small exception in almost all these cases in favour of certain low-priced teas. This last duty of cent per cent continued until April 1834, when the trade was thrown open.⁷⁴

Smuggling seems to have reduced gradually after the smuggling restrictions of 1784 were further strengthened by acts in 1802, 1805 and 1807 under the pressure of an extended war with France,⁷⁵ and the revenue cruisers, the water guard and the riding officers were combined into the Coast Guard in 1822 with the specific remit of revenue protection.⁷⁶

⁷³ Attributed to John Crawfurd, 1783-1868, army doctor in India, 'ART. VI.1. Report on Tea Duties', *Westminster Review*, Jan.1824-Jan.1836, vol. 22, no. 44, 1835, pp. 361-403, at p. 376. Accessed on 20 September, 2023, at www.proquest.com/historical-periodicals/art-vi-1-report-on-tea-duties/docview/4454116/se-2.

⁷⁴ *Ibid.*, p. 373.

⁷⁵ M. White, 'The Carteret Priaulx papers: the influence of the Napoleonic wars on Guernsey', *Transactions de la société guernesiaise*, XVII, 4, 1963, pp. 453-4.

⁷⁶ Walter Minchinton, 'Her Majesty's Coastguard', in *People of the Northern Seas*, Walter Minchinton and Lewis R. Fischer, eds. Liverpool, 1992, pp. 175-90, at pp. 175-6.

France's customs structure

Unlike England, which had abolished tax farming by the beginning of the eighteenth century, France operated a 'farm' system where private sector tax collectors committed to paying a specific amount in a lease to the French crown in return for the right to collect the indirect taxes such as the *traires* (customs duties) and tolls, *aides* (similar to excise, but paid on entry to towns) and the *gabelle* or salt tax. Colbert started the process of consolidating a highly fragmented *ferme* structure into a smaller number of *fermes générales*, and for much of the eighteenth century the collection of indirect taxes was delegated to the single *Fermes Générales*, an entity which emerged in 1726 from the chaos of John Law's financial system.⁷⁷ From this point until the 1770s, the *Ferme* was seen as the government's financier, by then accounting for as much as 40 per cent. of royal revenues,⁷⁸ and with its help, 'roughly the same range of *perceptions* which in 1725 brought the government an estimated annual net revenue of 99,000,000 livres increased in 1788 to 243,546,000 livres.⁷⁹ The *Ferme* administered the *gabelle* and was responsible for collecting the duties on tobacco as well as other imports. It was also responsible for enforcing the ban on *Indiennes*, and, when the ban was lifted, for collecting the import duties imposed in the place of the ban.

The *Ferme* operated on the basis of 6-year leases granted by the government, for which it paid annual amounts which rose from 80 million livres per annum in 1726 to a peak of 152 million livres in 1774. From 1780, this figure fell because the *aides* and *domaines* were

⁷⁷ Matthews, *Royal General Farms*, pp. 63ff. Law took over the *Fermes Générales* in 1719, and during the financial turmoil after the collapse in 1720, the *fermiers* wouldn't agree to a new lease until 1726. In the absence of a full farm lease, the *Fermes Générales* operated in a *régie* as a tax-collecting agent for the government.

⁷⁸ Roland Mousnier, *The Institutions of France Under the Absolute Monarchy, 1598-1789, Volume 2: The Organs of State and Society*, translated by Arthur Goldhammer, Chicago, 1984, p. 446.

⁷⁹ Matthews, *Royal General Farms*, p. 81.

excluded from the calculation even while they continued to be administered by the *Ferme*.⁸⁰

In this intermediary position, the *Ferme* was enormously important in financing the state, as it came under pressure to make increasingly large deposits to the government at the beginning of each lease, ranging from 8 million livres in 1726 to 60 million livres in 1756. This became a permanent long-term loan of 60 million livres as the overall sum continued to grow to a peak of 92 million in 1768, after which the government turned to other sources of finance, and started borrowing on the international markets for the first time in 1776.⁸¹ The *Ferme* thus moved from advancing short term funds to the government in the form of 'tax anticipation' to becoming 'a prime investor in long term government debt' becoming intimately bound up in the *ancien régime*'s financial system and thus virtually impossible to reform.⁸² However, the *Ferme* started to be dismantled from 1780 with increasing amounts of government intervention, and by 1786 had been stripped back to the salt and tobacco monopolies and the Paris entry dues.⁸³

Salt

The extraordinarily complex *gabelle* was a tax with a long history in France stretching back to the thirteenth century, and it became a farmed-out monopoly as early as the mid-sixteenth century.⁸⁴ By the eighteenth century it was levied in full only on the central

⁸⁰ Ibid., pp. 82-3. Some taxes were always retained by the state direct, and others were administered by the *Ferme* without necessarily being part of the negotiated lease amount.

⁸¹ Ibid., pp. 254-8.

⁸² Ibid., p. 248.

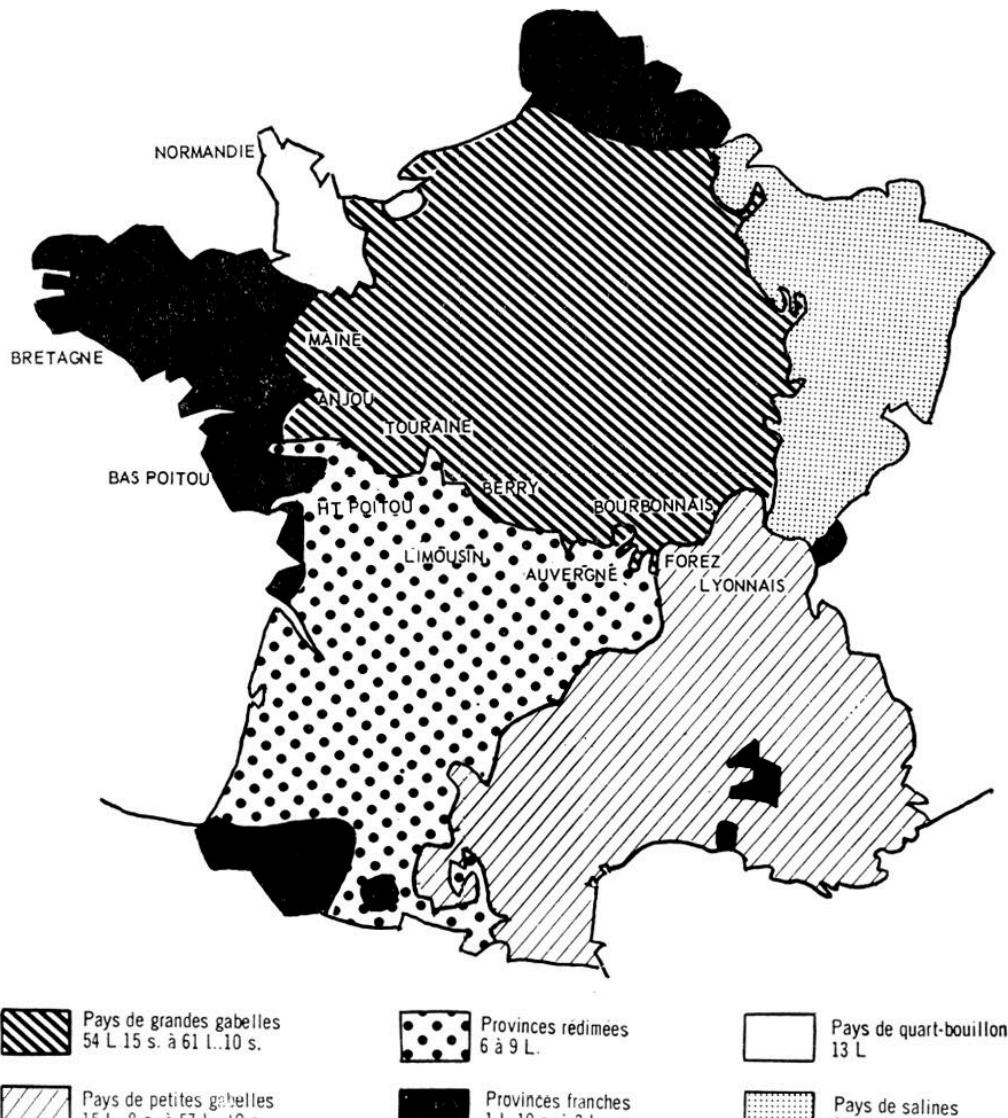
⁸³ Mousnier, *The Institutions of France*, pp. 446, 461.

⁸⁴ 'The expression *gabelles* was an administrative abbreviation for the most complicated fiscal system, or medley of systems, in old-regime France. There was no single tax bearing on salt but rather a series of diverse levies, some of which were consumption taxes, some sales taxes and some circulation taxes or tolls. There was no single method for collecting these various imposts but rather a variety of methods of which the most important was the technique of monopoly sales. But there was no single monopoly; rather there were a number of monopolies, each embracing a different part of the country...' Matthews, *Royal General Farms*, pp.

provinces of France, the so-called *pays de grande gabelle* (see map below). Salt prices rose steadily during the *Ancien Régime* period, and reached some ten times the wholesale cost of salt in the *pays de grande gabelle*. As shown below, the prices, based on the wholesale cost, the costs of administration and local taxes, could range from 1 to 3 *livres* per *minot* in Brittany to 55 to 60 *livres* in the *pays de grande gabelle*.⁸⁵

⁸⁸⁻⁹; Theodore Sands & Chester Penn Higby, 'France and the Salt Tax', *The Historian*, vol. 11.2, 1949, pp. 145–65, at p. 145.

⁸⁵ Sands & Higby, 'France and the Salt Tax', p. 151. According to Nicolas Schapira in 'Contrebande et Contrebandiers Dans Le Nord et l'Est de La France, 1740-1789; Les Archives de La Commission de Reims', unpublished thesis, Université de Paris 1, 1990, p.11, a *minot* in Champagne is some 52 litres. According to Wikipedia, a *minot* is 3 French bushels (and therefore approximately one English bushel or 8 imperial gallons, or some 36 litres). See https://en.wikipedia.org/wiki/Traditional_French_units_of_measurement, accessed 2 November 2023.



(le prix de vente du minot de sel est indiqué en livres).

Figure 3.3: Variation in salt tax rates across France. Source: Micheline Huvet-Martinet, 'La répression du faux-saunage dans la France de l'Ouest et du Centre à la fin de l'Ancien Régime (1764-1789)', *Annales de Bretagne et des pays de l'Ouest*, vol. 84.2, 1977, pp. 423-43.

Not surprisingly, smuggling across the borders of the *pays de grande gabelle* was common.

In addition to the problems caused by high salt prices, there were a number of administrative abuses that went with the monopoly, in particular the restrictions on the uses of salt and the *Ferme*'s right to enter and search for smuggled salt.⁸⁶ It is hardly

⁸⁶ Sands & Higby, 'France and the Salt Tax', p. 155.

surprising that the *gabelle* and the *Fermes Générales* which administered it were so unpopular. Early on in the French Revolution, in the face of consistent complaints about the tax, the new National Assembly was forced to address the *gabelle*, and from September 1789, it was reduced, the obligation to buy was abolished along with the *greniers* and the rights of the *Ferme* employees were restricted. After further protests, the *gabelle* was abolished in its entirety on 14 March 1790 and replaced by a levy.⁸⁷

Tobacco

The sale of tobacco was a state monopoly from 1674, a monopoly from which the northern and eastern provinces of Flanders, Artois, Lorraine and Franche Comté were excluded, and from 1730 the monopoly was administered by the *Fermes Générales*. As in Britain, it was perceived that imported tobacco was easier to tax and control than locally grown, and, as imports from France's own Caribbean colonies declined, the *Ferme* concentrated on importing tobacco from the British colonies, for which the population had, in any case, developed a preference, even during wartime.⁸⁸ Tobacco of only mediocre quality continued to be grown locally, but from 1721 this was banned inside the main customs area of France. The ban did not apply in Flanders, which remained outside the customs border and the tobacco monopoly area, apart from a three-league zone along the border with Picardy. Flanders naturally became a great source of smuggled tobacco, much of it a cheaper mixture of locally grown and imported, carried into the areas controlled by the *Ferme*, and

⁸⁷ Ibid., p. 161.

⁸⁸ François Crouzet, 'La Contrebande Entre La France et Les îles Britanniques Au XVIIIe Siècle', in Eds. Gérard Béaur, Hubert Bonin and Claire Lemercier, *Fraude, contrefaçon et contrebande, de l'Antiquité à nos jours*, Geneva, 2006, pp. 35-59, at p. 55; Schapira, 'Contrebande et Contrebandiers', p.14; Jacob Price, *France and the Chesapeake. A History of the French Tobacco Monopoly, 1674-1791, and of Its Relationship to the British and American Tobacco Trades*, 2 vols., Ann Arbor, MI, 1973, p. 93.

some eight million pounds of tobacco was grown around Lille by the 1770s, compared to less than one million in the 1730s.⁸⁹ Although contraband tobacco accounted for as much as one third of total consumption, it seem that the *Ferme* contained it within financially acceptable bounds, and, indeed, the tobacco monopoly accounted for 6.5% of the gross revenues of the French state by 1788.⁹⁰ Three years later, in spring 1791, as part of the National Assembly's shift from indirect taxes to direct taxes on property, the tobacco monopoly was abolished.⁹¹

According to Matthews, the tobacco monopoly was managed more as a marketing enterprise by the *Ferme*, enabling them to compete on pricing in border areas with the tobacco smugglers.⁹² As a result, when the government imposed surtaxes on all duties in the form of *sous pour livre* (one *sou* being a 5 percentage point increase), to a total of ten such increases during the century, the *Ferme* resisted in the case of tobacco.⁹³ 'The Company was apprehensive that a rise in price would curtail consumption of legal tobacco and stimulate the use of smuggled tobacco,' so they absorbed half of the first such rise, of four *sous* per *livre* in 1758, and tried to force the tobacco retailers to absorb the rest. Most of the remainder of the rises were either not applied to tobacco as a result of official objections by the *Ferme* or absorbed as before.⁹⁴ As a freeport, Dunkirk was able to import foreign tobacco without restriction, much of it destined for the factories of Saint-Omer, and Dunkirk

⁸⁹ Price, *France and the Chesapeake*, pp. 268, 505; Schapira, 'Contrebande et Contrebandiers', p. 14.

⁹⁰ Marc Vigié, *L'herbe à Nicot: amateurs de tabac, fermiers généraux et contrebandiers sous l'Ancien Régime*, Paris, 1989, pp. 315-6; Schapira, 'Contrebande et Contrebandiers', p.13.

⁹¹ Michael Kwass, 'The Global Underground: Smuggling, Rebellion, and the Origins of the French Revolution', in Suzanne Desan, Lynn Hunt, and William Max Nelson, eds., *The French Revolution in Global Perspective*, Ithaca, NY, 2013, pp. 29-30.

⁹² Matthews, *The Royal General Farms*, pp. 121-2.

⁹³ Ibid., p. 84.

⁹⁴ Ibid., p. 123.

also built up a manufacturing base of its own employing 4,000 people by the 1740s, with product for sale to merchants in other European countries, to the *smogleurs* over from Britain and to the smuggling gangs which crossed the customs border into Picardy. But this industry was decimated by a 1749 surtax of 30 *sous* per pound weight of tobacco imported into those provinces of the kingdom that were outside the control of the *Ferme*, representing a duty of some 600 per cent., in a move designed to prevent smuggling of manufactured tobacco from the northern provinces into Picardy, and from Strasbourg into Champagne.⁹⁵

Indiennes

India-sourced printed cottons, or calicoes, known as *toiles peintes* or *indiennes*, and similar products even if produced locally, were banned in France from 1686, in order to protect France's silk, woollen and linen industries.⁹⁶ The effectiveness of the ban was undermined however by repeated attempts by the *Compagnie des Indes*, for which this had been one of the major imports, to retain some of the market, by illegal workshops in France and, of course, by a growing trade in smuggled goods, and in 1700, in an increasing escalation to enforce the ban, even the wearing of *toiles peintes* was banned.⁹⁷ There were repeated attempts to resolve the situation and the first twenty years of the ban was 'the greatest period of legislative activity. Clarification followed exemption, and reiteration followed the

⁹⁵ *Déclaration du 4 mai, 1749*. See Vigié, *L'herbe à Nicot*, pp. 433-8 for a detailed description of the impact of this *déclaration*; Schapira, 'Contrebande et Contrebandiers', p. 14; Price, *France and the Chesapeake*, p. 500.

⁹⁶ *Arrêt du Conseil du 26 octobre 1686*. See André Ferrer, *Tabac, sel, indiennes: Douane et contrebande en Franche-Comté au XVIIIe siècle*, Besançon, 2002, p. 192 and Gillian Crosby, 'First Impressions: The Prohibition on Printed Calicoes in France, 1686-1759', unpublished PhD Thesis, Nottingham Trent University, 2015, pp. 16, 21.

⁹⁷ *Arrêt du Conseil d'Estat du Roy du 13 juillet, 1700*. See Crosby, 'First Impressions', p. 58.

privileges granted. The interests of the traditional manufactures and the *Compagnie* were perpetually conflicted and satisfying both was unfeasible.⁹⁸

The ban was lifted in 1759, but not before there had been an awareness of the benefits of permitting local cotton printing had grown and considerable relaxation in enforcement had taken place. As such the new decree was a balancing act between promoting local fabrication and permitting foreign imports. The ban on imports was replaced by a 10 per cent. duty on white cottons and 15 per cent. on printed cottons, raised a month later by new *lettres patentes* to 15 and 25 per cent. respectively after fierce lobbying to protect domestic manufacturers of these products, and a 10 per cent. duty on domestically produced *toiles peintes*, subsequently dropped.⁹⁹ The ban on imported printed cottons (excluding white cottons imported by the CdI) was reintroduced by means of an *arrêt* on 10 July 1785, as part of the negotiations for the commercial treaty of 1786 with England, but also to protect the nascent domestic manufacture of calicoes.¹⁰⁰

⁹⁸ Crosby, 'First Impressions', p. 73; A similar ban was imposed in Britain with the Calico Acts of 1700 and 1721 after a period of aggressive marketing of printed Asian textiles by the EIC in the previous thirty years which had effectively created robust demand for the products. Smuggling naturally ensued with, as in France, the EIC as the monopoly trader with Asia being a major source of the subsequent contraband activity. The acts were repealed in 1774. See William Farrell, 'Smuggling Silks into Eighteenth-Century Britain: Geography, Perpetrators, and Consumers', *Journal of British Studies*, 55.2, 2016, pp. 268–94.

⁹⁹ Crosby, 'First Impressions', pp. 173, 176, 183-4. The act was entitled *Arrêt du Conseil d'État de Roi et Lettres patentes sur icelui, concernant les Toiles de coton blanches, & les Toiles peintes, teintes & imprimées*, 5 septembre, 1759.

¹⁰⁰ Ferrer, *Tabac, sel, indiennes*, p. 197; Schapira, 'Contrebande et Contrebandiers', p. 16, Crosby, 'First Impressions', p. 191; Katsumi Fukasawa, 'Commerce et contrebande des indiennes en Provence dans la deuxième moitié du XVIIIe siècle,' in *Annales du Midi: revue archéologique, historique et philologique de la France méridionale*, 99, 178, 1987, pp. 175-192, at p.186. In addition, Kwass suggests that textile duties were coming down from 1772, so that by the time of the French Revolution, there were few complaints. Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground*, Cambridge, MA, 2014, pp. 324-5.

Penalties for smuggling in France

Smuggling was a problem from the late seventeenth century for the French authorities. The report of Jean Sénac, one of the *fermiers généraux*, after a tour of the Laval region in 1764, pointed out the extent of the problem that those responsible for enforcement faced. He maintained that smuggling was endemic, and treated as a profession, rather than arising as a result of circumstances such as poverty:

It is practised as a way of life, according to the ancient customs of the parish, by the children of those whose fathers practised it in the same area. This knowledge takes away any consideration for the smugglers and they deserve the full application of the penalties against them without any mitigation.¹⁰¹

A detailed system of penalties was required from the beginning.

The penalties for salt smuggling were consolidated into a single *ordonnance* in May 1680, followed by an *arrêt* of 5 July 1704, and these two laws established the framework for penalties for much of the rest of the eighteenth century.¹⁰² These were primarily fines, backed up with galley sentences based on the perceived severity of the crime: smuggling in armed gangs led to a 500 *livres* fine plus nine years in the galleys, with death for reoffending; smuggling on horseback or using carts carried a 300 *livres* fine, with a 400 *livres* fine and nine years of galley for reoffending; and smugglers on foot received a 200 *livres* fine, with six years of galley and a 300 *livres* fine on reoffending. Accomplices were also liable to fines. Employees of the *Ferme* caught salt smuggling, however, were liable to be

¹⁰¹ 'Elle se pratique par condition de vie, par l'usage ancienne de la paroisse, enfin par les enfants de ceux dont les pères l'exercoient dans les mêmes lieux. Cette considération servira à oster tout sentiment d'égard sur les fraudeurs. Ils méritent sans aucun adoucissement l'exécution entière des règlements rendus contre eux,' quoted in Ferrer, *Tabac, sel, indiennes*, p. 234.

¹⁰² Durand, 'La contrebande du sel', p. 231.

condemned to death on the first offence.¹⁰³ Noblemen, in theory, were also punishable by death and stripped of their nobility.¹⁰⁴ Lesser punishments were applied to women, with banishment or whipping replacing the galleys.¹⁰⁵ Similar provisions were applied to tobacco smuggling from 1681, but they were less harsh, as 'Tobacco revenues quite simply were not very significant at the time.'¹⁰⁶ By royal *déclarations* of 1729 and 1733, the penalties for tobacco and textile smuggling were brought into line with those for salt smuggling, with the galleys being the major punishment for armed gangs.¹⁰⁷ A number of minor clarifications and often conflicting amendments took place during the century, for instance to limit carrying of certain goods near customs borders, to specify when criminals should or should not be branded or to regulate how confiscated property was sold, but in substance little changed for the rest of the pre-revolutionary eighteenth century.¹⁰⁸ And as little had improved in terms of control of smuggling, a law early in the reign of Louis XVI effectively confirmed and repeated the existing legal provisions.¹⁰⁹ In a very close parallel to the official concerns in Britain at the time, this law explained that the King was concerned about the extent to which laws are being broken and duties avoided with violent repercussions for the employees of the *Ferme*:

Numerous gangs of armed smugglers have penetrated various parts of our kingdom; fraud has spread across those of our provinces subject to salt, tobacco and other

¹⁰³ Schapira, 'Contrebande et Contrebandiers', pp. 17-18.

¹⁰⁴ Ferrer, *Tabac, sel, indiennes*, p. 232.

¹⁰⁵ Durand, 'La contrebande du sel', p. 232.

¹⁰⁶ Nils Liander, 'Smuggling Bands in Eighteenth Century France', Harvard University, 1981, p. 517.

¹⁰⁷ Ferrer, *Tabac, sel, indiennes*, p. 297. For example, the *déclaration du 2 août 1729* prescribes the death penalty for 'ceux qui seront convaincus d'avoir porté du tabac, toiles peintes & autres marchandises prohibées, en contrebande ou en fraude, par attrouplement au nombre de cinq ou moins, avec port d'armes'. See M. Guyot, *Reperatoire Universel et Raisonné de Jurisprudence Civile, Criminelle, Canonique et Beneficiale: Ouvrage de Plusieurs Jurisconsultes*, essay on contraband, vol. 4, Paris, 1784, pp. 638ff., HeinOnline, accessed 6 October 2023.

¹⁰⁸ Liander, 'Smuggling Bands', pp. 517ff.

¹⁰⁹ *Déclaration du 2 septembre 1776*, registered on 28 February 1777.

duties; the employees and officials of our collectors of the duties, exposed to rebellions, violence and despoliation on the part of the smugglers, and sometimes even on the part of the inhabitants of towns and parishes, have succumbed to the excesses suffered or have been forced to abandon the service in order to avoid them.¹¹⁰

While the *Ferme* was essential to the financial health of the state, it was deeply unpopular with the ordinary people affected by its activities for administering unpopular taxes as a private entity and for what was seen as illegitimate and brutal enforcement of the penalties. In the lead up to the French Revolution, each region of the country was entitled to compile a list of grievances (the *cahiers des doléances*) prior to the convocation by Louis XVI of the Estates General, and these contained a significant amount of anti-tax feeling, particularly against the tobacco and salt taxes collected by the *Ferme*.¹¹¹ The *gabelle* was progressively reduced from 1790, and all internal customs lines were erased by the end of the year. The tobacco monopoly was abolished the following year, and the local growth and production of tobacco was liberalised. Salt and tobacco smugglers were amnestied. Much of the anger of the population was directed at the *Ferme* and in the immediate post-revolutionary period there was a significant amount of evasion, which caused financial problems to the new state. The *Conseil Général* of Amiens, for example, resorted to exhorting the population to pay their taxes ('*Tous les citoyens sont exhortés à acquitter fidèlement tous les droits &*

¹¹⁰ 'Des troupes nombreuses de contrebandiers armés ont fait des incursions dans plusieurs parties de notre royaume; la fraude s'est répandue dans celles de nos provinces qui sont dans l'étendue de nos fermes des gabelles, aides & du tabac; les employés & préposés de nos fermiers, exposés à des rebellions, spoliations & violences de la part des fraudeurs, quelquefois même de la part des habitans des villes & paroisses, ont souvent succombés aux excès commis envers eux, ou ont été contrains, pour s'y soustraire, d'abandonner leur service.' Guyot, *Repertoire Universel*, essay on contraband, p. 643.

¹¹¹ Much of this paragraph is taken from Kwass, *Contraband*, pp. 320-350. Kwass sees tax as a central issue in the Revolution.

impôts) in a document printed in September 1789, complete with a reasoned exposition of why this was necessary (*'ces malversations sont aussi nuisibles au commerce que préjudiciables à chacun des citoyens & à l'Etat en général'*).¹¹² Although the situation was stabilised for a while, it didn't last, as a letter from nearby Roye shows, describing the woes of local officials in the face of customs posts being torn down (*'les bureaux de déclaration aux entrées avaient été détruits par la violence'*) and those responsible for collecting the aides forced to remain fearfully inactive (*'dans la crainte qu'il n'arrivât de grands accidens'*).¹¹³ A new tax system, which shifted much of the burden onto direct taxes was introduced by the revolutionary government in 1791, although tobacco duties continued in the form of a small duty on leaf imports alongside the banning of processed tobacco imports. The Farmers General were arrested during the terror, and twenty-eight of them were executed in 1794, with six more following a few weeks later.¹¹⁴ The financial state of the country resulting from these changes was clearly untenable, and once war was declared consumption taxes crept back, from 1795 on. 'City customs dues reappeared in 1798, taxes on alcoholic beverages in 1804, an excise tax on salt in 1806, and the tobacco monopoly in 1810.'¹¹⁵ Moreover, under Napoleon's Continental System, smuggling surged and by 1810 smuggling courts had once more been set up along the borders of France.

¹¹² AN, F/4/1060, *Arrêté du conseil général permanent de la ville d'Amiens*, 18 September 1789.

¹¹³ AN, F/4/1060, *Extrait du registre des délibérations de l'hôtel de ville de Roye*, 3 March 1790.

¹¹⁴ Matthews, *The Royal General Farms*, p. 282. The official documents show 42-44 Farmers General envisaged for the final lease, although the total seems to have reached as high as 63 earlier in the century, according to Eugene White in 'From Privatized to Government-Administered Tax Collection: Tax Farming in Eighteenth-Century France', *The Economic History Review*, 57.4, 2004, pp. 636-63.

¹¹⁵ Kwass, *Contraband*, p. 350.

Enforcement

With complex and constantly changing tax rates and legal sanctions against smuggling during the late seventeenth and eighteenth centuries, both France and Britain found themselves with a significant issue in the form of enforcement. Smuggling was seen equally by both governments as a major problem to be tackled, and although the regimes tinkered with the legal systems to limit smuggling activity, the smugglers adapted their tactics, leading to more laws and the need for more complicated enforcement arrangements.

Particular problems in both countries were the risk of bribery of officials and, at least in the early part of the century, the escalating use of violence against officials as the sizes of cargoes and increasing penalties raised the stakes. Although it has been outside the scope of this thesis to assess whether less legislation was proposed and / or passed in the latter half of the century, it would appear that this was the case on both sides of the Channel, as public resistance grew to the draconian measures introduced and, with a significant growth in consumption, sufficient funds would, after all, seem to have been making their way into government coffers.¹¹⁶

¹¹⁶ From the 1750s on, De Gournay and the 'physiocrats' believed that the structure of indirect taxes and the anti-smuggling legislation went against natural law, as Kwass describes in *Contraband*, pp. 287-299. Price, in *France and the Chesapeake*, p. 445, points out that 'By the end of the *ancien régime*, there was a wide gap between the gruesome "tobacco code" and its enforcement,' and that local businessmen (probably ones who benefited from smuggling) were funding fines to avoid smugglers who were caught being sent to the galleys. Referring to Britain in *Customs and Excise*, p. 5, Ashworth comments that 'For all the corruption, inefficiency, and cancerous sinecures characterizing state offices, the revenue departments, especially the excise, managed to sustain the necessary trust to service a monstrous national debt.'

In the case of France, much of the day-to-day enforcement of the laws was outsourced along with the collection of customs duties and administration of the salt and tobacco monopolies to the private sector *Fermes Générales*, for implementation through its 1,400 customs houses and its total personnel count of 23,000 (at its peak in the 1780s).¹¹⁷ The *Ferme* was endowed with extensive powers of intervention, and was obsessed ('*obnubilés*') with fighting smugglers. 'They deployed without baulking the considerable means granted to them by the state. Their poor brand image increased as they relentlessly pursued smugglers, with at least partial success. The logical outcome was that this unpopularity ended up justifying smuggling.' As a result, smuggling became no longer about robbing the state but robbing the *Ferme*, and the retaliation by the *Ferme* became seen as the illegal act.¹¹⁸ In reality, the lines of responsibility for enforcing the law were not always clear outside the centre: the regional *parlements*, which were the appeal courts for the judicial system, needed in theory to publish a law or edict for that law to become effective in that region, leading to delays and constraints on implementation;¹¹⁹ the regional *intendants* were responsible to the *Conseil d'Etat* for local fiscal matters, but had little effective manpower for enforcement;¹²⁰ it was the *Ferme*, which had 'full jurisdiction over the avoidance of taxes by smuggling,' and did get involved, for example, in policing illegal distribution in relation to the ban on *indiennes*.¹²¹ In Britain, by contrast, Parliament's anti-smuggling laws were administered by the overworked customs employees, numbering

¹¹⁷ Matthews, *The Royal General Farms*, p. 110.

¹¹⁸ 'Ils mirent en oeuvre des moyens considérables que le pouvoir politique leur accorda sans jamais rechigner. Leur mauvaise image de marque dans l'opinion augmenta avec leur acharnement et leur réussite au moins partielle,' Vigié, *L'herbe à Nicot*, p. 315.

¹¹⁹ Mousnier, *The Institutions of France*, p. 103.

¹²⁰ The official title of the *intendant* was 'intendant de justice, police et finances, commissaires départis dans les généralités du royaume pour l'exécution des ordres du Roy' which gives a good idea of their role in the centralised administrative state. See Francis Rousselot, 'Contrebande et contrebandiers dans le nord de la France aux XVIII-ème et XIX-ème siècles', thèse de doctorat, Université de Lille, 1977, p.106.

¹²¹ Gillian Crosby, 'First Impressions', pp. 26-7.

barely more than a tenth of the *Ferme*'s employees, and their army of port officers, revenue cruisers and land guard personnel, assisted in places by the more numerous officers of the excise, all government employees, backed up by the existing judiciary structure.¹²²

Lack of professionalism and bribery were major problems in both Britain and France. As Mr. Lisle observes in a series of letters on the abuses in the Customs department in Britain in the 1780s, 'their Appointments are Favors from their Members, and much more Attention being paid to their Interest as Votes, than to their Abilities and Education for the Duty of their Offices' and 'Bribery and Corruption is much practis'd from the Collectors down to the Tidesmen and Extra men.' And he elaborates further, in a letter on the state of smuggling along the South coast:

The tidesmen & inferior officers who are putt on board merchant ships are in general corrupted, and often assist in runing & bringing ashore large quantities, without payment of duties, for wch. they receive large gratuities, and live like gentlemen in their house, wch. cannot be done for £30 or £40 per ann.¹²³

The incompetence of management and the poor levels of pay for customs officers at the sharp end must have been longstanding problems, based on an anonymous appeal from customs men at Cowes to the King right back in the 1720s. This refers to the 'great prejudice, disorder, and discontent', the 'indiscreet and imprudent management' and the 'ill conduct of the managers of the Customs', who are also to blame for the low salaries. 'The

¹²² McLynn, *Crime and Punishment*, p. 189. For comparative numbers see below and John Brewer, 'The English State and Fiscal Appropriation, 1688-1789', *Politics & Society*, 16, 1988, pp. 335-85, Table 1, 'Full-time Employees in the Fiscal Bureaucracy, 1690-1783', p. 353.

¹²³ Arthur Lyon Cross, *Eighteenth-Century Documents Relating to the Royal Forests, the Sheriffs and Smuggling. Selected from the Shelburne Manuscripts in the William L. Clements Library*, New York, 1928, documents XXXIII and XLIII.

salaries they allow them is not sufficient to support or subsist 'em, these officers through mere necessity contracted with the smugglers at a certain price to connive at the running of uncustomed and prohibited goods.'¹²⁴ Delays in paying for prizes did not help. Lieutenant Charles Burton and his crew had to wait nearly three years for payment on the capture of the Sally found smuggling a cargo of wine and brandy between France and England.¹²⁵ It is worth remembering that these poorly paid officials bore the full brunt of the violence, and the legal and customs records contain plenty of examples of them attempting to stand up to the smuggling gangs leading to humiliation, injury and death.¹²⁶ They were even known to have suffered at the hands of the judiciary. In 1723 in Scotland, a tidewaiter and two soldiers were involved in killing a known smuggler in the course of their duty and found themselves condemned by local magistrates, although in this case it is suspected that the magistrates were acting 'having received information from the merchants concerned in the running of the goods, or some other persons, of the relevant accident...' ¹²⁷ Not surprisingly, the levels of danger meant that there was a demand for monetary compensation in the event of injury for personnel of the Revenue Cruiser service because 'the mariners engaged in our service have frequently refused to bear down & repel their attacks, alledging by way of excuse that no provision is made to their support in case they should receive any injury therefrom.'¹²⁸

¹²⁴ TNA, SP 35/66/1, ff. 85-8, anonymous letter.

¹²⁵ TNA, HCA 40/1/18, Royal warrant dated 29 August 1798 for a prize captured 20 September 1795.

¹²⁶ See, in TNA, CUST 41/42, the examples in the 1730s of Gabriel Tomkin in Attorney-General v Thomas Moore and Thomas Bean, John Miles in King v William Collinson / Wilkinson et al, James Levereau in King v John Grayling et al and Thomas Carswell in King v John Mackdonald.

¹²⁷ TNA, SP 54/14, f. 230, 19 September 1723.

¹²⁸ TNA, CUST 143/16, f. 65, 20 December 1780.

The issues were the same for those responsible for enforcement in France, where 'all of the judicial and fiscal offices were venal posts which provided vital income for the royal coffers'.¹²⁹ Smugglers were operating in gangs from early in the century, using violence to get their contraband through the customs lines, as an incident near Valognes involving tobacco smugglers shows. 'They [the employees of the Tobacco Farm] were obliged to give in to the violence, being only four in number unable to resist a gang of fifteen armed men.'¹³⁰ Similarly, a number of the legal cases against alleged smugglers involved them having attacked customs posts or officers.¹³¹ The customs officers were just as likely as in Britain to be open to bribery or to participating themselves in smuggling, and the *Commissions* set up to try smugglers were also mandated to try *Ferme* employees caught breaking the law. One such was Le Souf, a guard on the bridge at Mézerolles between Artois and Picardie, who went as far as being a signatory to a written agreement for sharing the proceeds of contraband operations.¹³² Locally stationed soldiers were as likely to be involved in smuggling as to help the officers of the *Ferme*: billeted among ordinary people, since 'the soldiers enjoyed day-to-day interactions with the local population, in which commercial relations that were legal (provisioning) and those that were clandestine (smuggling) were equally important.'¹³³ And both countries had examples of criminals turned enforcement officers, usually for their own benefit. Jacques Hennequer, or 'Flet', a *Ferme* guard at the Marchecours gate in Abbeville in France was arrested in 1754 for

¹²⁹ Crosby, 'First Impressions', p. 27.

¹³⁰ 'Ils ont esté obligé de souffrir la violence n'estant que quatre, et ne pouvant par consequent resister a quinze hommes tous arméz,' AN, G/7/1294, *Mémoire sur l'affaire Adigard*, 24 August 1715.

¹³¹ One example is the case against Antoine Duhamel and others 'au sujet du fortement et vol du bureau des traittes de St. Marcel sous Laon, commis le 6 juin 1739,' AN, Z/1a/972, K10.

¹³² AN, Z/1a/1057, J92.

¹³³ 'les militaires entretenaient donc avec la population des relations quotidiennes, dans lesquelles les rapports commerciaux licites (le ravitaillement) et clandestins (la contrebande) tenaient une place essentielle.' Vigié, *L'herbe à Nicot*, p. 354.

continuing smuggling, having returned from the galleys only two years previously.¹³⁴ In Britain, Gabriel Tomkins was convicted of smuggling twice, but the second time was pardoned on the grounds that he made himself useful to the government, and by the 1730s was a customs officer, subsequently dismissed in 1741.¹³⁵

In both countries the sheer scale of the task meant that the use of the military alongside the customs officers was a necessity. In France, however, as mentioned above, although troops would have been readily deployed, with the capture of Mandrin as a clear example, in many cases soldiers were as likely to identify with the smugglers, taking advantage of opportunities to accompany smuggling bands to alleviate poverty and even acting as security escorts.¹³⁶ This could mean the need for additional incentives when they were deployed, with in one instance a scale of bounties being proposed.¹³⁷ In Britain there were long-standing concerns about troops being used for civil matters, drawing on domestic experiences in the previous century and the perception that they 'acted as an instrument of coercion in the hands of an arbitrary ruler'. The example across the Channel of absolutist Catholic France, where it was believed Louis XIV had 'deployed troops to help collect unpopular taxes, to put down local disaffection and to force Protestants to convert to Catholicism' confirmed in people's minds the association of armies with political corruption and popery and consequently the dangers of maintaining a standing army.¹³⁸ In spite of this,

¹³⁴ AN, Z/1a/991, E35.

¹³⁵ TNA, SP 36/30/402-3, petitions of Gabriel Tomkins; TNA, CUST 148/13, reports by John Collier, surveyor general of riding officers in the county of Kent.

¹³⁶ Pascal Brouillet, 'L'armée et la police des campagnes au XVIIIe siècle', *Revue Historique des Armées*, no. 238, 2005, pp. 4-13. See also the description of the deserter Colingris in Deceulaer, 'Violence, magie populaire', p. 65 and the eight soldiers hired by the *Band de Maurepas* in Liander, 'Smuggling Bands', p. 382.

¹³⁷ Liander, 'Smuggling bands', pp. 16, 119, 198, 382.

¹³⁸ Stephen Conway, *The British Army, 1714–1783: An Institutional History*, 2021, in chapter 1, The Army and the State, at

https://books.google.co.uk/books?id=rb0pEAAQBAJ&printsec=copyright&redir_esc=y#v=onepage&q&f=true

there were frequent military deployments to the coastal areas, with troops available to be called out by the Revenue Officers, as a 1780 order makes clear: 'The military were properly disposed in & about London so as to be ready when called upon by the Revenue Officers, & that they had directions to be aiding & assisting them.'¹³⁹ But in reality troops were far too thinly spread, particularly during wartime, to confront belligerent gangs of 50 smugglers and more, and often in the wrong place, and there were consequently frequent complaints from the Customs authorities and local residents,¹⁴⁰ such as this from 'Legion' to the Duke of Newcastle in 1746:

Twas with great pleasure we saw General Hawley's dragoons march to ye seaport towns, but it surprised all people, these being so soon removed from Rye, which has left ye sea coast ab.t 20 miles naked - vitz. 10 on each side of ye town. Since which wagons have dayly gone to the seaside loaded with wool which they put on board in ye day time & load back with smugl'd goods...¹⁴¹

Customs itself could have made greater use of the military, were it not for the fear of upsetting the civilian population and the fact that doing so meant the officers had to give up two thirds of their share of any seizure.¹⁴² Moreover, soldiers would often be billeted in local inns, giving plenty of opportunity for corruption to flourish. As Muskett summarises the situation: 'Inadequate numbers, diversion to other duties, reluctant officers, suspect

For a detailed discussion of the origins of this aversion to a standing army in Britain, and the compromise reached in 1688 of a small standing army under the control of parliament, see Lois Schwoerer, *'No Standing Armies!': The Antiarmy Ideology in Seventeenth-Century England*, Johns Hopkins University Press, 2019.

¹³⁹ TNA, CUST 29/5, ff. 492-5, 24 November 1780.

¹⁴⁰ See Muskett, 'English Smuggling in the Eighteenth Century', unpublished PhD Thesis, The Open University, 1996, pp. 287-355; Similarly, 'In Kent alone there were thirty-nine dragoons and nine companies of infantry stationed within the county. John Collier, the surveyor-general of the Kent riding officers, wanted this number to double. In fact he later claimed that 200 dragoons were needed. Similar requests were coming in from all areas across the southern coast,' Ashworth, *Customs and Excise*, p. 191.

¹⁴¹ BL, Add MS 32709, f. 274, anon., 27 November 1746.

¹⁴² McLynn, *Crime and Punishment*, p. 193.

revenuemen, hostile local communities, and legal controls limiting the application of military force, all suggest the army would have a limited impact on the smuggling gangs.¹⁴³

One of the greatest challenges for the enforcement authorities in both Britain and France was the court system. Existing procedures in Britain were relatively efficient up the point of trial, but with only twice-yearly assizes extensive delays could occur, and smugglers indicted for felonies were forced to wait in unhealthy conditions in local jails. Moreover, the popularity among local populations of smuggling, going as far as solidarity in some communities against informers, and the threats the smugglers were able to convey, undoubtedly affected both local magistrates and local juries.¹⁴⁴ This was behind the change made in the 1746 Act, mentioned above, enabling smugglers to be tried in any county in England. The sense that the local courts found it difficult to convict smugglers fast enough also culminated in the Special Assizes arranged by the 2nd Duke of Richmond in January 1748 to try the infamous murderers of Chater and Galley.¹⁴⁵ However, this was very much a one-off attempt to address the more severe crimes in Sussex, mounted possibly on the back of public revulsion at the activities of the Hawkhurst Gang, and institutional concerns about possible links between smugglers and Jacobites, and had in essence no difference in standing from the regular Assizes. 'Our Commissions do not extend to all the crimes that are cognizable under the General Commissions which are executed in the Circuit. They are confin'd to the offences of murder, manslaughter, and other felonies, and to the accessaries

¹⁴³ Muskett, 'English Smuggling', p. 316.

¹⁴⁴ Cal Winslow, 'Sussex Smugglers', in Douglas Hay, Peter Linebaugh, John Rule, E. P. Thompson, and Calvin Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London, 1975, p. 145; Rogers, *Mayhem*, p. 119.

¹⁴⁵ See Anon., *A full and genuine history of the unparrallell'd murders of Mr. William Galley, a Custom-House officer at the port of Southampton, and Mr. Daniel Chater, a shoemaker, at Fordingbridge in Hampshire by fourteen notorious smugglers*, London, 1749.

to those offences: but as far as they do extend, they are just of the same nature as those Circuit Commissions.'¹⁴⁶

In France, a much longer-lasting solution was implemented to deal with the frustrations of the existing court system, when specialised courts were set up, by direct Royal Commission, specifically to try smuggling cases. These *commissions*, funded by the *Ferme*, proved effective but controversial, the argument being that they were open-ended extra-legal bodies in the pocket of the *Ferme* and answerable directly to the *Conseil d'Etat* rather than to the appeal court in Paris. Previous *commissions* had been granted for one-off purposes, whereas the smuggling *commissions* lasted in one form or another until the Revolution. In due course, these *commissions* came back under the control of the *parlements*, but they continued to retain their specialised status. The first such *commission* was set up in Paris in 1728, followed in 1733 by Valence, covering smuggling crimes in the South-East of the country partly in answer to a rapid increase in smuggling through Savoy. The Reims *Commission* was set up in 1740 covering the principal smuggling areas of Picardy and Champagne in the North and the East of the country, followed by the *Commission de Saumur* covering western and central-southern France two years later.¹⁴⁷

Although concerted official attempts to limit smuggling were made, they proved largely ineffective because of the finite resources available for enforcement activities. The *Ferme* was particularly active in attempts to guard the customs borders. Schapira identifies three

¹⁴⁶ 'The whole proceedings on the Special Commissions of Oyer and Terminer and gaol delivery for the county of Sussex....', London, 1749, p. 7.

¹⁴⁷ Schapira, 'Contrebande et Contrebandiers', p. 23; Liander, 'Smuggling Bands', pp. 16-24. It was through the *Conseil d'Etat* that the King retained the power to override the royal courts and the *parlements*.

types of brigades of guards: those fixed at customs posts on bridges or at the entry to towns to stop suspected smugglers; mobile brigades based in a village but responsible for patrolling the local area on the lookout for smugglers; and mounted brigades kept in reserve to be deployed where needed in chasing or ambushing smugglers. But although the brigade bases were spread quite thickly along the customs borders, each one was lightly manned and would rarely dare to act alone, preferring to wait for reinforcements before engaging with the smuggling gangs.¹⁴⁸ The fact that prisoners had to be taken on foot to the nearest centre where trial was possible spread the *brigadiers* even more thinly, and escapes on the way or from the prisons themselves were not unknown.¹⁴⁹

Anti-smuggling enforcement in Britain appears to have been a considerably less rigorous affair with the government-employed preventative forces in Britain more thinly spread, even in the high-volume smuggling areas of the South Coast. At their peak in the 1760s, the total number of full-time customs employees did not exceed 2,300 out of a total fiscal bureaucracy of some 7,600, although some of the excise officers worked with them in the outports.¹⁵⁰ This significant difference from France is partly explained, however, by the fact that the private sector *Ferme* had to rely on its 19,500-strong army of paramilitaries for enforcement, whereas, at least in theory, and in particular after the American war, the British customs had more reliable recourse to locally stationed army units – ‘the army performed the same role in England that the *garde des fermes et des gabelles* did in France.’¹⁵¹ This difference may well be one of the features of government control in contrast

¹⁴⁸ Schapira, ‘Contrebande et Contrebandiers’, pp. 113-4.

¹⁴⁹ Ibid., pp.120-1.

¹⁵⁰ Brewer, ‘English State’, Table 1, ‘Full-time Employees in the Fiscal Bureaucracy, 1690-1783’, p. 353.

¹⁵¹ Ibid., p. 372. Bosher puts the number at 15,000 *brigadiers* in J. F. Bosher, *The Single Duty Project*, London, 1964, p. 15. See also McLynn, *Crime and Punishment*, p. 194.

to private sector outsourcing. For the *Ferme*, income from customs dues was essential for its business model, unsurprisingly given its substantial loans to the government. The relevant government departments in Britain on the other hand had more discretion in how strictly to enforce anti-smuggling legislation. They seem to have taken the view that their primary focus should be on control and collection from the larger producers and merchants. 'The detection and prosecution of smugglers was necessary for the system to operate effectively, but it was of secondary importance. Revenue commissioners had a remarkably levelheaded attitude toward smuggling, recognizing it as the inevitable consequence of high tariffs.'¹⁵² This did not of course stop official efforts being made to reduce smuggling into Britain. Walpole tried, unsuccessfully, to improve the collection of tobacco duties by expanding the role of the Excise at the expense of the Customs in 1733, and thereby to control better the tobacco trade;¹⁵³ Commons committee reports were produced in 1733 and 1745-6, leading to stronger legislation; and the final Commons committee report of 1783-4 led to Pitt's Commutation Act which, as the first significant and sustained attempt to reduce duties on tea, was arguably the most effective piece of anti-smuggling legislation passed during the eighteenth century. Sadly, as McLynn observes, 'the upper hand he had gained in the war against the smugglers in the 1780s was lost in the war against France in the 1790s' as duties started to rise again to pay for the war, leading to a revival of smuggling.¹⁵⁴

¹⁵² Brewer, 'English State', p. 372.

¹⁵³ See W. J. Hausman and J. L. Neufeld, 'Excise Anatomised: The Political Economy of Walpole's 1733 Tax Scheme', *The Journal of European Economic History*, 10.1, 1981, pp. 131-143.

¹⁵⁴ McLynn, *Crime and Punishment*, p. 182.

Political and social impact

The perceived evils of smuggling, and particularly the impact on government finances and the way it generated violence, gave the topic a high profile in British society. As we have seen, attempts at reform, parliamentary enquiries and legislative change all continued throughout the century, only to come up against practical objections from vested interests so that there was little apparent lasting effect. Even Pitt's Commutation Act which of all the initiatives had the potential for the greatest lasting impact ultimately fell victim to the demands of financing a war through an increase in customs and excise duties. France's system of privileges made enforcement more difficult still, being described by Horn as a 'bewilderingly complex puzzle of privilege, regulation, legal custom and historical precedent' in which exceptions were the rule.¹⁵⁵ Although its collection and enforcement model was outsourced to the private sector, here also government funding in the form of the highest possible contribution from the *Ferme* was ultimately prioritised over a reduction in taxes to suppress disruption across the nation. Both governments acted to try to limit smuggling when sufficiently pressured to do so, but neither had lasting success.

This does not necessarily imply institutional connivance in smuggling, rather an acceptance that there was a limited amount that could be done. And such was the reality of smuggling at the time that both governments were not above using smuggling as a political tool against their enemies, particularly in wartime. France was focused on what it saw as the harm being done to Britain through smuggling out of Dunkirk, and was keen, in spite of the

¹⁵⁵ Jeff Horn, *Economic Development in Early Modern France: The Privilege of Liberty, 1650–1820*, Cambridge, 2015, pp. 3-4.

espionage risks, to see the benefits to itself of ensuring the *smogleurs* continued to operate.

During the American war, 'regulations under which smugglers are permitted to operate in the port of Dunkirk' were issued in printed form by the local Admiralty. The regulations consisted of eight rules, specifying that only unarmed boats with a crew of no more than 15 would be permitted, that only the captain and one other were allowed to disembark, that they could only deal with certain merchants who had paid 20,000 *livres* deposit for each voyage to cover breaches of the rules, etc.¹⁵⁶ These were repeated in broadly similar form in the French Revolutionary war, by the republican government, at the urging of the local merchants (*citoyens négocians*).¹⁵⁷

The British public also understood the dangers of smugglers crossing the Channel frequently, particularly in wartime. This was based not just on the loss of bullion, but the risk at least in the earlier years of the century that smugglers would work for the Jacobites, pass on intelligence to the French government and even guide potential invaders back onto the English coast. In a 1755 '*Letter to a Noble Lord*', the author (a 'gentleman'), based on information received from Boulogne, says that:

the French have their earliest intelligence from this most dangerous set of people; for the smugglers who come with their cutters to Boulogne, from the Isle of Wight, from Portsmouth, Sandwich, Deal, and Dover, are generally able to give a pretty good account of what is going forward in the King's yards, even from Portsmouth to Deptford;

¹⁵⁶ DK, 1S43, 1778, pp. 334-5, *Conditions sous lesquelles est toléré la navigation des smogleurs au port de Dunkerque*, 23 October 1778.

¹⁵⁷ DK, 2F5, *Reglement arrêté par le Comité exécutif provisoire de la République française qui fixe les conditions sous lesquelles la navigation des smogleurs anglais est tolérée dans les ports de Dunkerque, Calais et Boulogne*, 15 February 1793.

and that they have seen

the Commandant and Mayor of Boulogne, Alderman James Coilliot, and Monsieur John L'Sabboniere, watching every tide for the coming in of the smugglers, who were directly taken to the Mayor's house, and closely examined as to the number and preparations of the Men of War at Spithead, the Downs, &c. which intelligence was immediately sent to Brest or Paris.¹⁵⁸

Of course, it worked the other way as well. Morieux points out that 'Smugglers trafficking between French and English coasts were employed as spies in all the wars of the eighteenth century.'¹⁵⁹ He goes further in seeing this as a two-way process of mutual harm, with officially sanctioned smuggling centres based in the Channel Islands and Dunkirk acting as *entrepôts* for smuggling into France and England respectively. 'Officially sanctioned' in the case of Dunkirk, as we have seen, because 'for all that they were English, the *smogleurs* could be of use to France,' and in the case of the Channel Islands because of the perceived importance of privateering to the government during wartime and the 'reluctance to run the risk of seeing the Islanders swing over to the French.'¹⁶⁰

Whilst smuggling was seen as a fair way to get at the enemy during wartime, it caused a number of diplomatic problems between France and Britain during peacetime. As early as 1721 the British government was writing to its ambassador in France complaining about French boats' activities around the South coast and requesting him to have orders issued to 'prevent the like practices by the subjects of France which have risen to such a pitch of

¹⁵⁸ A Gentleman, *A letter to a Noble Lord, containing, a new discovery...*, London, 1755, pp. 10-11.

¹⁵⁹ Renaud Morieux, *The Channel: England, France and the Construction of a Maritime Border in the Eighteenth Century*, Cambridge, 2016, p. 253.

¹⁶⁰ *Ibid.*, pp. 254, 265.

insolence as cannot be endured.'¹⁶¹ There was even talk about a possible treaty on smuggling in the 1720s, though whether such a thing would have been enforceable is doubtful.¹⁶² Again, not long after the end of the War of the Austrian Succession, the Earl of Albemarle, then British Ambassador in Paris, claimed infraction of the 1713 commercial treaty and immediate remedy in an incident that looked very like smuggling and involved a Guernsey captain who, according to the French secretary of state for the Navy, Mr. Rouillé, 'does not deserve the protection you were minded to afford him.'¹⁶³ A final example from 1764 goes the other way, with the French Ambassador to Britain, the Comte de Guerchy, complaining about a ship, allegedly *en route* from Port Louis to Guernsey, being withheld by customs in Falmouth where it had ended up due to bad weather.¹⁶⁴ These seem to have been minor incidents, however, and none of them would have been of lasting importance in the relations between England and France during the eighteenth century.

Meanwhile, the impact of smuggling on frontline local communities could be immense, with many in those areas coming to rely entirely on the additional revenue generated, in spite of official attempts to enforce anti-smuggling legislation. In 'Sussex Smugglers', Winslow describes the way that participating in smuggling was seen as 'the difference between a bare subsistence and worse,' a legitimate part of the local economy, even a right, where poverty would otherwise have prevailed, and this can be assumed to apply equally to other coastal smuggling communities in Britain.¹⁶⁵ But with the smugglers came intimidation of

¹⁶¹ TNA, SP 78/170, f. 63, Secretary Craggs to Sutton, 6 February 1720/1.

¹⁶² TNA, SP 78/165, f.573-77, letter from Earl of Stair, ambassador to Paris 3 January, 1720, to secretary Craggs. 'S.A.R. [Son Altesse Réale, or the Duc d'Orléans, current regent of France] *me répondit à cela, qu'elle était prête à faire une convention avec la Grande Bretagne pour empêcher la contrebande de côté et d'autre.*'

¹⁶³ 'Ne mérite pas la protection que vous étiez disposé à lui accorder,' TNA, SP 78/233 ff. 364-74.

¹⁶⁴ TNA, SP 78/259, ff. 59-63, letter from Delatre, captain of the *Lorient*, to Guerchy, 24 November 1763.

¹⁶⁵ Winslow, 'Sussex Smugglers', pp. 149, 150. Winslow goes on to provide a series of examples of men for whom smuggling was more attractive than their honest trades.

the local populations, regardless of social status, and the fear of reprisals was enough to prevent revenue officials from being able to do their job.¹⁶⁶ Later in the century, smuggling seems to have become a normal feature of coastal life across Southern England, and the example of Zephaniah Job shows how easy it was to slip into smuggling as part of regular trade. 'Aside from its illegality, smuggling was much like any other branch of trade, and it demanded the same skills, in terms of organisation, book-keeping and commercial judgement. Moreover, in the eighteenth century many highly respectable people connived in smuggling all around southern England.'¹⁶⁷ This is where the legal trade and smuggling effectively merged.

In France, the land border communities saw smuggling similarly as an economic necessity: Gondolff, writing in the early twentieth century, described it as 'a sign of the profound destitution which prevailed at the time in the poorer classes';¹⁶⁸ for Montenach writing more recently it was a means of diversifying sources of income for poorer families.¹⁶⁹ But smuggling was also a large-scale business, where 'the push of poverty was joined by the pull of profits' for the more entrepreneurial and conducted on an industrial scale by individuals of all backgrounds.¹⁷⁰ Smuggling was almost an inevitability given the temptations put in the way of border communities, with particular reference to the salt tax 'whose extreme complexity seemed to have been invented for the express purpose of providing an

¹⁶⁶ Ibid., pp.130-1.

¹⁶⁷ Martin Wilcox, 'Maritime Business in Eighteenth-Century Cornwall, Zephaniah Job of Polperro', *Trove, the National Maritime Museum of Cornwall*, 2.2, 2010, p.4.

¹⁶⁸ 'Un signe de la profonde misère qui regnait alors dans les classes les plus pauvres,' E. Gondolff, *Le Tabac Dans Le Nord de La France 1587-1814*, Vesoul, 1910, p. 65.

¹⁶⁹ Anne Montenach, *Femmes, pouvoirs et contrebande dans les Alpes au XVIIIe siècle*, Grenoble, 2017, p. 133.

¹⁷⁰ Kwass, *Contraband*, p. 94. Durand, 'La contrebande du sel', p. 235.

irresistible temptation for the population to live in a state of war against the law.¹⁷¹ But smuggling in France also became a major political issue, although the structure of the customs arrangements, with the *Ferme* responsible for collection of dues and enforcement, deflected much of the criticism away from the government itself. In the second half of the eighteenth century, a number of liberal thinkers in France, as in Britain, started to react publicly to what were seen as the excessive legal sanctions against smuggling, focusing on the *Ferme* as the problem. As popular resentment became a movement for reform, Kwass describes the long-standing *Président* of the Paris *Cour des Aides*, Malesherbes, 'excoriating the Farmers General for forcing cash-starved monarchs to issue brutal penal legislation, Farm guards for riding roughshod over defenseless peasants, and Farm courts for handing down sentences that were "repugnant to humanity."¹⁷² Something of a split had emerged between the *parlementaires* on the one hand and the *Ferme* and the specially constituted *commissions* or smuggling courts on the other. Montenach refers to a degree of tolerance of smuggling creeping in under pressure from the *parlementaires* and as arguments for freedom of commerce were more frequently heard, to the extent that de Fontanieu, *intendant* of Grenoble, is quoted as musing on whether members of the *parlements* are not directly involved in smuggling.¹⁷³ There is no sign, however, of the *Ferme* letting up until their powers were forcibly reduced shortly before and during the Revolution.

¹⁷¹ 'dont les complications extrêmes semblaient avoir été inventées pour fournir aux populations une tentation irrésistible de vivre en état de guerre avec la loi', Rousselot, 'Contrebande et Contrebandiers', p. 58, quoting an earlier author, Marcel Marion, *Le brigandage pendant la Révolution*, Paris, 1934.

¹⁷² Kwass, 'Global Underground', p. 27. 'Farm' refers to the *Ferme*.

¹⁷³ 'Certains parlementaires sont des protecteurs et sans doute des commanditaires directs de la fraude', Montenach, *Femmes, pouvoirs et contrebande*, p. 205, quoting de Fontanieu.

Conclusion

Without revenue, governments couldn't function, and, facing resistance to anything other than short term increases in direct taxes, the governments of Britain and France chose in very similar ways to tax consumption and imported commodities, thereby providing business opportunities for smugglers. This led over time to complex systems of rates for different goods in different locations, building over time into elaborate tax structures, which were frequently amended depending on the needs of government, the demands of those responsible for enforcement and the proposals of ministers and committees. These structures in turn demanded the development of draconian legal systems to regulate and punish smuggling, but, as the century progressed, there developed in both countries a sense that the prescribed punishments were simply too extreme for the crimes, leading to a degree of leniency in application.¹⁷⁴ Moreover, those responsible for enforcement on the ground were never numerous enough or sufficiently motivated to counter effectively the sheer quantity of contraband goods that flowed across the customs borders. By and large, however, and in spite of the prevalence of smuggling among large swathes of the community, and the shortcomings in the enforcement of the legal structure associated with them, sufficient revenues from indirect taxes were generated to keep the economies of Britain and France functioning.

For the smugglers, the tax structure represented a significant opportunity, setting prices they were happy to undercut and creating a ready market of willing buyers for their

¹⁷⁴ This point merits further study, in particular the influence, if any, of French intellectual thought on Britain in this respect, and *vice versa*, and the potential impact on legislation and enforcement.

products. Fraud prevention and law enforcement, on the other hand, represented the potential for financial loss through seizure of goods and their modes of transport, and the physical risk to themselves and their employees of imprisonment, wounding or, at its most extreme, death. On top of this, the frequent changes to the duty rates and to the penalties for being caught added a whole layer of complex risk to the activities of the smuggler-businessmen, requiring knowledge and flexibility to enable them to remain one step ahead of the authorities. The risks of running a smuggling business are explored in more detail in chapter 5.

Although there were marked differences between the absolutism of the French state and the more democratic aspects of Britain's 'fiscal-military' state, the attitudes to trade legislation seem to have been broadly similar, with in both cases a wide range of motivations behind law-making. Jacob Viner's description of the custom system in Britain as 'a medley of provisions of miscellaneous character serving in unascertainable proportions the largely contradictory purposes of fiscal needs, trade regulation, special privileges to favoured individuals or groups and foreign diplomacy' could apply equally to France.¹⁷⁵ What was different was the relative lack of legitimacy of the French tax system as a whole, not least because of exemptions in how it was applied.¹⁷⁶ The way indirect taxation was enforced, using the private army of a private sector entity, as distinct from the government servants in the British Customs and Excise departments, served only to emphasize the perceived unfairness of the system. Even though the per capita tax burden was half that in Britain, albeit growing faster, this lack of legitimacy undermined France's ability to increase

¹⁷⁵ Jacob Viner, *Studies in the theory of international trade*, USA, 1937, reprinted 1965, p. 5.

¹⁷⁶ Brewer, 'English State', pp. 373-4.

taxes when most needed and, as Michael Kwass argues, was eventually a contributor to the downfall of the *Ancien Régime*. Protests against the customs system, combining disruption from below by smugglers and their sympathisers with calls for institutional reform from above, 'coalesced with other pre-revolutionary movements to undermine the legitimacy of the Old Regime state,' leading to the French Revolution.¹⁷⁷

A review of the legislation and its impact raises the question of why the governments of Britain and France did not try a different tack. Throughout the century, additional legislation was added to existing, often with the same complaints in the preamble as many years earlier. It was obvious to many observers that bans, monopoly suppliers and high taxation rates were creating the opportunities for smugglers which increased amounts of legislation clearly failed to limit to a sufficient extent, so that more legislation was required. Over time, this led to the perception that punishments were excessive given – in many cases – the nature of the crime. Why were other routes not explored? And when they were, at least in Britain, where Pitt in the 1780s made great efforts to reform the customs duties, why were the changes not maintained more consistently? For both governments the priority was clearly to keep the funds flowing, even if it meant the taxes were being raised unevenly and unfairly. The French government of course was, at least until the crisis period towards the end of the *ancient régime* period, more detached from the process of raising indirect taxes, able to impose duties, focus on the six-yearly lease re-negotiation and then rely on the agreed annual income, leaving the inconvenience of collection and enforcement to the private sector, subject to legislative interventions in support from time to time. This would

¹⁷⁷ Kwass, 'Global Underground', p. 28.

have made it easier for the government to overlook the impact of its policies, even if some 52-57 per cent. of tax revenues were from this source. In Britain, by contrast, for whom indirect taxes were a more important component of total income, and having made the decision to operate the collection and enforcement of customs and excise duties itself, the government and its agents were involved in every stage of the process. It has been outside the scope of this thesis to assess whether more legislation to combat smuggling was passed in Britain than in France, or whether less legislation was proposed and / or passed in the latter half of the century in either country, but it certainly seems that in France, as Liander points out, there was little in the way of new anti-smuggling legislation between the 1730s and the French Revolution.¹⁷⁸ For smugglers in France, this would have meant greater stability for their businesses, with less risk of abrupt change to upset the business model.

¹⁷⁸ 'around 1733 the basic legislation on smuggling offenses was complete. There was of course further legislation during the remainder of the century, but it was primarily intended to clarify and resolve apparent ambiguities in earlier laws.' Liander, 'Smuggling Bands', p. 514.

4 – The organisation of smuggling

Introduction

Central to an understanding of the business of smuggling is the question of who was behind the activities and how they operated. Although the range in size of smuggling operations and contraband carried undermines the value of any generalisation, this chapter addresses this question, examining claims for the involvement of élites and influential merchants, for which it concludes there is little evidence. Smuggling organisations, each with its particular specialisation, and led by a wide variety of individuals, ranged from small bands carrying contraband relatively short distances and requiring limited financing to sophisticated trading operations using all the techniques of the legal merchant.

Considerable organisation and co-ordination were required. The goods needed to be bought and warehoused; they needed to cross customs borders by ship or over land and to be met by those receiving the goods on the other side while the forces of law were circumvented; and in many cases they needed to be concealed before distribution to the end customer. All of this required funding. At one end of the spectrum, smuggling was a small-scale, often individual initiative, undertaken by, for instance, the *faux-saulniers* of Northern France in order to enhance meagre incomes.¹ At the other end of the spectrum, smuggling was a large-scale activity, involving complex logistics, similar to the activities of merchants engaged in legal trade, obviously apart from the major difference that legal traders were not breaking the law. Any trading activity requires a minimum of working capital, but for the

¹ See Nils Liander, 'Smuggling Bands in Eighteenth Century France', PhD thesis, Harvard University, 1981, p.1.

higher volume smuggling operations this would have been substantial, given the need to fund inventory, to invest in transport infrastructure (ships, wagons, horses), to pay wages for receiving and distribution gangs and sometimes to bribe customs officials. Although some payments could be in kind, these operations would have required cash or, in rare cases, access to credit. There was also the impact of potential losses to be factored in.

The secondary literature about the growth in smuggling in the eighteenth century in Britain has often assumed the involvement of substantial merchants in funding and masterminding operations in the latter part of the century as larger cargoes were carried by larger ships. Hoh-cheung and Lorna Mui in relation to tea smuggling refer to the 'wealthy British merchants with far-flung interests' who 'largely replaced the many small-scale local smugglers', or the 'large-scale importer and wholesale distributor' able to handle significantly greater quantities of smuggled tea and who was 'often identified as the engrosser or speculator' in the public image.² It remains unclear who these were: the underlying document cited by Mui & Mui does indeed refer to 'large dealers',³ and, by bending the rules on permits, they evidently provided access for the known tea dealers to cheaper product, as Richard Twining admitted:

To so great a height had this illegal traffic been carried, that dealers, residing even in the capital, could almost constantly purchase very large quantities of tea, which, it was well known, had never paid any duty; and which nevertheless came into the dealer's shop, with as regular a permit, and with as much safety, as if the goods had

² Hoh-Cheung and Lorna Mui, 'Smuggling and the British Tea Trade before 1784', *The American Historical Review*, 1, 1968, pp. 44-73, at pp. 44,58-9.

³ TNA, PRO 30/8/293, f. 35, Smith to Pitt, 1 July 1784.

been delivered from the warehouses of the East India Company, and had paid the full duties.⁴

Their use of scale enabled them to 'systematize the purchase and sale of tea,' Mui & Mui go on, resulting in substantial orders, and using credit and insurance arrangements like any other merchant.⁵ Crouzet echoes this assumption when he refers to 'London merchants and other people of note' being behind the growth of smuggling from the French ports into Britain in the 1770s, and Platt, in his chapter on financing contraband, refers likewise to 'highly-placed figures' who acted as speculators without ever getting their hands dirty.⁶ Janes reflects much of what Mui & Mui are saying in relation to the Scottish tea trade in his study of Eyemouth and the Nisbet brothers, pointing out that the weather and distances inherent in trading across the North Sea justified the involvement of the 'merchant-smuggler', such as the subjects of his thesis, 'who were already regularly bringing cargoes into Eyemouth from many of the same ports that supplied contraband.'⁷ The case of Eyemouth seems not to have been typical, however, and although John Nesbit's smuggling activities lasted for forty years, a reduction in large-scale tea smuggling resulting from Pitt's Commutation Act of 1784, which seems to have been partly to blame for his bankruptcy, brought this episode to an end.

In France, the situation was little different. Vigié makes similar assumptions about the involvement of merchants in relation to tobacco smuggling in France. Maritime contraband

⁴ Richard Twining, *Observations on the Tea and Window Act and on the Tea Trade*, London, 1784, pp. 5-7.

⁵ Mui & Mui, 'Smuggling and the British Tea Trade', pp. 58-60.

⁶ 'des notables et des négociants de Londres', François Crouzet, 'La Contrebande Entre La France et Les îles Britanniques Au XVIIIe Siècle', in Gérard Béaur et al., eds., *Fraude, contrefaçon et contrebande, de l'Antiquité à nos jours*, Geneva, 2006, pp. 35-59, at p. 45; Richard Platt, *Smuggling in the British Isles: A History*, Stroud, 2007, p. 29.

⁷ Derek Charles Janes, 'The Business of Smuggling in South-East Scotland. John and David Nisbet and Their Associates c.1740–1790', Unpublished thesis, University of Exeter, 2018, p. 222.

in particular required substantial investment in boats, crew, bribes for the *Ferme* employees and the complicity of local populations, requiring the involvement of nobles, merchants and even officers. Maritime smuggling was a specialised undertaking: 'its international dimension required very precise communication between the various parties involved.'⁸ Price, in his chapter on the smuggling by land of tobacco into France, refers to dealers and manufacturers in Dunkirk who 'acted on commission for principals in London who financed and controlled the entire operation,' although there is no attempt to identify who these principals might be.⁹ Montenach, as mentioned in the previous chapter, describes the suspicions of de Fontanieu, *intendant* of Grenoble in the 1730s, that the regional *parlementaires* were directly implicated in smuggling, and sees textiles smuggling as 'largely orchestrated by the established merchants who were themselves more or less protected or defended by the [state] institutions.'¹⁰ Liander agrees with Montenach that textile smuggling into Paris in the middle years of the eighteenth century was coordinated by the merchants, supported by their bankers, but as we will see below, these 'merchants' were essentially marginal players, often having themselves been successful smugglers.¹¹

Whether the 'wealthy merchants', the 'large dealers' and the '*marchands établis*' were directly involved in organising and funding smuggling operations remains uncertain, and the aim of this chapter is to identify, as far as it is possible to do so, the key players behind the

⁸'Sa dimension nécessairement internationale exigeait entre les parties concernées des systèmes de correspondance très précis,' Marc Vigié, *L'herbe à Nicot: amateurs de tabac, fermiers généraux et contrebandiers sous l'Ancien Régime*, Paris, 1989, pp. 319-20.

⁹ Jacob M. Price, *France and the Chesapeake. A history of the French tobacco monopoly, 1674-1791, and of its relationship to the British and American tobacco trades*, 2 vols., University of Michigan Press, 1973, p. 496.

¹⁰ 'largement orchestrée par les marchands établis, eux-mêmes plus ou moins protégés ou défendus par les institutions', Anne Montenach, *Femmes, pouvoirs et contrebande dans les Alpes au XVIIIe siècle*, Grenoble, 2017, pp. 205, 210.

¹¹ Liander, 'Smuggling Bands', p. 241.

smuggling operations and to explore the organisational and funding challenges they faced and the extent to which smuggling might have merged with legal operations. It seems likely on the face of it that major merchants would have promoted smuggling operations and supported them financially and organisationally, not least because of the level of investment required and the concern that their legally procured goods would be undercut in the local market. But who were these merchants and investors so often referred to? Does the evidence available to us today support this logic? Did they actually need to do any more than make themselves available as buyers?

As so often for this thesis, the nature of the evidence available remains problematic, since the majority of it comes from records of criminal prosecutions. The structure of smuggling operations both in Britain and in France resulted in a tendency for the ordinary sailors and the land-based carriers to be the ones caught and prosecuted. They were the ones who were involved in transporting contraband goods across customs lines and were therefore in the front line of resistance to the preventative forces. The organisers were both less exposed and, if of sufficient standing, more likely to be able to fall back on patronage for pardons or wealth to fund compositions. Nevertheless, with a few notable exceptions, the bulk of the evidence seems to point to the fact that, while many established merchants active in the large commercial centres were ready takers of smuggled commodities, thereby helping to create the market in which smuggling thrived, few of them were actually promoters of smuggling operations. Rather it was the minor, regional merchants, often in the *entrepôts* from where the smuggled goods were shipped, and a range of successful and

adaptable smuggling entrepreneurs who seem to have been the key promoters of illicit trade.¹²

It is important to be clear about the definition of merchant here, as well as the differences of scale that the word encompasses. 'Merchant' essentially means a wholesaler, buying and selling goods, and in Britain in the eighteenth century there was a wide spectrum of activity the word could cover. On the one hand were the merchants operating at an international, even trans-oceanic scale, buying large quantities of commodities abroad and using complex credit and logistics mechanisms, and on the other the regional wholesalers and shopkeepers who generally bought from the larger merchants for local distribution, or engaged in coastal, and some international, trade from a number of outports. A contemporary rather disparagingly referred to: 'the shopkeeper, who would be thought a merchant, because he employs a cutter to run tea and brandy from France.'¹³ The international merchant required substantial levels of capital, often borrowed from friends and family until the business had grown to become self-sufficient, whereas the local merchants and shopkeepers clearly required less, particularly if credit was available to them. There is no suggestion that the coastal entrepreneurs who organised smuggling voyages or the smuggling gangs on land were seriously regarded as 'merchants'. In French, the definition is further complicated by the distinction (or blurred borderline) between the *négociant* and the *marchand*. Generally speaking, the former is the trader or commercial centre merchant, while the latter is the

¹² It is worth recalling that in Britain, there is a distinction between (mainly) tobacco frauds by some of the importing merchants, which required little in the way of investment additional to that for their legal trade, other than in contacts and bribery, and physical smuggling across customs boundaries of contraband goods such as tea, brandy, and (re-landed) tobacco where the incidents where merchants were involved would seem to be limited to the peripheral merchant communities.

¹³ A Gentleman, *A letter to a noble lord, containing, a new discovery of the scandalous and pernicious practice of running goods from France...*, London, 1755, p.32.

smaller trader or shopkeeper, and can even be used down to the level of the *marchand mercier forain* who would frequent the fairs and the *marchand mercier porteballe* who was little more than a pedlar, but usage is not necessarily always consistent with this distinction.¹⁴ For the most part it was the regional merchants in Britain and the *marchands* in France who participated in smuggling, as opposed to the commercial centre merchants or the larger, established *négociants*.

This chapter is organised by type of merchant or entrepreneur, using a number of detailed examples to illustrate the way different categories of smugglers worked. It starts with the limited evidence there is for any involvement of the principal, international merchants in London, and then looks at the regional merchants in Britain, with the example of the Nisbets in south-east Scotland examined in detail. Smuggling in France generally had different organisational features, given that most of the activity was conducted across land borders, and is addressed next. The smuggling of banned textiles in the 1740s from Liège and Geneva to Paris, through Bar-le-Duc in Lorraine, analysed through the extensive records of the *Commission de Reims* both directly and, with the benefit of Liander's excellent 1981 thesis on smuggling in Northern France, indirectly, gives a good picture of how traders operated when smuggling higher end products. I then look at the merchants conducting cross-channel contraband trade from the *entrepôts* of Dunkirk and Guernsey, focussing in some detail on the smuggling careers of Robert Hanning and William Le Marchant respectively, before concluding with the coastal smuggler-entrepreneurs of England, both English and French, concentrating on John Grayling of Hastings.

¹⁴ AN, Z/1a/967, R3, trial of Gilles Bertrand and others, 14 August 1741. Bertrand is described as a former *marchand mercier porteballe*, the others as *marchands mercier forain*.

London Merchants

The historiography makes some strong statements about the involvement of the major merchants, and these are backed up by contemporaries at different points in the eighteenth century, but there is little of substance about these high-level merchants that the records reveal. With the exception of Thomas Ellis in 1731, discussed below, there seem to be no examples of the international London-based merchants being named, let alone successfully prosecuted for active involvement in smuggling, beyond the handling of smuggled goods, even if a number of regional merchants were (Hatch and Boyes, Nisbet, Le Marchant are examples). Tobacco fraud was an exception to this, as there is every suggestion that merchants were closely involved in a variety of schemes, often using bribery to defraud the Customs, and the report from the 1733 committee of the House of Commons highlighted a number of these.¹⁵ In the case of frauds on import, the only merchant named is John Midford, said to have avoided duty by bribing the landwaiter to declare 13.4 per cent. less than the actual weight on his tobacco imports in 1727.¹⁶ The Midford case also appeared in more detail in an earlier report to Walpole, where his payments to the landwaiters for their assistance had been discovered, but it is not clear why Midford was singled out among other cases of merchant misdemeanour.¹⁷ On fraudulent re-exports, London merchants Mr Slyford and Mr Taubman added lead to re-exported tobacco in order to increase the

¹⁵ *The Report with the Appendix from the Committee of the House of Commons Appointed to enquire into the Frauds and Abuses in the Customs to the Prejudice of Trade, and Diminution of the Revenue*, published by order of the House of Commons, London, 1733 ('The 1733 report').

¹⁶ *Ibid.*, p.7.

¹⁷ See *The return of the solicitor for bonds and criminal prosecutions with an account of frauds relating to the importation and exportation of tobacco*, CUL, Ch(H) 41/18/3.

drawback as long ago as 1704 or 1705,¹⁸ and John Peele seems to have under-declared on import and over-declared on export in a sale of 200 hogsheads of tobacco to Thomas Hyam in 1732.¹⁹ The third area, that of fraudulent re-landing of tobacco, is different as it involved physically moving the goods to avoid duties, and there does not seem to be any evidence that this activity was directly organised by London merchants. Instead they would have sold to buyers outside Britain, and were happy to benefit from the sale. Mr Hyam conceded that he sold tobacco to Dunkirk and confirmed that 'there has lately been considerable quantities of sweet-scented tobacco exported to Dunkirk... which is not a proper species for that market' for subsequent re-landing in Great Britain and Ireland.²⁰

On tea and brandy, as with tobacco re-landing, the Committee's detailed examinations do not lead to the suggestion that London merchants were behind the smuggling operations, although there were clearly receivers of smuggled goods among the merchant community. Gabriel Tomkins, at this stage a convicted smuggler who subsequently joined the preventative forces before reverting again to smuggling, provided a list of grocers and druggists in London, Westminster and Southwark to whom a few years previously he sold tea and coffee, at night-time in their own homes, or in coaches, or via their porters.²¹ Tomkins did mention 'one Caleb Leigh, who used to receive goods from him, at the Saracen's Head in Carter Lane,' subsequently summoned by the Committee and examined, although it is not clear whether Leigh was a merchant or a porter.²² A similar pattern emerges from the subsequent Commons Committee reports in 1745 and 1746. In the first

¹⁸ *The 1733 report*, Appendix XIV.

¹⁹ *Ibid.*, p.11.

²⁰ *Ibid.*, p.13.

²¹ Kent Barker, *The Smuggling Life of Gabriel Tomkins*, England, 2011, pp. 2-3.

²² *The 1733 report*, p. 16-17.

report, two of the examinees, Samuel Wilson, a grocer, and Abraham Walter, a dealer in tea, admitted to having been involved in the running of tea and of having taken the benefit of the 1736 Act of Indemnity, but it is not clear whether they did more than receive smuggled goods.²³ Walter may well have been more actively involved through his brother-in-law Robert Hanning, a former smuggling gang member who escaped justice in 1733, had become a merchant in Dunkirk selling commodities to British smugglers and was continuing this activity from Flushing since the outbreak of war with France. Moreover, Walter was jailed in Newgate later in 1746, facing charges of riding with firearms in 1744, but argued in a plea to the Duke of Newcastle that since he took the benefit of the Act of Indemnity in 1745 he should be 'extricated' from this position.²⁴ Similarly, Matthew Blakiston, another dealer in tea examined by the Committee, had ten years previously fallen foul of the Excise.²⁵ The incident was clearly not regarded as a smear against his character: he went on to greater things, being knighted in 1759 and becoming Lord Mayor of London in 1760.²⁶

It is clear, however, that at least some tea merchants were urging the government to address the problems of smuggling as well as the practice of adulterating tea, and by 1780 they had come together in an 'Association for protection of trade against smuggling in tea, coffee, chocolate and cocoa nuts' and an extract of their proceedings is recorded in the Shelburne papers edited by A.L. Cross.²⁷ This referred to a delegation of merchants visiting the Bavarian Count Haslang (see chapter 2 above, note 4) to remonstrate against his use of

²³ *Journals of the House of Commons*, vol. xxv (1745-50), London, HMSO, p. 104.

²⁴ TNA, SP 36/94/1/33. Walter was released, but continued to be known to smugglers, as shown in the Ordinary's account of one Samuel Hill, where he is named in connection with organising the escape of smugglers from Newgate. See OBPO, *Ordinary of Newgate's Account, March 1752* (OA17520323).

²⁵ *Read's Weekly*, 5 June 1736.

²⁶ *London Evening Post*, 7-9 June 1759; *London Evening Post*, 6-8 November 1760.

²⁷ Arthur Lyon Cross, *Eighteenth-Century Documents Relating to the Royal Forests, the Sheriffs and Smuggling. Selected from the Shelburne Manuscripts in the William L. Clements Library*, New York, 1928, pp. 242-4.

a 'house purposely for secreting and vending smuggled goods,' although their pleas fell on deaf ears as he rejected their claims and refused an Excise request to be allowed to search his premises. But it also records the names of offenders convicted by the Excise through efforts of the Association: Edward Daniel, Tea Dealer, 5 offences fined £100 each, mitigated to £100 in total; Samuel Lloyd, Tea Dealer, £400 down to £100; Robert Davis, £200; William Jackson and Elizabeth Ireland, Tea Dealers, £100 each.²⁸

There was one clear case of a London merchant involved in smuggling, that of Thomas Ellis, a London brandy merchant accused by the Customs of importing French brandy in 1731 at a significantly reduced tariff by shipping it via Dunkirk and calling it Flemish, a ruse, it turns out, which was well-known to both merchants and the authorities.²⁹ He was caught because he advertised the brandy as French, and at his trial (he was eventually acquitted) claimed that he should be considered a 'fair trader'. David Smith's article makes the point that Ellis was not a committed smuggler, but rather a merchant 'undeserving of punishment because he had followed the same rules as his respectable competitors in a scheme that was widely known and officially ignored.'³⁰ Indeed, the import of 'Flemish' brandy outweighed French by some 150 times - according to customs records, in 1730 alone some 12 tuns were imported from France and paid duty on French brandy whereas 1,849 tuns were imported as 'Flemish' or 'Rhenish' from Dunkirk alone.³¹ The reality was that this fraud was tolerated

²⁸ Ibid., p. 144.

²⁹ See David Chan Smith, 'Fair Trade and the Political Economy of Brandy Smuggling in Early Eighteenth-Century Britain', *Past & Present*, gtaa008, 2020.

³⁰ Ibid., p. 8.

³¹ TNA, T/64/274/120-22, account of brandys imported from Dunkirk, 17 March 1730/1; 123, account of brandys imported from France, 2 May 1732.

because smuggling activity was reduced and the customs officials received increased levels of duty under this scheme.³²

These pieces of evidence highlight the tendency for smuggling to merge with the legal trade, whether or not just at the final stage of the journey, as the examples of the various House of Commons committees show and as Richard Twining later in the century admitted. They also highlight some of the ways in which access to smuggled goods was achieved: by fraud, through permit forgery, by re-labelling or switching goods or simply being prepared to receive contraband. In the case of Thomas Ellis, even for the authorities the divide between licit and illicit trading activities was not always as clear-cut as one would imagine. What this evidence does not prove is any systematic involvement of London's wider merchant community in actively promoting smuggling voyages across customs lines.

British regional merchants

For merchants based in the ports outside the metropolis, further from the centres of power and where surveillance was weaker, there are a few examples of direct involvement in smuggling, and it seems likely that what smuggling there was would have been conducted alongside the legal trade.³³ Cullen makes the point in relation to the areas of Ireland away from Dublin and Cork that most smuggling was small scale in the first six decades of the eighteenth century, 'when merchants and landowners had conducted what was an

³² Chan Smith, 'Fair Trade', p. 27.

³³ Frank McLynn makes the point that 'only those regions close to London or to regular Royal Navy patrols went in any fear of the authorities' in *Crime and Punishment in Eighteenth-Century England*, Routledge, 2013, p. 173.

amalgam of legal and smuggling activity.³⁴ A more specific example is the apparent volumes of tobacco exported from Glasgow and re-landed in Britain in 1718-21 which show up in the results of a 1722 enquiry prompted by concerns of merchants in Bristol, Liverpool and Whitehaven. Estimates suggest some £30,000 of revenues per annum were lost from this activity, and a number of Glasgow merchants were named in relation to specific voyages (some twice).³⁵ It seems likely that that, as Walpole discovered when he tried to push through his Excise reforms ten years later, this smuggling activity was motivated by the merchants concerned 'because fraud made good business sense given the market order within which they traded. Sandwiched between the formal tariffs and professional smugglers, merchants needed to preserve their competitive practices to avoid the full tax burden.'³⁶

The activities of John Hatch and David Boyes (or Boyce), regional Hampshire wine merchants, are described by their former clerk, Isaac Poulsom in the 1733 report. Hatch & Boyes were active recipients of smuggled goods into their warehouses between 1722 and 1725 and had various schemes for shipping wine to London without paying duty, and as such were clearly heavily involved in organised smuggling. One method was to load old, sour wine in the presence of a customs officer onto a coasting vessel and then 'meet with another vessel, laden with wine, from France or Guernsey; so would then throw away the sour wine, and take on board the like quantity of wine, and proceed therewith to the port

³⁴ L. M. Cullen, 'The Smuggling Trade in Ireland in the Eighteenth Century', *Proceedings of the Royal Irish Academy*, 67, 1968, pp. 149-75.

³⁵ TNA, T 64/240. The merchants named were Walter Blair, Alexander Oswald, Richard Grahame, Samuel McCall, Richard Murray, John Mcfarland, John Starck 'and others'.

³⁶ Chan Smith, 'Fair Trade', p.30.

designed.³⁷ They had also worked out how to play the courts. They had some twenty men working for them and when fighting a seizure by Customs in court, 'eight or ten of those fellows were sent to London, in order to be witnesses there,' who would swear to their innocence and blacken the reputation of any Customs witness. One trial even cost Boyes 'upwards of 200 l. having paid several witnesses very handsomely for their service, besides giving the jury an elegant entertainment, and (as he himself declared) two guineas each man.'³⁸ Charges did eventually stick and they were both sentenced by the Court of Exchequer to pay treble value and were in the Fleet prison, each described as a 'notorious offender', at the time a list compiled in 1729.³⁹

In addition to the case of Hatch & Boyes in Hampshire, the Customs archives provide other examples: Thomas Seel, a Liverpool merchant, was implicated several times in tobacco frauds between 1726 and 1732, including re-landing of goods (after claiming the drawback) in Ireland and Isle of Man;⁴⁰ and John Whitefield was a Sussex merchant implicated in a coasting vessel diverting to Dunkirk to pick up contraband textiles on its way from London to Newhaven in 1754. Whitefield's unlikely claim was that the goods 'which were packed up in casks like grocery and directed to two grocers at Lewes' were intended for the West Indies 'in a ship that was lately launched at Newhaven.'⁴¹ There is no suggestion that these were full-time smugglers engaged exclusively in the illicit trade, and indeed there is evidence that merchants would combine legal goods with contraband.

³⁷ *The 1733 report*, p. 91.

³⁸ *Ibid.*, pp. 92-3.

³⁹ CUL, Ch(H) 41,14, List of people in gaol for smuggling in Western Ports, 17 April 1729.

⁴⁰ TNA, CUST 41/2, records of the Customs solicitor's office, pp. 148, 531 & 753.

⁴¹ TNA, CUST 41/4, records of the Customs solicitor's office, pp. 89-92.

One such regional merchant clearly involved in organised smuggling, was John Nisbet of Eyemouth in Southern Scotland. Although a small port, Eyemouth is well-situated on the North Sea just north of the border with England, in the wealthiest agricultural area of Scotland within easy reach of the more populous cities of Edinburgh and Newcastle.⁴² Nisbet and his brother David traded across the North Sea with Scandinavia and the United Provinces in the middle years of the eighteenth century. In his 2018 thesis, Derek Janes sets out to show how the Nisbets' trading activities combined legal and illicit, points out the differences in smuggling in this part of Great Britain and highlights the role of the 'non-plebeian merchant-smuggler... with his fine John Adam merchant's house with its smuggler's hiding places'.⁴³ Nisbet and other Eyemouth merchants imported timber, iron, wine, spirits and tea from Guernsey, Rotterdam, Camp Veere in the United Provinces (a Scottish staple port until 1799) and Dunkirk, and from Bergen and Gothenburg in Scandinavia, in return exporting mainly grain. They also engaged in paperwork fraud to avoid customs dues on tobacco imports. Nesbit's bankruptcy papers make clear that he had strong connections through local Gothenburg merchants to the Swedish East India Company, from where the 'Gottenburgh' branded congou tea came, and with Bergen merchants handling East India goods shipped up from Copenhagen alongside their timber exports. He also had connections in Rotterdam and Dunkirk, from where spirits and tea were shipped. Once landed, and after avoiding, bribing or threatening the Customs enforcement service, the goods were distributed overland to Edinburgh, Glasgow and into Northern England, where, for tea dealers, better quality, cheaper price and good credit terms made an attractive comparison with what was available from London. Where goods

⁴² Janes, 'The Business of Smuggling', pp. 51, 54, 65.

⁴³ Ibid., p. 33.

were seized, there was sometimes the option of 'composition' - agreeing a price with the authorities to avoid the delay and expense of prosecution – in order to exploit any weakness in the authorities' case.⁴⁴ Smuggling across the North Sea would have required significantly larger vessels than cross-Channel smuggling, so it is not surprising that the activity should have been carried on in parallel with legal trade. With this business model there was no need for additional investment in shipping infrastructure, and little significant additional outlay overall, other than in bribes, concealment, compositions and paperwork forgery. Established distribution channels on land were also used for contraband goods, including fraudulent certificates for transporting tea into Northern England, although tea was also sold direct to the consumer.⁴⁵ In many ways this was the perfect smuggling model, and seemingly of sufficiently small scale and far enough from London to be ignored. Nisbet's story ends in his inability to pay his debts, possibly exacerbated by the sharp fall in tea duties as a result of the 1784 Commutation Act, his bankruptcy by and the sale of his John Adam house to a large rival in Eyemouth.⁴⁶ There is no evidence of prosecution for his smuggling activities.

Between the 1740s and around 1780, the ship owning merchant-smugglers seem to have dominated the smuggling business in this part of Scotland, apparently in contrast to the rest of Great Britain where for the most part merchants from outside the country supplied goods

⁴⁴ Ibid., pp. 148-9. See also p. 140: 'The three main approaches of the smugglers in Berwickshire were, first of all, to avoid any contact at all with the customs men, secondly to offer inducements to keep them onside and thirdly to threaten, or even assault, them, but only to the extent necessary for them to be able to yield with a degree of honour. The last resort of the owner of a seized cargo was to come to a composition – a formal agreement with the authorities.' Janes explores in more detail the phenomenon of the 'Gottenburgh Tea' brand in Derek Charles Janes, 'Fine Gottenburgh Teas: The Import and Distribution of Smuggled Tea in Scotland and the North of England c. 1750–1780', *History of Retailing and Consumption*, 2.3, 2016, pp. 223–38.

⁴⁵ Janes, 'The Business of Smuggling', pp. 170-175.

⁴⁶ Ibid., p. 259.

for shore-based distributors.⁴⁷ Nisbet and his fellow Eyemouth merchants also seem to have been relatively unusual in eighteenth-century smuggling in operating entirely as merchants, with smuggled goods integrated into their legal activities. It is tempting to assume, given the example of Nisbet, along with Thomas Seel and John Whitefield mentioned above, that other provincial ports with their own merchant communities, particularly those furthest away from the larger cities, must have operated in the same way, but there is little hard evidence of this. For the most part the smuggling business model seems to have been different. As Simon Smith describes them, giving evidence to the 1746 'Further Report from the Committee appointed to enquire into the causes of smuggling', it was 'the rich wholesale smugglers, who live upon the sea-coasts, who keep cutters or smuggling-vessels to carry our wool or money to France, and bring back French goods', along with the merchants, both British and foreign, based outside the mainland in the *entrepôt* ports of Europe, the Channel Islands and the Isle of Man, who seemed to dominate the smuggling trade.⁴⁸

France

The situation in France was very similar, with the merchant community of Paris (the ultimate destination of so much of the merchandise smuggled across the borders of Northern France), remaining largely in the shadows. This is partly explained by the reality that the higher risks of smuggling were in the cross-border transport, as Liander describes:

⁴⁷ Ibid., pp. 127-132, 159, 165, 169.

⁴⁸ Sir Stephen Theodore Janssen, *Smuggling laid open, In all its Extensive and Destructive Branches; with Proposals for the effectual Remedy of that most iniquitous Practice*, London, 1763, p. 137.

few of them were willing to smuggle themselves, preferring to hire others to carry the contraband across the border. As a result, the courts were only able to seize the contraband cloth in merchants' homes. This meant that technically the merchant was not guilty of smuggling but only of *fraude des droits du roi*; the former was a criminal offense while the latter was merely a civil one, punishable only by a fine.⁴⁹

There are plenty of examples of well-to-do participants in smuggling – for example the priests in France mirroring the activities of the British clergymen in hiding (and consuming) contraband goods. One difference may have been that in France members of the nobility were found to have been active participants in smuggling operations, and in certain cases to have run smuggling operations, even if some were simply used by committed smugglers for their noble immunity.⁵⁰ The French nobility was more numerous and diverse in terms of wealth, lineage and occupation than the aristocracy in Britain and generally able to avoid prosecution, and as such could be valuable links in the supply chain for contraband goods.⁵¹

In Brittany there were frequent examples of members of the nobility running smuggling operations in the late-seventeenth and early eighteenth centuries. It was a '*pays franc*', outside the *gabelle*, and throughout the eighteenth century its government 'successfully resisted all meaningful attempts to impose a workable "*police de gabelles*" upon the duchy.'⁵² It was also close to the smuggling *entrepôt* of the Channel Islands, with which it had many ancient links, and the *Compagnie des Indes*, based at Lorient in the south of the

⁴⁹ Liander, 'Smuggling Bands', p. 242.

⁵⁰ Monod might contest this idea, given that he suggests that the links between smugglers and Jacobites included the involvement of British gentry. 'Smuggling did not undermine the authority of the gentry because they actively promoted it.' See Paul Monod, 'Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690-1760', *Journal of British Studies*, 30.2, 1991, pp. 150-82, at p. 168.

⁵¹ Betty Behrens, 'Nobles, Privileges and Taxes in France at the End of the Ancien Régime', *The Economic History Review*, 15.3, 1963, pp. 451-75.

⁵² George Matthews, *The Royal General Farms in Eighteenth-Century France*, New York, 1958, p. 107.

province, was a source of re-landed contraband.⁵³ Price refers to a tobacco smuggling 'company' active in Brittany and led by a nobleman; Durand describes a thriving industry in salt smuggling and gives the example of the Sieur de la Hottonière in the second half of the seventeenth century who would be accompanied by his children and tenant farmers with an armed guard; and Jamieson cites the active organisation of smuggling in Brittany by 'impoverished lesser nobility'.⁵⁴ A particularly damning series of documents appears in the Grand Chancery files from the 1730s, listing a number of members of the Breton aristocracy caught smuggling tobacco products, including the Sieur Jean-Louis de Trogoff and his equally noble associates. Details of the precise nature of their crime are not known, but tobacco, arms and letters were found and used as evidence. Only de Trogoff was summoned to be imprisoned at Fort l'Evèque, although it was accepted that this might not happen, in which case 'their property would be seized and held to order', whereas the others were simply summoned to appear in person to be heard and interrogated.⁵⁵ A separate case illustrates one way in which aristocrats could obtain a pardon. Jean-Louis de Rohan de Polduc, as part of a 'criminal association formed by several Breton gentlemen against His Majesty's service' was sentenced to death *in absentia* in 1720 and his execution carried out the next day in

⁵³ Writing about Saint-Malo and the Channel Islands in earlier centuries, Priotti says: 'Ces deux zones, chacune en position d'extra-territorialité soit par rapport à la France, soit vis-à-vis de l'Angleterre, sont parvenues à créer pendant la période considérée un espace transnational où identité et intérêts locaux prennent sur les priorités "nationales" et les antagonismes "internationaux".' Jean-Philippe Priotti, 'En temps de paix comme en temps de guerre: Le commerce de Saint-Malo avec les îles anglo-normandes et britanniques (vers 1500-vers 1650)', *Annales de Bretagne et des Pays de l'Ouest*, 125-3, 2018, p. 108.

⁵⁴ Price, *France and the Chesapeake*, pp. 449-50; Yves Durand, 'La contrebande du sel au XVIII^e siècle aux frontières de Bretagne, du Maine et de l'Anjou', *Histoire sociale*, 7.14, 1974, p. 235; Alan Jamieson, *A People of the Sea: The Maritime History of the Channel Islands*, London, 1986, p.199.

⁵⁵ 'leurs biens seront saisis et annotteés en Commissaire', AN V/7/506, dossier 3, 20th October 1733. De Trogoff's associates were referred to as the Sieur Ambroise Courson de Kernescop, the Sieur Olivier de Visdelou de Bonnamour des Bandes and the Sieur Claude Rolland de Visdelou de Bonnamour his brother.

effigy, but he later obtained a royal pardon for himself and his associates by appearing bareheaded and on his knees.⁵⁶

The *Affaire Adigard*, in the next-door province of Normandy, illustrates the extent to which gentlemen became embroiled in smuggling in the early years of the century. A *Mémoire* dated 18 December 1714 describes the case of the Sieur Adigard of Saint-Lô in Lower Normandy: 'This gentleman is accused of having traded for a long time in not only contraband tobacco but also all sorts of contraband goods,' but although his valet and gardener were caught red-handed and admitted they were only acting on the orders of the Sieur Adigard, the authorities seemed unable to charge him and had to fall back on begging the King to issue a *lettre de cachet* ordering him to be imprisoned in some chateau or exiled from the province, as had happened to certain Breton gentlemen.⁵⁷

Just as involved was the Marquis de Bologne, although in this case in a subsidiary role. Nobles continued to be associated with smuggling throughout the century, not least because of the advantages of a château for hiding contraband goods – employees of the *Ferme* needed their Captain General to be present in order to search premises owned by members of the nobility, for example.⁵⁸ The Marquis de Bologne's Château de Thivet, south-east of Chaumont in southern Champagne, was ideally located for the Rathier gang which concentrated on smuggling in that area, near the border with Lorraine but just outside the

⁵⁶ 'association criminelle formée par plusieurs gentilhommes de Bretagne contre le service de Sa Majesté', AN, V/7/506, dossier 3, 29th May 1734.

⁵⁷ 'Ce gentilhomme est accusé de faire depuis longtemps, non seulement le commerce de faux tabac, mais encore de toute sorte de marchandises de contrebande,' AN, G/7/1294, *mémoire* and petition, 18 December 1714.

⁵⁸ Liander, 'Smuggling Bands', p. 412.

4-league zone in which the *Ferme* employees were able to operate. In April 1774, Jean-Baptiste Rathier, from Breuvannes just across the border in Lorraine and his associate Claude Curt, merchant (*marchand*) from Savoie, with a group of horses and smugglers, arrived in Thivet and unloaded bales of textiles (*indiennes, mouchoirs, mousselines*) at the château. This seems to have been a weekly or twice-weekly event, and fifty-nine bales in total were discovered in the chateau and seized. Although Curt claimed to have had customs stamps for the goods, they did not tally with the actual goods seized, which in any case had fake seals. A Chaumont merchant, Delaporte, was staying at the château waiting for the arrival of the consignment. It emerged during the interrogations and depositions that, although his château provided vital warehouse space to the smuggling band, and although he was well aware of the activities going on, no doubt with some form of compensation, the Marquis was neither the instigator nor the financier of the smuggling activity. The Savoie merchant Curt was in charge of the commercial aspects, in association with Delaporte, who is described in the Commission papers as *assureur*, suggesting that the ultimate destination for the goods was a merchant in Paris. Rathier at this stage was providing the muscle, although he is later believed to have become an *assureur* himself rather than continuing as a band leader. Rathier was found guilty and condemned to the galleys *in absentia*, having wisely escaped in time. Curt was 'declared to be heavily suspect of having been complicit and participating in the said introduction [of smuggled goods]' but seems to have been let off with a warning because of uncertainties in the case, even though he spent a year in prison.⁵⁹ The Marquis de Bologne emerged unscathed.⁶⁰

⁵⁹ 'déclaré vêtement suspect d'avoir été complice et participé à ladite introduction,' AN, Z/1a/1023, B69. The incident being investigated took place on 23 April 1774. See also Liander, 'Smuggling Bands', pp. 397-406.

⁶⁰ The Marquis de Bologne was executed for unrevolutionary activities in 1793; AN, W//308.

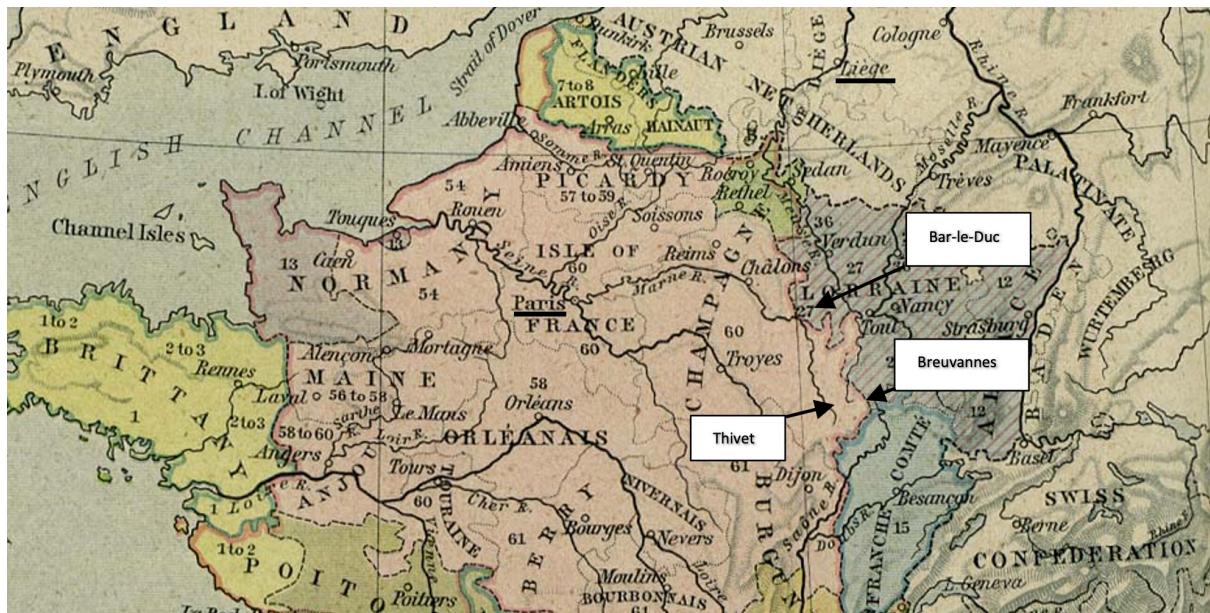


Figure 4.1: Map of Eastern France showing key textile smuggling locations. *Detail of The Salt Tax and the Customs, map shown on p.70.*

Much like Britain's 'rich, wholesale smugglers who lived upon the sea-coast,' Rathier, Curt and Delaporte all seemed to form part of the group of entrepreneurs and regional merchants who were most active in smuggling. Their activities seem to have been self-funded, and the ultimate destination of the contraband was presumably mainly Paris. There were a few Paris merchants whose names appear in the records of an earlier period, but these were for the most part ex-smugglers, such as Pachot and Chappuis in the 1740s, and they probably handled little if anything of the legal textile trade (there was no legal trade in *indiennes* until after 1759). Two identified by Liander as having been able to distance themselves somewhat from the criminal aspects of their trade during the 1740s are 'Monsieur Charles' and Petot & Ramé. Petot & Ramé outsourced the entire procurement and delivery activity via Bar-le-Duc, but even so probably had to operate as a wholesaler like

most of the others.⁶¹ Claude Charles, in contrast, obtained his calicos direct from the United Provinces via Bruges and leased a large showroom with contraband calicos on display, but he was only able to do this because of his association with Doucet, an *Inspecteur de Police*.⁶² Interestingly, returning to the theme of aristocratic involvement, many of the above relied on storing contraband goods in the Hôtel de Soissons, owned by the Prince de Carignan who, Liander speculates, may have worked with smugglers as a means of solving his money problems.⁶³

Rathier was a clear example of the merchant-entrepreneur-smuggler. Calling himself a merchant of Breuvannes, he was in reality, at least in the 1770s, the leader of a gang of smugglers employed to carry goods across the Lorraine-Champagne border. Although it is unclear who was funding his operations (probably Curt, about whom there is little additional information), it seems likely that in time he built up sufficient capital from this contraband transport business to achieve some financial independence. He subsequently became an *assureur* – a much safer role in the smuggling hierarchy, but one that would have required access to funds with which to guarantee shipments. Rathier also seems to have taken the view that money well spent was his best protection. His smuggling activities were popular in the region: he provided occasional work as spies or guides for local inhabitants, and the quantities he was shipping meant he could provide regular work for his bands of *colporteurs*. He also became adept at bribing *Ferme* employees, paying them a salary rather than a fee for each shipment, and by the early 1780s he had three smuggling bands working for him under former *brigadiers*. Further evidence of Rathier's entrepreneurial character

⁶¹ Liander, 'Smuggling Bands', pp. 271-2; AN, Z/1a/969, H7.

⁶² Liander, 'Smuggling Bands', pp. 272-3.

⁶³ Ibid., pp. 263-4.

emerged after the Revolution, when the *Ferme* was abolished. He showed the classic flexibility of the good entrepreneur, becoming an investor in *biens nationaux*, at discounted prices, still working with Claude Curt, and then sold horses to the army at inflated prices. He died a wealthy man in 1824.⁶⁴

Bar-le-Duc, Paris and textile smuggling in the 1740s

The example of Rathier shows how by the 1770s a substantial, professionally run organisation had been built up around the opportunities presented by the customs regulations for textiles. This type of structure and the associated networks, involving groups of French regional merchants and entrepreneurs dedicated to serving the contraband trade in *indiennes*, had first been uncovered by prosecutors thirty years earlier, centred on Bar-le-Duc in Lorraine, just outside the jurisdiction of the *Ferme*. Although many of the participants in this business were at one time or another involved in smuggling other merchandise, mainly tobacco, this was a highly specialised operation. Textiles were purchased from Liège, Geneva or Savoy and merchants in Bar-le-Duc stored them for smugglers to purchase and transport towards Paris, much as the merchants of Dunkirk or Guernsey were wholesalers of tea, brandy and tobacco for smugglers coming over from Britain and Ireland. As in all smuggling, it tended to be those transporting contraband across customs lines who were the visible law-breakers and therefore those most often caught by the authorities; in the early 1740s, the contraband trade was at such a level that the newly constituted *Commission de Reims* was active in trying to identify the ringleaders at all stages of the smuggling network, and this led to light being shed on the activities of the *marchands*

⁶⁴ Liander, 'Smuggling Bands', pp. 397-440.

merciers in Bar-le-Duc and Paris. Over a few years and a number of different arrests and inquiries, the Commission's chief investigator Colleau extracted names and activities to build a picture of how the contraband trade worked in practice.⁶⁵

Although the remit of the *Commission de Reims* did not cover Paris or Lorraine, it was able to apply to the *Conseil d'Etat* for permission to go beyond its remit, and one such occasion arose when it organised a raid, with the permission of the Chancellor of Lorraine, of the premises respectively of Michel Exellmans, François Colin and Claude Robert in Bar-le-Duc.⁶⁶ Exellmans and Colin were merchants who sold textiles to smugglers, whereas Robert was an agent for Paris merchants on the receiving end of the chain. Robert's letters and Colin's account books (sadly not found in the archives) allowed the *Commission* to piece together the relationships and the mechanics of the smuggling trade between Bar-le-Duc and Paris, many of the individuals involved and how the trade was financed. The court recorded transactions with known smugglers from Colin's account books, and these amounted to 155,000 *livres tournois* of business in a 21-month period in 1740-1.⁶⁷ Although it is not clear whether there were other transactions, this indicates that there was a flourishing business in smuggling banned textiles into Paris via Lorraine, which only grew, as seen in the example of Rathier above, once the ban was lifted and replaced by import tariffs.

The court transcripts of Robert's letters illustrate clearly the life of a merchant-smuggler's agent: the letters were written to Paris merchants Petot & Ramé, Pachot, Duhamel and

⁶⁵ Liander, 'Smuggling Bands', pp. 242-3. Much of this discussion on Bar-le-Duc merchants relies on the extensive analysis in Liander's thesis, although specific references to the underlying primary sources are also used.

⁶⁶ *Ibid.*, p. 243.

⁶⁷ Liander, 'Smuggling Bands', p. 266.

Marandait, and referred to smuggler-carriers Duval, Mordillac and De Novance.⁶⁸ To Petot & Ramé he confirmed deliveries to smugglers and attached receipts (letter of 4 September 1740); gave expected dates of arrival of goods in Paris, and pointed out that their stocks with him were low (letter of 23 September 1740); he blamed delivery delays on the weather ('you know that little streams became wide rivers', a phrase he repeated in a letter to Duhamel), checked up on an order made from Colin in Bar, and asked for help in pursuing a debt from another Paris merchant, Duhamel, because he was being pressured by the supplier (letter of 24 January 1741).⁶⁹ To Marandait he wrote on 13 September 1740 asking for reimbursement for a debt he had had to pay to stop Marandait's goods being sold. To Duhamel he complained at the level of commission he was receiving ('three *livres* for the ten packages' and 'for only three *livres* I would prefer to do nothing') (letter of 4 October 1740);⁷⁰ he confirmed delivery of orders to Mordillac and to De Novance, the receipt of four *lettres de change* passed to Francois Colin in return for the agreed merchandise, that Beau Laroche was happy to assure one or two loads, and reported his contacts with Duval and Charlot de Villot (letter of 24 January 1741). In the final letter of the series, dated 27 January 1741, he confirmed the deliveries to Duval and was still awaiting a delivery from Chez Clément in Nancy. This snapshot of the Bar-le-Duc end of smuggling contraband into Paris shows it was clearly run as a regular business.

These merchants operated for the most part legally, even if the smugglers who carried the merchandise and the Paris merchants who received and distributed it were clearly in breach

⁶⁸ AN, Z/1a/969, H7, *Extrait du livre pour les lettres missives appartenant au nommé Claude Robert de Bar-le-Duc*.

⁶⁹ 'vous savez les petits ruisseaux ont été des grosses rivières'.

⁷⁰ 'trois *livres* pour les dix *ballots*'; 'pour que trois *livres* jaime mieux rien faire'.

of the textile ban. Excellmans was mentioned in the interrogation of Jacques Pachot, *marchand mercier*, one of the less reputable Paris merchants receiving contraband textiles, in August 1741, along with Colin and Jean-Baptiste Lambert, another Bar-le-Duc merchant. Pachot initially denied anything that could be incriminating, but by his final interrogation in April 1742 was happy to make frequent references to his and others' purchases of contraband goods from Colin and Excellmans. When he bought muslins and calicos from Liège, he had them sent to Excellmans in Bar-le-Duc first, as if Excellmans was the buyer (and therefore completing all the steps for getting a customs certificate for crossing French territory). Pachot was also closely questioned on whether the establishments of these two were known to be places where counterfeit seals for illegal textiles could be obtained, presumably on the grounds that this would be the sort of area where their business spilled over into the illegal, and again after denials admitted it: when asked whether a certain Raymond 'attached fake seals to the said muslins', he replied that 'Messrs Colin and Excellmans from whom he bought the muslins themselves had the seals attached.'⁷¹

This interrogation, by a very well-informed questioner, uncovers the detailed mechanics by which illegal textiles were smuggled into Paris, as Pachot gave the names and addresses of smuggler-merchants in Paris and the names of several merchants in Bar-le-Duc and of carriers of contraband goods across the border into Champagne. Goods could be procured by Paris-based merchant-smugglers in Bar-le-Duc or ordered from the independent bishopric of Liège (now part of Belgium). The Liège merchant shipped the goods, marked with the initials of the Paris and Liège merchants to Bar-le-Duc, and because this was across

⁷¹ 'fit marquer les dites mousselines de faux plombs;' 'les Srs. Colin et Excellmans chez qui il acheta les mousselines les firent plomber eux memes,' AN, Z/1a/968, M5, *Interrogatoires* of Jacques Pachot, dated 8 August 1741, 16 October 1741, 27 April 1742.

French territory needed to pretend that one of the Bar merchants (Excellmans, for instance), was the final destination to avoid problems with the Customs posts. The Bar merchant stored the goods from Liège until needed (or farmed them out to others), and this was paid for by the Liège merchant. He was able to arrange fake seals for the goods, although he is also known to have outsourced this to a certain Gilles Bertrand, who was paid 20 sols per item.⁷² With all goods bought from or ordered through Bar, the Paris merchant-smuggler arranged for a smuggler to take the goods across the border, usually for deposit near Paris with a friendly chateau owner, *cabaretier* or gardener. The goods were picked up by a separate person for entry into Paris. Most interestingly, payments were handled by a friendly banker in Paris. Pachot specified a banker called Cottin (or Cotin), formerly a smuggler himself, now well-off and with a warehouse full of muslins, and pointed out: 'what makes it much easier are the correspondence services provided by the said Cotin's bank.'⁷³ There seemed to be no suggestion that Cottin was breaking the law, any more than the merchants of Bar-le-Duc. Transactions were paid for in bills (*lettres de change*) of varying maturities, distinguishing them from the majority of salt and tobacco smuggling which was cash based.⁷⁴ It seems likely that the smuggler crossing into the territory of the *Ferme* or responsible for physically carrying the contraband into Paris was remunerated in cash.

⁷² Bertrand is picked up coming out of Excellmans' shop in an investigation in 1741 with equipment on him for affixing fake seals – 'ayant dans ses poches un petit balancier propre à marquer des plombs à l'imitation to ceux de la Compagnie des Indes' as well as seals, some blank and some already pressed; AN, Z/1a/967, R3 doc. 58. In another document there is a detailed description of the devices: 'une machine de fer à plusieurs branches au bas de laquelle il y a des visses pour être attachées à une table et dans le milieu un coin attaché où est gravé une fleur de lis et autour duquel se trouve ces mots gravés "quo ferrar florebo". Plus un autre machine de fer plus petite que celle cy-dessus, à laquelle est attaché un autre coin dans le milieu duquel est gravé un ancre de navire avec ces mots, gravé alement "comp. des indes" et sur un des cottés et gravé ce mot "orient"' and a whole list of other bits and pieces; AN, Z/1a/967, R3 doc. 20.

⁷³ 'ce qui donne encore beaucoup de facilité est la correspondance qui se trouve assuré par la banque dudit Cottin,' AN, Z/1a/968, M5, *Interrogatoire* of Jacques Pachot, dated 16 October 1741.

⁷⁴ Liander, 'Smuggling Bands', p. 267.

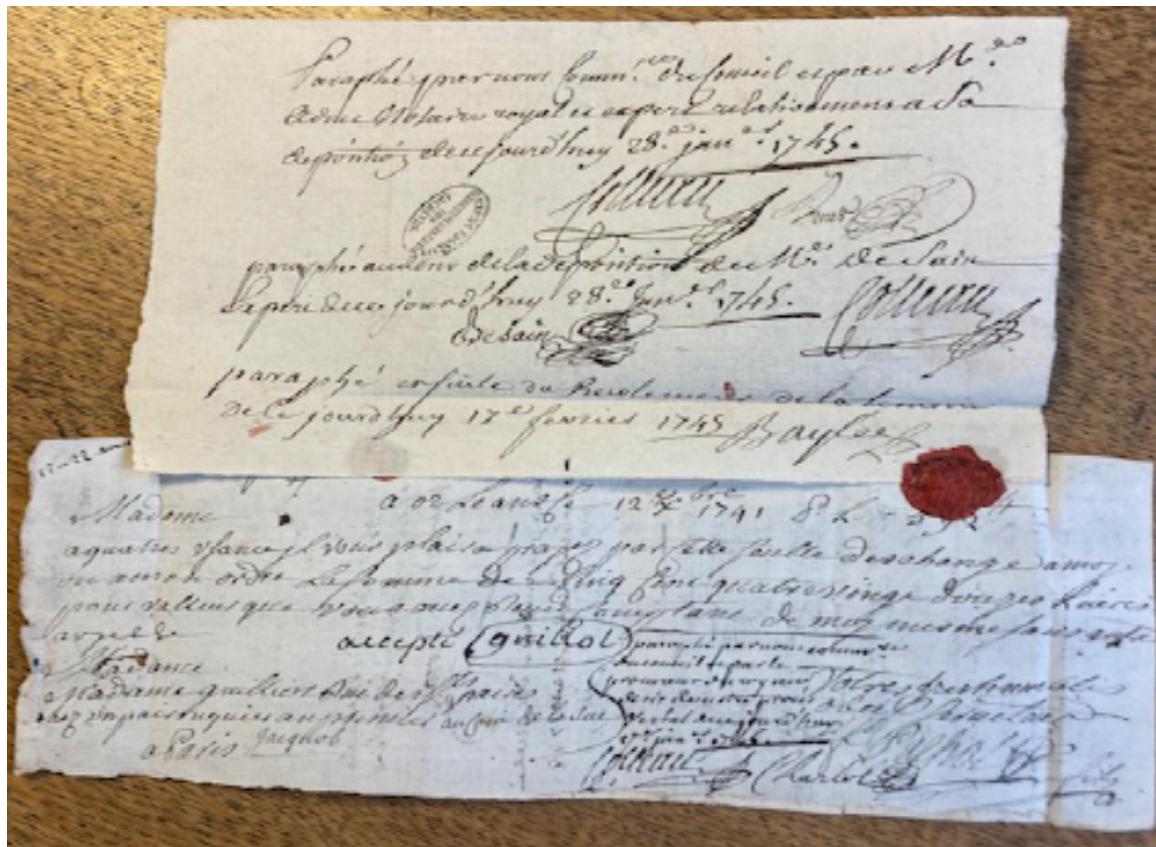


Figure 4.2: *Lettre de change* dated 12 December 1741 signed by François Pachot and accepted by the widow Guillot promising payment of 592 livres in four instalments and impounded by Colleau as evidence in the case against Pachot. AN, Z1a/977 B18, doc. 17.

The bank of Jean Cottin l'aîné et fils, along with other Paris bankers, was regularly used by textile smugglers in this period for transactions between Bar-le-Duc and Paris and for orders coming from abroad. The protestant banking family of Cottin came from the textile town of St. Quentin, and their known links to the *Compagnie des Indes* probably originated with goods ordered for that industry. The Paris-based bank existed in different forms from 1734/5 until at least 1771, and probably right up to the revolution, and Jean Cottin himself was ennobled in 1764. His son became a director of the *Compagnie des Indes* in 1759 but emigrated to England after the French Revolution.⁷⁵

⁷⁵ Herbert Lüthy, *La banque protestante en France: de la révocation de l'Édit de Nantes à la Révolution*, Paris, 1959, pp. 300-312; Liander, Smuggling Bands, p. 273ff.

Clearly it was the Paris merchant-smuggler who initiated a transaction to bring contraband goods into the capital. The merchant in Bar-le-Duc was a stockist and depositary, but did not seem to be the driving force behind any particular smuggling trade. This implied a level of capital (and / or credibility) for the individual Paris-based merchant-smuggler or partnership concerned. For the most part, these were former carriers of smuggled goods trying to better themselves, not always successfully as the case of Pachot illustrates: he was forced to return to active smuggling in 1742 because of lack of capital after his release from jail, was soon caught again and in 1745, sentenced to death for attempting to hold up, as part of an eight-person armed gang, the Châlons-en-Champagne coach 'and other cases of smuggling in armed gangs'.⁷⁶ Pachot's son Francois was sentenced at the same time, but his crime was falsifying two bills of exchange in the course of contraband trade. He was also being pursued by the Paris authorities for forgery, 'for having signed, in someone else's name, five bills of exchange together amounting to 2,902 *livres*, for the benefit of merchants with whom he was involved in this evil trade'.⁷⁷ This investigation was folded into that of the *Commission de Reims*. Brutal punishments awaited these two: François Pachot was sentenced to public penance and humiliation before being hanged and then strangled; Jacques Pachot his father was sentenced to be broken on the wheel.

Michel Excellmans was himself interrogated in November 1743, accused of having introduced prohibited goods into Paris and sold them there, after presenting himself

⁷⁶ '& autres cas de contrebande avec attrouement & port d'armes,' AN, Z/1a/977, B18, Jugement souverain, 6 March 1745; Liander, 'Smuggling Bands', p. 270.

⁷⁷ 'd'avoir signé d'un autre nom que le sien cinq lettres de change montant ensemble à la somme de deux mil neuf cent deux livres au proffit de marchands avec lesquels il faisoit ce mauvais commerce,' AN, Z/1a/977, B18, doc. 20.

voluntarily for questioning. Aged about 58, resident in Bar-le-Duc, but originally from the bishopric of Liège, Excellmans admits to sourcing textile goods from the United Provinces, Frankfurt and Liège, but denies making them easier to sell by having seals affixed, on the basis that in Lorraine he was not obliged to source the goods from the *Compagnie des Indes*. When it was pointed out that Gilles Bertrand had been arrested coming out of his house claiming to have been summoned to affix fake seals, he denied this and said that Bertrand had arrived unannounced and had anyway not been in there long enough to affix seals. When accused of buying goods in Liège that were prohibited in France and pretending they were for himself but in reality holding them *en entrepôt* to be picked up and taken across into France, he said that when Liège merchants tried to send him 36 or 37 loads for the account of Pachot *père* he did not want to accept them, knowing them to be illegal. Excellmans' prosecution does not seem to have been pursued, although it is hard to imagine he is wholly innocent.⁷⁸

This description demonstrates the complexity required in organising the smuggling trade in banned textiles, and the extra steps compared to a legal transaction, as well as the extensive network of relationships. Whether an order was based on individual demands or, as in the case of Monsieur Charles above, to provide stock for a showroom, a strong and generally reliable delivery network had been established. Each link in the chain was a small part of the whole, effectively limiting the risk to each participant, and enabling each to specialise and get to know well the likely problems to be overcome, to nurture valuable contacts and to bribe officials if appropriate. The use of *lettres de change* reduced the

⁷⁸ AN, Z/1a/975, T15, *Interrogatoire*, 8 November 1743.

ordering merchant's cash investment required, and the willingness of the *assureur* to assume the smuggling risk limited his overall exposure.⁷⁹ It would be wrong to suggest that there was no overlap between distinct tasks, since in reality there was a considerable amount of flexibility in the roles outlined above, but it is clear that a strong and durable system had built up to take advantage of the business opportunities presented by the continuing demand for Indian textiles in spite of the ban.

Dunkirk & Guernsey

As set out in chapter two, Dunkirk and Guernsey acted as major *entrepôts* for smugglers in Britain wishing to buy a variety of contraband goods. The merchants in these places acted as passive suppliers of contraband, for the most part operating legally in importing and selling on goods such as tea, brandy, wines and tobacco. They did not as a rule get involved in active smuggling into Britain; indeed there was little need for it, as the British coastal entrepreneurs were already extremely active in commissioning and funding smuggling voyages.⁸⁰ There were however exceptions.

Dunkirk and nearby ports

On the continental European coastline, Dunkirk, and to a lesser extent, Boulogne, Roscoff and others to the south and Ostend and Flushing to the north, were all active at some point

⁷⁹ In reality, the role of the *assureur* was relatively rare in the 1740s, although later in the century, according to Liander, 'the term *assureur* was virtually synonymous with professional smuggler'. Liander, 'Smuggling Bands', p. 277.

⁸⁰ See Jamieson, *A People of the Sea*, pp. 205-6; M. White, 'The Carteret Priaulx Papers: The Influence of the Napoleonic Wars on Guernsey', *Transactions de La Société Guernesiaise*, XVII.4, 1963, p. 447; Peter Girard, *Peter Girard's Guernsey: a miscellany of Guernsey's history, and its people*, Guernsey, 1986, p.273.

or other as *entrepot*s for smuggling. The individuals who provided goods to smugglers ranged from local merchants and former smugglers to members of extensive merchant networks. A number were of British or Irish background, and many of these were of Jacobite origin. Roscoff, whose smuggling trade pointed both ways, with tobacco coming across from the Channel Islands for the French market and tea and brandy being fetched from Lorient and Bordeaux respectively for the British and Irish market, benefited whenever the British authorities tried to restrict smuggling from the Channel Islands, and received a further boost in 1784 when it achieved the status of partially free port leading to an influx of British and Irish merchants.⁸¹ The smuggling trade was mainly with Cornwall and Ireland, particularly after the British purchase of the Isle of Man in 1765. As a result, the port had its share of merchants with Irish & British names like MacCulloch, Copinger and Clancy who were active in the smuggling trade.⁸²

Ostend also hosted a number of foreign merchants in the early eighteenth century when local Antwerp or Ghent-based merchants teamed up with London to enter the China and East Indies trade. Initially successful because of their lower cost operations, competition increased until the point when the Ostend Co. was formed in 1722,⁸³ with the involvement of a number of Irish and British merchants and former EIC personnel as employees, shareholders and directors.⁸⁴ A number of merchants brought their European networks,

⁸¹ Cullen, 'The Smuggling Trade in Ireland', p.159.

⁸² Jacques Blanken, *Contrebandiers! Smoleurs En Manche: Histoire d'un commerce interlope*, Châteaulin, 2015, p. 84.

⁸³ The formal name of the company was the *Generale Keijserlijcke Indische Compagnie* (General Imperial India Company). Meike Von Brescius, 'Private Enterprise and the China Trade: British Interlopers and Their Informal Networks in Europe, c.1720-1750', unpublished Ph.D., University of Warwick, 2016, p. 675.

⁸⁴ Jan Parmentier, 'The Private East India Ventures from Ostend: The Maritime and Commercial Aspects, 1715-1722', *International Journal of Maritime History*, 5.2, 1993, pp. 75-102; Von Brescius, 'Private Enterprise and the China Trade', chapter II.

many having already built businesses and reputations, such as the brothers Thomas and John Adam Coppinger (the relationship with the Roscoff Copinger, if any, is unclear), but foremost of the shareholders and directors was Thomas Ray, trader, privateer, pioneer of the East India trade from Ostend, Ostend Co. director and wholesaler at its auctions and grain trader into the 1730s.⁸⁵ After the Ostend Co.'s charter was withdrawn under diplomatic pressure in 1728, a number of these, notably the Coppinger brothers, migrated to Gothenburg and became involved in setting up the Swedish East India Co.⁸⁶ In times of war between Britain and France, Ostend, along with Flushing, also played host to a number of merchants of British and Irish origin who migrated up the coast from Dunkirk.

Dunkirk for much of the eighteenth century was the foremost continental *entrepôt* serving the smuggling industry in Britain, and many of the merchants based there were involved in manufacturing and repackaging goods for the British market and supplying the smuggling trade. Dunkirk also hosted a number of non-local merchants, and indeed, as we have seen, its foreign population by the 1770s, which was perhaps the peak of its smuggling activity, was substantial and varied in terms of activity, including as it did sailors, *cabaretiers*, bakers and other shopkeepers as well as *négociants*.⁸⁷ And in the case of Dunkirk there is more evidence that the merchants were active in smuggling as opposed to purely suppliers to the smugglers. In the early part of the century, Robert Hanning (also appearing as Henning or Hunning), a known smuggler who fled to the continent, set up there as a merchant selling

⁸⁵ Jan Parmentier, 'A Touch of Ireland: Migrants and Migrations in and to Ostend, Bruges and Dunkirk in the Seventeenth and Eighteenth Centuries', *International Journal of Maritime History*, 27.4, 2015, pp. 667-676.

⁸⁶ Officially known as *Svenska Ostindiska Companiet*, founded in 1731. By contrast, startlingly, the meagre funds available to the Danish Asiatic Company (*Asiatisk Kompagni*) in Copenhagen were 'assisted by British Nabobs in India remitting their funds to Europe thro' their hands', TNA, PRO 30/8/354 f. 226, memorial to the Treasury dated 12 March 1784. It is not clear where else 'British Nabob' money might have been deployed.

⁸⁷ DK, AncDK 280, *Etat des familles Angloises, Irlandoises et Ecossaises domiciliées à Dunkerque...*, 1777.

goods to smugglers for running into Britain, and then spent many years trying to get back to Britain with a pardon.⁸⁸ He seems to have been successful, partly on condition of making himself useful to the government in a number of ways.⁸⁹ At the outbreak of war in 1744 he moved his operations to Ostend in the Austrian Netherlands and subsequently to Flushing. Initially he was involved in providing information to the 1745 Committee, in the first report indirectly, but in person for the second report, using his first-hand knowledge of smuggling activities. He then provided information and observations, writing from Ostend, on the French ports and troop movements to the Duke of Newcastle's office and specifically to a Captain John Verre. To the Duke of Newcastle, he passed on information from Dunkirk (nothing going on except privateering), Calais (similar, apart from one Charles Mackey who seemed to be operating as a French privateer) and Lorient (Indiamen being fitted out as men or war with 60-70 guns).⁹⁰ The relationship clearly had some depth, as he had been asked about the cost of maintaining a cutter at Ostend 'to wait the Government orders for expresses', and provided a quote for £40 per month, and 'in case the Government are willing to allow me 2 guineas per month more the Cutter shall be at my risque'.⁹¹ In another letter to Capt. John Verre, also from Ostend, he provided information on troop movements from Calais, Dunkerque, Gravelines and St. Omer converging on Warneton near Lille. On smuggling, he praised the 1745 reduction in tea duty, but explained the reality of smuggling

⁸⁸ See Hanning's 1743 petition and covering statement at TNA, SP 36/62/82 and 83 in which he admits his role in 'clandestinely running of tea' but denies 'that he ever struck or meddled with' the victim in the incident which caused him to flee. He also claims that George Walker, who gave information leading to the conviction of George Watson (also Yorkshire George) for the murder, and is now a member of the Customs prevention services, is prepared to depose under oath that this is true. For a description of the incident and the conviction of Watson, see OPBO, June 1736, trial of George Watson otherwise Yorkshire George (t17360610-54).

⁸⁹ In Samuel Wilson's testimony to the 1745 Committee, Hanning is described as 'formerly a smuggler in this kingdom, and who was indicted for a murther and absconded, and was afterwards pardon'd on condition of his making certain discoveries in relation to the practices of smuggling,' *Journals of the House of Commons*, p. 104.

⁹⁰ BL, Add MS 32704/91-2, 24 February 1745.

⁹¹ *Ibid.*

continuing, and made the point that he was not alone in finding himself the wrong side of the law and in need of a pardon: ‘there are now actually 52 familys living in Flushing besides lodgers who follow no other Bussiness than Smuggling, who must still continue unless there is an Act of Indemnity, passes to call them home, and also many others, who Reside elsewhere, as these people have all prosicutions against them...’ Nothing if not proactive, Hanning offered to intercept boats heading into Dunkirk with supplies for the army, although he pointed out that the lead, oats and corn they carry are not seen as contraband so, presumably, needed explicit permission to act.⁹²

Hanning was well integrated into the merchant community of Dunkirk, and seems to have participated in the inter-merchant trade there. One clear example is in the accounts of a local Dunkirk firm, Melchior Didier, which show that in 1741 Melchior Didier bought 14 pipes of brandy from him, paying for it in two bills. The account book entry reads ‘Robert Henning owes on my account 5,154 livres tournois for his two drafts on me of today’s date, in two tranches of L2,577 each, which I have accepted, for 14 pipes of brandy.’⁹³ Melchior Didier was also later obliged to borrow money from Hanning: ‘Since I found myself short of cash on hand, to make your payment I had to draw 120 pounds sterling in two tranches to the order of Robert Hunning.’⁹⁴ Although not a smuggler himself, Melchior Didier seems to have traded with smugglers. Account entries for 29 April and 2 May 1743 with Mr Patrick Fortune of Cork show the purchase of beef, butter and pork for wine and brandy in various

⁹² BL, Add MS 32804/307-8, 19 April 1745.

⁹³ ‘*Robert Henning mon compte doit L 5154 tournois pour ses 2 traites sur moi de ce jour a 1 & 2 usance de L 2577 chacune que j’ai acceptée, pour le nécessaire de 14 pipes eau-de-vie*,’ DK 23Z15, *livre de comptes et factures*, account entries for 9 and 10 July 1741.

⁹⁴ ‘*Comme je me trouvais sans espèces en caisse, j’ai dû tirer aujourd’hui pour payer sur vos grâces 120 livres sterling à 2 usances à l’ordre de Robert Hunning.*’ DK, 23Z, letter of 28 October 1751 to John Fonblanque in London.

sizes (including the half-anchors preferred by smugglers) and balancing cash; and those for 21 June of the same year with Capt. James Newton show the purchase of coal and wool in return for tea and brandy (again in half anchors).⁹⁵

What is not immediately clear is whether a merchant of this standing was involved in the act of smuggling itself, rather than stopping at the supply of merchandise to the smuggling trade. Hanning did invest in ships, as so many merchants at the time, and two of these appear in the High Court of Admiralty papers as seizures during the War of the Austrian Succession. The first was caught out by the declaration of war. In April 1744, the *St. Etienne*, wholly owned by Hanning, was seized by the *Jersey*, a British man-of-war, between Calais and Dover and taken into London. Captained by Mattheus Dumondt, it had left Dunkirk for Malaga with some 8,660 *l*t worth of merchandise for sale there by Dumondt. It then took on wine for the account of Macnamara & Terry at the risk of John Macnamara of Dunkirk (since relocated to Ostend), and for Quinlin, at Hanning's risk, before returning to Dunkirk. It left Malaga on 4 March, war was declared on 29 March and the ship was seized on 13 April 1744. It looks as though this was just bad luck, and considerable effort was put into the claim made by Hanning through Robert Jones, a London merchant, that the ship was owned by an Englishman, even if he had been resident in Dunkirk for many years. The ship and part of the cargo were condemned as a prize on 7 July 1744. ⁹⁶

⁹⁵ Ibid.

⁹⁶ TNA, HCA 32/107/12, CP3, deposition by Daniel Macnamara of St. Botolph, Aldgate, merchant, dated 18 May 1744; CP6, receipt by Dumondt of wine from Macnamara & Terry, dated 28 February 1744; CP17, translation of Hanning's statement of 11 June 1744 in Dunkirk.

The other ship, the *Elizabeth*, did indeed seem to be involved in smuggling. The ship, in which Hanning, now resident in Flushing, seems to have been owner or part owner, was seized by *HMS Shark* and the privateer *York* at the beginning of 1747 on its way from Camp Veere in Zeeland to Peel Town in the Isle of Man and taken into Dover. It had a cargo of 12,000 lb of tobacco stalks (the justification for the seizure being that these were intended to be run into England) as well as smaller quantities of wine and tea, all loaded by John Nitzenburg, a dealer of wines and brandy of Camp Veere, and being sent to George More at Peel Town. William Stevens, the master of the *Elizabeth* was planning to pick up a pilot in Portsmouth or Plymouth as this would have been his first trip to Peel Town. It is unclear for whose account the goods were, although one item was marked with Hanning's initials, RH. On the face of it, there would seem to be nothing illegal with the voyage between Zeeland in the United Provinces and the Isle of Man, although the ship was supposed to have English colours, which it did not 'because of an oversight'. No doubt the already strong reputation of the Isle of Man as a smuggling *entrepôt*, as well as the risk of a small ship like that running the tobacco stalks on shore and the apparent ignorance of the master of how to reach the Isle of Man, were enough to justify the suspicions that led to the seizure. It was condemned as a prize on 26 June 1747.⁹⁷

Later in the eighteenth century, when the smuggling business had grown, a number of merchants of British origin had become significant players in smuggling into Britain from the continent, and it is issues surrounding the American wars, which France joined in 1778, that bring their activities to light in the records. Early in the war, the merchants Gamba &

⁹⁷ TNA, HCA 32/108/6, CP2.

Archdeacon of Dunkirk appealed directly to de Sartine, the *Ministre de la Marine*, requesting passports for three ships they were commissioning to prevent them being seized by the French navy or privateers.⁹⁸ The justification is ‘that for several years, under the protection of the government, they have been carrying on an illicit trade which consists in sending to England the most expensive products of our manufacturing industry and of that of our Indian establishments.’⁹⁹ They are mainly concerned with smuggling French textiles (including those imported into France from the Indies) into Britain, and point out the advantages to France, including the illegally exported raw wool they would propose to bring in. At this point trade with Britain had not been officially forbidden. In an earlier incident, Gamba & Archdeacon had complained, with the support of the Dunkirk chamber of commerce, about an English ship with their goods on board which had been impounded in Calais without obvious good reason by an over-zealous customs collector; they ‘had had loaded on board the English vessel *Liberty*, Thomas Kyte captain, cambrics, handkerchiefs, tea, wine etc. worth a considerable sum destined for the coasts of England’ with bills of lading for Calais and Lisbon as a precaution against the English customs. The chamber of commerce justifies its support with the statement that ‘the said Messrs Gamba & Archdeacon, who have successfully grown this form of trade over a number of years, have shipped into England goods of this type worth many millions.’¹⁰⁰

⁹⁸ Archdeacon is one of the names identified by Parmentier as Irish Jacobite migrants to Ostend in Parmentier, ‘A Touch of Ireland’, pp. 666, 678.

⁹⁹ ‘qu’ils font depuis plusieurs années, sous la protection du Gouvernement, un commerce interlope, qui consiste à introduire en Angleterre, les plus riches produits de nos manufactures et de celles de nos établissements dans l’Inde,’ ADN, C4611.

¹⁰⁰ ‘ont fait charger à bord du bateau anglois “La Liberté” Capne Thomas Kyte, pour une somme considerable en batistes, mouchoirs, thé, vin etc. destinées pour les côtes d’Angleterre,’ and ‘Les dits Srs Gamba et Archdeacon qui cultivent avec succès depuis nombre d’années, cette branche de commerce ont fait entrer en Angleterre pour plusieurs millions de ces marchandises,’ DK, 1S42, 1777, pp. 82-88.

Perhaps surprisingly, this smuggling trade carried on even in wartime, and there is evidence of a number of other foreign merchants active in Dunkirk before and during the American War, for example. During the early years of the war, many British and Irish merchants headed up the coast to Ostend or Flushing, taking their business with them, in spite of the rules for smugglers in Dunkirk issued in October 1778 and designed to keep them.¹⁰¹ In a 1779 letter to the Prince de Robecq, *Commandant de la Flandre maritime* at the time,¹⁰² the writer, after a trip to Zeeland to track down *fraudeurs anglais* who had abandoned Dunkirk, highlighted the case of Jean Holman, of English origin but naturalised French and born in Boulogne, clearly a major player in the smuggling business. Holman had bought up the entire stock of tea on sale at Middelbourg the previous year along with his Flushing partner, Stouard (Stuart?), and looked set to do the same again, wholesaling it to all the other émigré merchants. He and his family (father, brother and son-in-law, named Fox), who claimed to have accounted for more than one third of all commerce with *smoggeurs* in Dunkirk, had created a permanent establishment in Flushing ('They have acquired there property and buildings for more than 100,000 Dutch francs and are having superb warehouses built') with no prospect of returning to Dunkirk. Jean Holman himself was proprietor of 4 of the 30 English smuggling cutters (12-24 guns) which came to Flushing and had interests in almost all the others.¹⁰³ Clearly he was not purely a supplier to smugglers, but was prepared to invest substantial sums in shipping his goods illegally into Britain, and he found a way to make his investments pay even in wartime simply by moving base. The writer also named a number of less important English émigré merchants from Dunkirk, who

¹⁰¹ DK, 1S43, 1778, *Conditions sous lesquelles est tolérée la navigation des smoggeurs au port de Dunkerque*, pp.334-5.

¹⁰² Christian Pfister, 'L'assurance maritime à Dunkerque au XVIIIe siècle', *Revue du Nord*, 369.1, 2007, p. 52.

¹⁰³ 'Ils y ont acquis pour plus de 100 mille francs d'hollande de bien, immeubles, et font batir de superbe magasins,' ADN, C4624/1, f.189, letter to the Prince de Robecq, 27 October 1779.

made less investment in Flushing, Hayman, Penfold & Cie., Flory & Hunter, Richard Gilman and Robert Charnock and whom he did not expect to stay there - 'They have only rented properties ('*maisons de louage*')'. Similarly, there were a number of French merchants expected to return after peace was declared.

This all gave the authorities a big problem. 'The business that all these émigrés transact in Flushing is huge.'¹⁰⁴ No duties were payable on tea or Geneva, and only 3-4 Rix dollars on ship movements, making Flushing as much a free port as Dunkirk. As a result, 30 thousand pounds weight of tea and 22-23 thousand barrels of Geneva (each containing 64 French pints) had been leaving the port each week, which meant, according to the writer's estimates, that in the 18 months since the fears of the smugglers led the émigrés away, Dunkirk had lost the sale of nearly 2 million pounds of tea and 1.5 million barrels of Geneva. The only way to bring this trade back would have been to make the smugglers feel safe coming to Dunkirk (which they would have wanted to do, given that they could make two trips from there to one from Flushing). But clearly this was a fast-moving situation. In a further letter to the Prince de Robecq a week later, the same writer pointed out that the United Provinces had now put a duty on tea and subjected smugglers to '*certaines formalités*', and that the émigrés from Dunkirk were preparing to leave Flushing and set up in Ostend as soon as the Brussels authorities made a decision. The leading merchants there, Holman and Sottrelle (French) and Fox and Hayman (English) and others, had put in a

¹⁰⁴ Ibid., 'Le commerce que font à Flushing tous ces émigrés avec les fraudeurs est énorme,' Gross figures are 2.16 million lb of tea and 1.61 million barrels of geneva, but the writer recognises that 250,000 lb tea and 100,000 barrels of geneva and brandy would anyway have gone from there to Northern Britain.

request to the Austrian authorities, offering 200,000 It in guarantees, or more if required, to allow them to build warehouses in Ostend and operate smuggling from there.¹⁰⁵

Selling to the *smoggleurs* was clearly a major business in which the key merchants in the *entrepôts* had built up significant capital resources. They were keen to hold onto what had been built up and were prepared to make sizeable further investments in order to do so. Owning and running smuggling ships was a natural add-on to the otherwise legal activity of selling contraband goods to third parties, just as it made sense for merchants in the legal trade to own some of their own vessels. And as these merchants became wealthier, investing in profitable smuggling voyages was a logical destination for surplus profits, in the same way that privateering represented an opportunity for solvent merchants whose legal trade was being curtailed in wartime.

Guernsey

The merchants of Guernsey were similarly reliant on trade with smugglers into Britain. In their case, the focus of supportive local government officials (who were also local merchants) was on neutralising or keeping out the customs officials sent to enforce the laws of Britain.¹⁰⁶ A number were clearly active in organising and funding smuggling voyages. As early as 1725, a letter from de Saumarez, High Bailiff at the time, to the Duke of Newcastle provides a list of these smuggler-merchants ('seller & runner') and points out the extensive family connections between them and the powerful positions they occupied ('most of the

¹⁰⁵ ADN, C4624/1, f.193, letter to the Prince de Robecq, 4 November 1779.

¹⁰⁶ One example is the problems John Major experienced in trying to enforce customs legislation in Guernsey – including being liable to arrest if seizing goods and being imprisoned if unable to give security in lands or rents of the islands to the value of goods seized. See TNA, T1/499/192-239.

jurats being concerned in the running trade or their relation').¹⁰⁷ To be fair, the letter is rambling and shows signs of bitterness (the 'knavish brother' and his family, for instance, seem to owe the writer 'a great deal of money'), so may not be ideal evidence, but it does suggest the practice of selling to smugglers as well as involvement in the 'running' of goods was widespread. And this reality is confirmed in Sieur Fraize's memorandum, also from the first half of the century. Although most of the contraband was carried by English smugglers, who came from all along the coast in small, decked boats of 15-22 tons, the Guernsey merchants also had boats active in smuggling.¹⁰⁸

The practice seems to have continued, and in a detailed review of the problem in 1764, letters from the customs officials set out the scale of the problem. 'The inhabitants of Guernsey (especially in St. Peters Port) stile themselves merchts. & keep warehouses for vending to smuglers, wine, brandy, rum, geneva, tea, silks, handkerchiefs, cottons, callicoes, chints, linens &c.,' wrote the collector and comptroller of Customs in Southampton.¹⁰⁹ Goods were smuggled out mostly in cutters and open boats (the open boats chiefly from Cossen near Plymouth and Beere in the West Country). 'The merchants have some cutters of their own, wch. are constantly employed in the smuggling trade, either on their own accot. or by the merchts. in England. Their freight are always paid before they sail.'¹¹⁰

¹⁰⁷ TNA, SP 35/59/4. The list includes Peter Caryee, Charles & Elias Mauger, Peter Coutard (also advocate of the Royal Court), Henry Brock, Nicholas Breton, Abraham Mesurez, Michael and John Falla and Nicholas de Saumarez ('my knavish brother').

¹⁰⁸ CUL, Ch(H) 41/30, undated, *mémoire des fraudes* by Sieur Fraize, resident of Guernsey.

¹⁰⁹ BL, Add MS 36220, f. 47, briefing papers for the Lords Committee, 1766.

¹¹⁰ *Ibid.*, f. 49.

At this point the strong suggestion is that payment was up front to avoid any risk of bad debts, although there were instances of credit being given for small amounts for short periods. Nicholas Hixon in his 1749 statement stated that at a landing near Newport in the Isle of Wight he took delivery of eight half anchors of brandy and four of rum and sold them on to one Philip Read for about £15 ‘and he the said Philip paid this dep’t the said sum for the same at the sign of the Christopher at West Cowes about a fortnight after his so buying the same.’¹¹¹ However, a merchant in Guernsey selling contraband goods to a smuggler in Britain would normally have had no recourse to the law for enforcing payment of a debt owed, and could rely only on trust and the need to preserve one’s reputation. The presence of a strong local agent could reduce the risk, as could a letter of credit from a more reputable issuer, but ultimately the only safe way to transact smuggling business was for cash.

One of the Guernsey merchants who seems to have been prepared to sell on credit was William Le Marchant, also bailiff from 1771 to 1800, and he was tried for smuggling in Britain in 1770.¹¹² He had been sending goods to smugglers in Devon and Cornwall, but by 1768 was struggling to get paid, so sent John Channan, apprenticed in 1759 and partner since 1767, to chase up the unpaid invoices and remit the proceeds to Le Marchant’s bankers in London, Anthony Bacon & Richardson or John le Gross. At the same time, Channan was to carry on selling contraband goods (tea and spirits) sent over by Le Marchant in return for one third of the profits. However, seven of the debtors turned on Channan in 1769 and ‘joined in an affidavit, charging the said Channan with running into this Kingdom a

¹¹¹ WSRO, Goodwood MSS 154, Statement of Nicholas Hixon, 8 April 1749.

¹¹² For this whole episode, see TNA, T1/489/118-142, Report of Commissioners of Excise on memorial of William Le Marchant, 29 June 1772. I have not been able to track down the actual trial records.

large quantity of tea & foreign spirits', and he was arrested. He was tried in April 1770 and 'a verdict given for the Crown for £10,000 and upwards' although the judgement was not finalised until a few days later. Meanwhile, Le Marchant 'sued out a commission of bankruptcy against the said John Channan' and John Channan, perhaps in revenge at finding no support from his partner, 'gave information... charging him [Le Marchant] with aiding and assisting in running and importing into this Kingdom 20,000 pounds weight of tea and 8,000 gallons of spirituous liquors'. Key to Channan's case were incriminating letters from Le Marchant he had kept, and copies of these were sent to the Lord Chief Baron of the Exchequer and were obviously considered sufficiently material to lead to his arrest. However, Le Marchant managed to get Channan's bankruptcy established with himself as sole assignee so that he could take back the letters thus undermining the prosecution case in his own trial. In the end Le Marchant received a fine of '£150 single value which by law subjects the petitioner to the penalty of £450' instead of the £42,000 fine originally sought.

Only the copies of the letters survive, but they make it very clear that Le Marchant and Channan were actively smuggling goods into Southern England. Regretting the loss of a load worth £800, Le Marchant says that 'there is still 34 chests remaining that when the coast is clear could wish you could get orders from them from good men'. In a hurry to dispose of goods on hand, as he is concerned that Major will be registered, thus restricting the possibilities of smuggling from Guernsey, he writes 'but for fear he will be sworn could wish the lugger had come one voyage more if you find it could be done with safety.' Similarly: 'I think you might venter to send some good boat with a clever man to take about 5 chests of

black and all our green with liquors that remain', and 'send for what tea you can while he [Major] is away.'¹¹³

Apart from Le Marchant's impressive legal fleet-footedness, this episode gives a good insight into the extent to which active smuggling was undertaken by merchants otherwise limiting their activities to supplying the goods in the *entrepôts*. Le Marchant and Channan seem to have been carrying on a smuggling trade as if it was entirely licit, borrowing from their London bankers to purchase merchandise for smuggling, arranging for it to be shipped over to Devon and Cornwall and soliciting orders there (on as short credit as possible – Le Marchant was under financial pressure at the time), with payment back to their London bankers to complete the financial circle.¹¹⁴ Le Marchant's mistake was to allow the smugglers in England to purchase on credit, a major departure from the normal practice of payment in cash by smugglers on receipt of goods. It is possible that by the 1770s credit was becoming more common, but this would have left them with no recourse should the smugglers decide to withhold payment. Instead, as in Le Marchant's and Channan's case, his creditors took the opportunity to use this weakness against them and bring the law on them by accusing them of smuggling.

Another Guernsey merchant, active towards the end of the eighteenth century, when smuggling based in Guernsey boomed, was Carteret Priaulx and Company, taking full advantage of the fact that effective prevention measures against smuggling on the island

¹¹³ TNA, T1/489/122, letter of 6 April 1769; T1/499/234, letter of 31 January 1769. See note 105 above for the reference to Major.

¹¹⁴ 'I have already drawn on Mr Bacon £1900, more than you have remitted, and that must draw on him this week about £1000 as I am plagued to death by Mr De Casteret, Jupper & Lukis for teas and brandies bought of them', TNA, T1/489/121, letter of 2 March 1769.

were not put in place until 1805-7.¹¹⁵ Carteret Priault sold contraband through agents in Britain, outsourcing the transport (few smuggling vessels were owned by Guernsey merchants, and most crews were English). Although the presence of family members seems to have been frequent, the principal agents were Lawrence Banks in Wales and James Randle Jr. in Cornwall (although it seems that Zephaniah Job of Polperro was an agent in Cornwall also),¹¹⁶ who 'dealt with the dealers and recipients of the cargoes... arranged landings, making the necessary precautions, collected the money which they remitted to Brock and Le Mesurier, who were the firm's chief London Banking House throughout the period.'¹¹⁷ Like Le Marchant, there was selling on credit, which caused a problem at times, particularly in the lead up to the 1805 Smuggling Act when debtors delayed, half expecting Carteret Priault to withdraw from the business. As Randle writes, 'They are more backward in paying in consequence of being in expectation of the business of the island going to be stopped and we are determined we shall not have any more goods without the pay as we know it do not meet your approbation.'¹¹⁸ That said, the use of strong agents such as Zephaniah Job, who was an influential figure in Cornish society, will have mitigated the risk somewhat. After 1807, smuggling activity by Carteret Priault reduced significantly, if not entirely, given that Carteret and his brother Thomas were both in official positions in Guernsey after the acts against smuggling were finally registered there.¹¹⁹

¹¹⁵ After long resistance by the Guernsey authorities, 'These regulations meant that any vessel with contraband aboard coming out of one of the Channel Islands Ports could be seized.' White, 'The Carteret Priault Papers', p. 453.

¹¹⁶ Jamieson, *A People of the Sea*, p. 211. Wilcox expresses surprise 'that a successful man of business such as Job should have been so heavily involved in smuggling. However, aside from its illegality, smuggling was much like any other branch of trade, and it demanded the same skills, in terms of organisation, book-keeping and commercial judgement.' Martin Wilcox, 'Maritime Business in Eighteenth-Century Cornwall, Zephaniah Job of Polperro', *Trove, the National Maritime Museum of Cornwall*, 2.2, 2010, pp. 3-14.

¹¹⁷ White, 'The Carteret Priault Papers', p. 454.

¹¹⁸ *Ibid.*, p. 464.

¹¹⁹ *Ibid.*, p. 466.

Smuggler-entrepreneurs on the English coast

Apart from the few examples of merchants in Britain's ports and in the *entrepôts*, the majority of full-time smugglers would seem to have been ship owners based in the principal ports along England's coast who carried in the contraband, or gang leaders on shore who received and distributed the merchandise. But whereas with the French textile smugglers we have been able to provide a degree of clarity on how they operated, it is not the case to the same extent for this category. One group of ship owning entrepreneurs is French smugglers arriving on the coast of England, often backed by merchants in their ports of origin. In 1719-20 there were a number of incidents reported of violence against riding officers and Customs House boats, where the informants were able to identify not only the name of the boat and its master but, in instances, where crew members had been taken for questioning, the underlying merchant involved in the operation. 'One of the aforesaid French sloops in[sic] comanded by Fredrick Gilbert of Callais, and belong to Monsr. Gilbert, a merchant in Callais. The other sloop is comanded by Capt. Rova and belongs to Monsr. Cammu merchant in Callais.'¹²⁰

A few years later, in April 1724, the case of the altogether more substantial French smuggler William Slingerland came to light. He was the owner of the *St. Guillaume* of Calais and had 253 anchors of brandy seized at Cowes by Captain Pigram (out of Rye), and he was successfully prosecuted in Britain for smuggling brandy in the Court of Exchequer with a

¹²⁰ TNA, SP 35/21, f. 135. See also TNA, SP 35/19, ff. 1-9, letter to James Craggs, Secretary of State, 2 December 1719 and SP 35/21, ff.129-136, letter to Craggs, 20 May 1720.

judgement obtained in Trinity term 1723. A prosecution for a further 2,400 gallons of smuggled brandy in previous years was then started, but this seemed unable to proceed because of difficulties in securing bail and Slingerland was left in limbo, in the Poultry Compter with no funds, maintaining that the ship was on its way to Lisbon and only blown into the Isle of Wight by adverse weather and damage to the rigging. The government came under pressure from the French authorities to release Slingerland, and seemed inclined to grant a *noli prosequi*, 'provided the same might be done without any manifest inconvenience to His Ma.ties service or to the parties concerned in the prosecution.' The response of the Customs to the Duke of Newcastle was quite clear:

Our solicitor has also certified that Slingerland is an old smugler and has run great quantitys of brandy and other goods having been concerned in that business many years as captain or merchant of a French vessell that he has often appeared on the coast well-armed and that since he has been confined there has been very little brandy run on the coast of Kent & Sussex by any Frenchmen.

They urged Newcastle not to give into French pressure because of the beneficial effect that would have on other French smugglers, and that 'putting a stop to this prosecution will be attended with ill consequences to the hazard of the Revenue and the prejudice of the fair traders, by encouraging French and other smuglers to infest the coast and insult the officers more than ever.'¹²¹ This exchange suggests that at least at this stage, in the 1720s and before the growth in tea smuggling in particular, relatively few smugglers, whether French or not, were active even in the areas of the country known for higher volumes of smuggling, and that determined intervention by greater numbers of revenue officers like Captain

¹²¹ TNA, SP 35/49, ff.30-32, Commissioners of Customs to Newcastle, 17 April 1724; SP 35/48, f.159, affidavit of William Slingerland, 28 February 1724. Whether Slingerland was actually a French national is unclear, but the French authorities were very ready make official representations on his behalf.

Pigram, whose name crops up regularly in correspondence, could have made a significant dent in the smuggling trade.

Although there is less evidence of French smugglers running goods into Britain as the century advanced, it does not stop entirely. The Dunkirk merchant, Stival, was one of those who in 1779 joined the foreign merchants emigrating northwards to protect his smuggling business.¹²² A few years before, a French smuggling boat, *La Bonne Intention*, 'that Messrs Stival of Dunkirk claim to have rented and loaded with goods' was seized with a cargo of forbidden East Indies goods packaged in old sugar barrels, many marked with the initials of Pierre Bromfield of the *Compagnie des Indes* who was also on board, just off Dungeness. The captain, Henri George, was a British subject resident in Dunkirk and known to be a long-time smuggler. Stival maintained that the goods were actually headed for La Rochelle from where they would go on to the American islands, and that the boat also stopped at Boulogne to pick up some barrels of wine for Cowes in the Isle of Wight. According to him, the seized goods were being kept 'in a very bad state, all the barrels and chests having been smashed and broken open' and he was claiming through the French courts for the release of the ship, his cargo and damages for losses.¹²³

A number of incidents were recorded along the coasts of Kent and East Sussex involving 'seaside entrepreneurs', and we are fortunate to have a window onto the difficulties of reconciling upholding the law with the concerns of the local population in the letters of John

¹²² ADN, C4624/1, f. 189, letter to Prince de Robecq, 27 October 1779.

¹²³ 'que les Sieurs Stival de Donquerque pretendent avoir nolisé et chargé de marchandises,' TNA, SP 78/300, ff. 483-4, Weymouth to Marquis de Noailles; 'en très mauvais état, toutes ses futailles et caisses ayant été brisées ou défoncées,' TNA, SP 78/300, ff.300-1, Complaint of Messrs. Stival of Dunkirk.

Collier, at various times mayor of Hastings, solicitor for the Cinque Ports, Surveyor General of the Customs for Kent and local agent for the Duke of Newcastle. His correspondence shows him discussing a number of smuggling issues and the difficulties in prosecuting local people, for example the discharge of Thomas Darby of Wadhurst by the Mayor of Winchelsea ('he had taken care that Darby should be cleared, that he had opened the eyes of the Winchelsea justices').¹²⁴ Darby, the organiser and, apparently, funder of the operation, had paid Philip Gawan 30 guineas to take him to Flushing and return with 160 bags of tea under a false bill of lading for Lisbon. The plan was for the tea to be landed between Rye and Pevensey, and for Darby to be landed first so he could organise a smuggling gang to collect the goods, but the boat was accosted in Rye Bay before this could happen.¹²⁵

This incident highlights the interface between the sea carrier of contraband and the land-based gangs to receive and distribute it and shows one of the ways in which the landing and distribution of contraband goods could be arranged. Although gangs, probably made up of tradesmen and farm labourers, with horses obtained locally, were not necessarily fully formed and waiting, it implies that they were readily available, although there may have been some prior arrangement, based on approximate timing. Whether this reliance on relatively *ad hoc* arrangements is a normal pattern is hard to say, as there is little further evidence of the communications between sea-going smugglers and the land-based gangs. It is likely that the larger named gangs (such as the Hawkhurst Gang) were responsible for arranging smuggling trips and collecting in advance the sums required to purchase the

¹²⁴ ESRO, SAY 273, 8 October 1734.

¹²⁵ ESRO, SAY 271, 22 July 1734.

goods, with the shipper contracted to carry the goods. Richard Perrin, a former carpenter, who had given up his profession after losing the use of his right hand from the 'palsey' and become a smuggler, 'was esteemed a very honest Man as to every other Affair of Life, and was therefore often entrusted by others to go over the Water to buy Goods for them, and for himself too he traded in that Way for Brandy and Tea.' It was he that purchased the goods that were seized and stored in the Poole customs house in the incident that led to the infamous case of the murders of Chater and Galley.¹²⁶ The Second Report of 1784 records, specifically in relation to Scotland, 'that the price of those goods.... is commonly paid to the master of the vessel, or supracargo, in specie,' although it does not specify who initiated the transaction.¹²⁷ It is likely that both the shore-based gangs and the carriers, whether on their own account, as in the case of Grayling (see below), or on behalf of the merchants operating from the *entrepôts*, were initiators of smuggling trades.

There were a number of members of the port communities around the coast of Britain who funded smuggling ventures, many of them well-known to the authorities. The Customs archives provide several examples across the eighteenth century. John Whitefield (see above) was one. And Joseph Wilson of Deal is accused in 1784 of misusing permits to transport brandy from other parts of the country to cover for brandy smuggled in without paying duty. Despite the 'improbability of this man living at Deal receiving all this quantity of

¹²⁶ 'A Set of Smugglers had agreed to send for a Cargo of Brandy, Rum and Tea, and Perin was the Man pitch'd upon to be intrusted to fetch and bring it, in a Vessel call'd the Three Brothers.' OBPO, *Ordinary of Newgate's Account*, April 1749 (OA17490426).

¹²⁷ *The second report from the committee appointed to enquire into the illicit practices used in defrauding the revenue*, 1 March 1784, pp. 3-4.

liquors from these different parts of the country and taking it into his stock there,' the jury found for the defendant.¹²⁸

One of the better examples is that of John Grayling of Hastings, shipowner, smuggler and seemingly a person of some standing in the local community. Grayling, along with John Taught, John Bird, Thomas Holman, William Harman (a freeholder) and Nicholas Harman, were accused of violently attacking an officer of the customs while engaged in smuggling, for which they were convicted for transportation at the Sussex Assizes in Winter 1737/8.¹²⁹ At least one of these individuals must have enjoyed some local esteem, as the Deputy Mayor, Jurats and Freemen (together with the Freeholders and other inhabitants) of their home town of Hastings, while acknowledging the correctness of the conviction, petitioned the Duke of Newcastle at the time to pardon the 'unhappy criminals', 'and that they would be glad to enter themselves on board one of any of His Majesty's ships of war, and promise to behave with the utmost duty, fidelity and regard (for the future) to all His Majesty's laws.'¹³⁰ The petition was not successful and they were transported, but 'meeting with innumerable uncommon hardships, they found means to return to Europe in hopes of getting pardon for their offence,' were scared off by the penalties for having returned early

¹²⁸ TNA, CUST 103/3, pp. 162-202, excise cases, Attorney General versus Joseph Wilson, 10 July 1784.

¹²⁹ TNA, CUST 41/42, King v Grayling, Taught etc.; TNA, ASSI 94/625. It is possible that these individuals were associated with the Hastings Outlaws who worked with the Hawkhurst gang with their Jacobite connections and 'dominated the seaborne contraband trade between Boulogne and the English coast,' as described by Monod, but given Collier's involvement in urging Grayling to be freed this seems unlikely. See Paul Monod, 'Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690-1760', *Journal of British Studies*, 30.2, 1991, pp. 150-82, p.167.

¹³⁰ TNA, SP 36/149/99. The signatories include an Edward Grayling and no fewer than three members of the Taught family. The petition was not shy about pointing out that William Harman as a freeholder had voted for the Duke's interest, as had many others locally.

from transportation and settled in Boulogne.¹³¹ From there they carried on smuggling onto the Sussex coast.¹³²

In June 1744, they again attempted to return, this time relying on a Royal proclamation 'to encourage smuglers to return to their King and country' after the start of the War of the Austrian Succession, but after dropping family and belongings in Hastings, and learning that it was doubtful the proclamation applied to those who had behaved violently towards customs officers, they set off back to France pending clarification of the position. On the way back, their ship, called the *Endeavour*, or the *Good Endeavour* or *Le Bon Retour*, was taken by a privateer, and while the other five managed to leave the ship and disappeared, Grayling stayed on board and was subsequently imprisoned in Newgate and 'prosecuted by the Sollicitor of His Majesty's Customs for returning from transportation before the time limited by his sentence.'¹³³ The ship was seized because of money on board, but there also seem to have been arms and a particularly incriminating French official pass, dated 30 April, one month after war was declared, allowing Grayling and the ship to leave Boulogne and 'go to England laden with brandy and tea.'¹³⁴ Grayling was part owner of the ship, which was condemned as a prize in August 1744.¹³⁵ A further petition for a royal pardon on behalf of all six, and supported by a number of Hastings individuals including John Collier, mentioned above, was dated 22 June 1744. Collier and his associates worked hard for them and

¹³¹ TNA, SP 36/64/142, petition of Grayling *et al* to the Duke of Newcastle, 22 June 1744.

¹³² TNA, HCA 32/108/15, The Good Endeavour or Bon Retour, CP6, statement of William How of Dover who 'hath known the said John Grayling the master of the said vessel about seven years and that the said Grayling hath lived and resided at Boulogne in France and used smuggling all that time from Boulogne to Dungeness and the coasts of Kent and Sussex.'

¹³³ TNA, SP 36/150/73, Petition of John Grayling, undated (1744).

¹³⁴ TNA, HCA 32/108/15, CP13, Translation of a French pass taken on board the ship called the Endeavour.

¹³⁵ Ibid., CP9.

although this direct approach may not have been successful, Grayling was believed to have eventually been recruited directly into the Navy.¹³⁶

However, this may not have actually been the way things turned out. In another incident, Grayling was present on board when the *Royal Ranger* was seized in January 1745 suspected as being French with parcels of money on board. Grayling denied all involvement, and indeed could prove that he was not one of the seven owners (even though three of the seven were his co-owners in the *Endeavour*), but it seems to have been on the same Boulogne smuggling run as the *Endeavour*. There were even Frenchmen held prisoner in Dover castle who when interrogated recognised the vessel, have seen it in Boulogne picking up tea and brandy, and referred to it as 'Grayling's cutter'.¹³⁷ It is clearly possible that these witnesses were coached in what to say, but if that is the case it shows a strong desire, presumably with good reason, to pin something on a well-known smuggler. In June the next year, the *Endeavour*, possibly a different vessel, possibly the same if Grayling and his associates bought it back after it was condemned, still part-owned by Grayling (now reportedly resident in Hastings with his wife and family) as well as a new associate, Thomas Bourner, another Hastings man, was taken again by the same privateer. This time captained by John Scott, the *Endeavour* had money on board on its way to Boulogne to pick up brandy and tea for running onto the coast of England.¹³⁸ It was condemned on 5 September 1745. Grayling was still active as the master of an 'armed cutter' in a 1747 report of three suspicious people being dropped near Cuckmere by him.¹³⁹ Although the *Endeavour* was of

¹³⁶ Richard Saville, *The Letters of John Collier 1731-1746*, Sussex Record Society, 2016, Introduction, p. xl.

¹³⁷ TNA, HCA 32/148/24, Royal Ranger of Hastings.

¹³⁸ TNA, HCA 32/109/8, The *Endeavour*.

¹³⁹ TNA, SP 36/93/2/76, Harrison to Newcastle, 24 January 1746/7, refers to '(ye notorious smugler Grayling, Mas.) from Bologne whence they sailed last night.'

modest size (27-30 tons with a crew of 6) and he clearly spread the risk of ownership widely among a group of associates like all cautious merchants at the time, Grayling must have been a person of some substance.¹⁴⁰

Grayling seems to have operated as a carrier of contraband as a service to local merchants, as well as being a smuggling entrepreneur in his own right. The inventory of money found on board the *Royal Ranger* described nine bags or parcels totalling £171 7s 3d. The first two ('both these without tickets') contained the bulk of the total (£127 16s 0d) in a mixture of gold and silver. But the rest of the bags contain precisely counted amounts for specified orders of contraband ('for 12lb of Green Tea', '2 cask of brandy and one dozen of cards' etc.), together in some cases with allowances for bags and freight, referring to an individual ('for Isaac', 'for John Grouse' etc.) and with a merchant's mark. In this case the privateer believed that much more money was taken off before the ship was seized ('a cargo quantity of money was got off and put on three horses and carried away' according to one witness), so the proportions between unmarked and marked cash may be misleading, but they do suggest that at least some of the cash that was found on board when the ships with which Grayling was associated were seized was provided by local merchants.

The bulk of the purchases abroad for British and Irish consumption seem to have been for cash (at least until the later part of the eighteenth century, as the Guernsey examples above show) at the cost of large quantities of money being shipped out of the country. Greenhow

¹⁴⁰ During the next war, a John Grayling of Hastings, mariner, is active as a privateer. On 20 July 1756 he is granted a letter of marque for the *Hawk*, of 56 tons and a crew of 25, as co-owner and commander, and again on 11 February 1758 for the *Lyon* of 70 tons and a crew of 50. It is unclear if this is the same person, but if so, funding privateers would be a logical extension of his activities. See TNA, HCA 26/5/96, letter of marque for the *Hawk* and HCA, 26/9/24, letter of marque for the *Lyon*.

comments on the issue in 1746 when he remarks that 'an account how much ready money is carried an'ually to the three towns of Dunkerke, Boulogne and Callais, the sums to each town distinguished with an account how much the French India trade is encreased by means of this trade...'¹⁴¹ The Dunkirk chamber of commerce confirms this when assessing the benefits of smuggling into Britain in 1754, pointing out that less than half the exports are offset by imports of tobacco and other goods with the balance being paid in guineas 'from which our provinces get richer.'¹⁴² Britain's 1783 Commons report confirms the outflow is still a problem.¹⁴³ There was one commodity, wool, for which there had long been a market in France, and which had for centuries been smuggled out of Britain and Ireland, and illegal exports of wool were carried as barter by ships going over to the *entrepôts* or other continental ports to purchase in-bound contraband throughout the eighteenth century.¹⁴⁴ This clearly reduced the requirement for cash in certain cases, but was far from being a complete substitute. But it would also have increased the profitability of any one voyage by providing the opportunity to enhance profits by carrying goods to France instead of ballast.¹⁴⁵ In the first part of the century, perhaps because this was a time when smuggling volumes were lower, it seems to have been possible to match the values of the wool sold and the contraband bought in straightforward barter transactions. Johanna Riches of Deal in 1708 was swindled by a Frenchman using the name of John Clarke who offered to send 50

¹⁴¹ TNA, SP 36/92/2 f.54-5, information of Mr. Greenhow, 1746.

¹⁴² 'dont nos provinces s'enrichissent,' DK, 1S10, 1754.

¹⁴³ See *The first report from the committee appointed to enquire into the illicit practices used in defrauding the revenue*, 24 December 1783, p. 7: 'the national interests suffer most essentially in many points of view, exclusive of the great loss of revenue – this immense trade being supported almost solely by the export of the bullion and specie of the kingdom, or by bills of exchange...'

¹⁴⁴ *The Letter to a Noble Lord*, p. 21 gives some idea of the scale of wool exports: in a six-month period to March 1755, the writer lists 449 packs of combed wool and 306 packs of fleece wool to Boulogne alone, and claims the French are 'willing to allow 100 per cent profit'.

¹⁴⁵ See above and *The Political economy of Wool 1660-1824* in Julian Hoppit, *Britain's Political Economies: Parliament and Economic Life, 1660-1800*, Cambridge, 2017, p. 244.

shillings of wool to France in return for £4 worth of brandy,¹⁴⁶ and, in 1712, the Mayor and Jurats of Rye write that Thomas Swift and John Russell, both fishermen, went on board a French sloop with two packs of wool and came off with 'twenty half ankers of brandy & wine.'¹⁴⁷ Later on in the century, however, the emphasis is on wool being used as part only of the purchase currency, if at all. In the report of the 1745 Commons committee, there are several references to the mix of cash and wool: Stephen Theodore Jansen, merchant and subsequently MP and Lord Mayor of London, as a witness said 'that the smugglers purchase their goods with wool and money, carried from hence.'¹⁴⁸ Robert Hanning confirms that 'he has always been paid in specie, except once, when he had a small quantity of wool in exchange, and that the other dealers in the ports of Flushing and Dunkirk are usually paid in specie for the goods they sell.'¹⁴⁹ In a series of 1764 reports on the Isle of Man, Lutwidge describes the Isle of Man as an *entrepôt* outwards for wool as well as inwards for tea and brandy. He 'believes great quantities of wool are carried of[f] by the said boats (after running their cargoes into Britain) to the Isle of Man, from whence it is carried to France by vessels which bring brandy tea &c to the Isle.'¹⁵⁰ By the 1780s, when the problem of wool being smuggled out of Britain had clearly not lessened, in yet another enquiry, the witness John Sharpe is asked if he knows 'how the vessels carrying wool to France are usually freighted on their return to England', he replies simply 'with spirits, tobacco, &c.'¹⁵¹ Clearly

¹⁴⁶ TNA, SP 34/9 f.71, affidavit of Johanna Riches, 9 January 1708.

¹⁴⁷ TNA, SP 34/19 f.23, letter from Rye, 12 July 1712.

¹⁴⁸ *Journals of the House of Commons*, p. 102.

¹⁴⁹ *Further report from the committee appointed to enquire into the causes of smuggling*, 23 June 1746, reproduced in Janssen, *Smuggling laid open*, p. 75.

¹⁵⁰ BL, Add MS 38462, f. 212, 'Extracts of several reports &c relating to the Isle of Man and smuggling carried on there.'

¹⁵¹ *Report from the Committee appointed to consider the several laws now in being for preventing the exportation of live sheep and lambs, wool, wool fells..., 1788*, House of Commons Sessional Papers of the Eighteenth Century (1715-1800), 62, UK Parliamentary Papers online (<https://parlipapers.proquest.com/parlipapers/docview/t70.d75.hcsp-001397?accountid=14511>).

carrying wool out and contraband back was an occasional, if not systematic occurrence through the eighteenth century, although it is unclear whether this way of doing business was carefully thought out or undertaken more opportunistically. Either way, the need for large quantities of cash evidently remained.

There is evidence of cooperative funding of smuggling voyages, examples being George Potter and Richard Perrin, as mentioned above, both in 1747, entrusted to buy for members of the gang.¹⁵² But apart from this, assuming it is right that the merchants in the principal commercial centres were buyers of goods rather than active investors in smuggling as a business venture, this cash must have come from local merchants and other entrepreneurs along the coast, or from abroad. Given the shortage of domestic coin in eighteenth-century Britain, the cash would also have been made up of a variety of different coins, based on what was available.¹⁵³ Much of this was Portuguese money. The High Court of Admiralty archives record seizures by privateers, and some contain detailed information on their contents. In 1744, John Arnold, quartermaster of a privateer, said in his deposition that about fifty three pounds and eight shillings was found on board the said vessel... and that the same was all English coin except two pieces of Portugal gold coin of the value of thirty-six shillings and one *moidore*.¹⁵⁴ In the case of the Royal Ranger of Hastings, described

¹⁵² Samuel Salmon gave £8.14s to one George Potter for his share in a smuggling venture. He was told to come back in 10 days, but it was more like a month before he received his share of smuggled goods, which he was responsible for selling on. See OBPO September 1751, trial of Edward Brook, otherwise Brooks, John Carbald, otherwise Cabbolt, otherwise Cabolt (t17510911-47). For Richard Perrin, see OBPO, *Ordinary of Newgate's Account*, April 1749 (OA17490426).

¹⁵³ The results of the recoinage in 1696-7 meant that large quantities of coins were sold abroad as bullion, resulting in an acute shortage in the eighteenth century. See John Styles, “Our Traitorous money makers”: the Yorkshire coiners and the law, 1760-83’, in John Brewer and John Styles, Eds., *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries*, London, 1980.

¹⁵⁴ TNA, HCA 32/94/5, CP8. ‘Portugal gold coin’ or ‘Ports gold’ is assumed to refer to gold from South America which came into the ports of southern Britain in significant quantities in payment for British exports to Portugal which far exceeded imports. See C. R. Boxer, ‘Brazilian Gold and British Traders in the First Half of the

above, the detailed inventory of cash describes, in addition to the seven bags with precise amounts, one bag containing some silver, $61\frac{1}{2}$ guineas and £16 4s of 'Ports gold' to a total value of £107 16/6.¹⁵⁵ It was possible to access resources in cash at this juncture, but already Portuguese coins formed a regular part of the currency.

Conclusion

The best sources of information on who organised and financed smuggling activity remain the various legal cases dealing with smugglers being caught with chargeable offences, or inquiries of one sort or another for official purposes. The former usually focused on the foot soldiers of the smuggling operations, and the documentation that remains only occasionally reveals the involvement of better-off individuals or those of a higher class. The inquiries can be more revealing (the reports to the House of Commons in Britain, or reports by farmers general or other officials in France) but are limited in extent. As a result, conclusions are necessarily tentative rather than providing definitive answers to the questions posed. Nevertheless, although it is clear that involvement in smuggling was widespread across the classes, the reputable, international-scale merchants seem rarely to have been active in specifically organising and financing the trade, even if they might have been prepared to deal in contraband goods. One major exception was the tobacco frauds in areas such as false weights, forged documentation, bribery and drawback calculation (as opposed to the re-landing of tobacco products) perpetrated in the main ports of Britain, for which a greater quantity of evidence exists, and which must have required the involvement or agreement of

'Eighteenth Century', *The Hispanic American Historical Review*, 49.3, 1969, pp. 454-472. The *moidore* is described in the Oxford English Dictionary as 'a Portuguese gold coin current in England and its colonies in the first half of the 18th cent., then worth about 27 shillings'.

¹⁵⁵ TNA, HCA 32/94/5, CP37.

the importing merchant. However, because they did not require physical carriage of contraband goods across a customs line, these frauds constituted a somewhat separate category of crime. Re-landed tobacco by contrast was frequently carried with tea, brandy and other contraband.

Overall, the range of contraband products, the variety of routes and the differences in volume and carriage between a *colporteur*'s load of salt crossing the Meuse and a shipload of tea crossing the North Sea make it hard to draw generalised conclusions as to how smuggling in the eighteenth century was organised and who was behind it. The most complete picture we have of a business model for smuggling operations is that of the textile merchants between Bar-le-Duc and Paris in the 1740s. Paris-based merchants placed orders with merchants either in Liège or other centres of the trade for delivery via Bar-le-Duc, or with merchants in Bar direct, with the latter responsible for arranging carriage of the goods across the customs line and the former responsible for the transfer into Paris. Each party was specialised in his own area of responsibility and made it his business to have the contacts he needed in the smuggler community and, at times, the preventative forces. With the Paris merchants being former smugglers and the Bar merchants similar to opportunists in any *entrepôt*, none of these parties belonged to a highly respected merchant class, with the exception perhaps of the supplier outside France. The logistics of the operations were assisted by members of the public (from nobles to gardeners) and the funding by Paris bankers and agents in Bar.

The example of the textile smugglers seems however not to be representative of smuggling organisations more widely, with much of the commodity contraband trade in both England

and France less clearly structured, even if many of the same elements are in place. As we have seen, much of the smuggling was done to order, with the merchants' individual packets of money found on *the Royal Ranger* in Hastings, for example, or the Paris end of the textile smuggling trade, or Carteret Priaulx' use of agents on the British mainland, but many seaside entrepreneurs (merchants or shipowners) or *entrepôt* merchants sending tea, tobacco, salt or spirits illegally across customs borders are likely to have also been supplying the goods speculatively into markets hungry for low-priced goods. Many would then have agents or other contacts to arrange distribution and receipt of funds. What is also unclear in most cases is how the link between shipper and distributor worked. In the case of the French textile smugglers, there were established gangs contracted to carry the goods by the merchant to a specific location or customer's premises. But in the handover of goods from ship to shore-based gang in Southern Britain, for example, the relationship is less clear-cut. Who owned the customer? Was it Grayling, some of whose goods were destined for the local market and covered by specific orders, or a gang responsible for onward distribution? Did he sell his goods to the gang, for them to sell on to their customers, or did he pay the gang to carry the goods? These are questions that can be answered on a case by case basis, but it is not possible to generalise from the evidence available.

William Le Marchant was another example of a smuggler relying on orders for shipping contraband goods out of Guernsey, as shown in his correspondence to Channan where he is urging his associate to find buyers for his remaining stocks. In one case he mentions that funds are due on certain goods, so as a reputable local merchant, he also had access to credit facilities, although with questionable security when it came to sales of contraband goods. As Price in his short essay on merchants makes clear, trade credit was an essential

component of merchanting activity, and enabled it to grow in the absence of substantial capital resources.¹⁵⁶ What the credit markets required was a high level of trust, often based on family relationships or long association and backed up, where possible, by the legal system, rather than the security of the underlying products. The use of credit in the French example may have worked because of the involvement of a number of so-called merchants who knew and trusted each other, even if the underlying activity was illegal. By contrast, William Le Marchant and his associate Channan may have been selling to strangers and were consequently highly exposed. The Nisbets would also have used credit facilities extensively in their international legal trading relationships - indeed it is an inability to make payments which bankrupted them - and may have been able to cover contraband goods through this route, given the way 'smuggling and business were inextricably interwoven'.¹⁵⁷ It is clear, however, that for most smuggling transactions, cash was the preferred currency, and it seems that, despite recurrent shortages, cash was available, at least across the south coast, as the example of Grayling shows, even if there was a degree of reliance on foreign coin. This split between cash and credit created something of a dividing line in promoters of smuggling businesses between merchants, even if small, regionally based like Le Marchant or Hanning and only marginally accepted like the Paris based textile smugglers, and the carriers or distributors of goods like Grayling and the *faux-saulniers* of northern France. That said, this line was not necessarily fixed, Hanning's promotion from small-time smuggler in Britain to Dunkirk merchant being a good illustration, and many merchants combined legal trade with smuggling.

¹⁵⁶ Jacob M. Price, 'What Did Merchants Do? Reflections on British Overseas Trade, 1660–1790', *The Journal of Economic History*, 49.2, 1989, pp. 267–84.

¹⁵⁷ Janes, 'The Business of Smuggling', p. 77.

Much of the funding of smuggling in the early part of the eighteenth century, when the activity remained relatively small-scale, was probably modest, with much shorter inventory cycles, for instance, than the trans-Atlantic or India trades, even if it would be wrong to underestimate the organisation required to coordinate large gangs. The volumes of product smuggled and the levels of sophistication certainly increased in the second half of the century - Rathier's successful operations in the 1770s and 1780s look significantly larger than those of Mordillac and de Novance 40 years earlier, and Holman's operations in 1779 look more substantial than those of Grayling or Hanning in the 1740s - even as smaller shipments continued to exist alongside. These larger shipments would have required a greater level of investment in transport infrastructure and working capital per shipment, but it is by no means clear that this required a big change in business model. It is also noticeable that in the vast majority of cases smuggling was a specialised activity. Of my examples, the exception is Nisbet of Eyemouth, who for many years successfully combined legal and illicit trade. This would be explained by the fact that smuggling across the North Sea onto the East coast of Scotland required larger, more seaworthy ships unable to enter small coves or beach on shingle banks such as those of Deal and Hastings. There are likely to have been other similar cases, particularly in the smaller, more remote outports facing the North Sea, but these regions were far from the main concentrations of preventative forces and probably accounted for relatively lower volumes of smuggled goods.

5 – Risks and responses

Introduction

Management of risk is essential to the smooth operation and future prospects of any business. Concepts of risk were already clearly understood by the eighteenth century, the best example perhaps being the tables of life expectancy which enabled the government in England to sell life annuities to raise finance. As Bernstein puts it, most of ‘the tools we use today in risk management and in the analysis of decisions and choice, from the strict rationality of game theory to the challenges of chaos theory, stem from the developments that took place between 1654 and 1760.’¹ The risks of the smuggling business by both land and sea went well beyond those of legal trade, and this chapter describes them and identifies the mitigation techniques used. It concludes that smugglers were exceptionally skilled at addressing the heightened risks even in times of war and, given the levels of profitability of the smuggling business, had the means to do so.

Haggerty quotes Liverpool merchant Edgar Corrie in 1788 in listing the principal risks for the slave trader as purchase risk, mortality risk, market risk and remittance risk.² Even for merchants not in the slave trade this is a useful framework. Mortality was clearly not an issue for traders of commodity goods but could be replaced with more general transport risks (theft, spoiling, loss of cargo, even shipwreck due to piracy or weather, to which could

¹ Peter Bernstein, *Against the Gods: The Remarkable Story of Risk*, New York, 1998, Introduction. The two exceptions are regression to the mean (Francis Galton, 1875) and the mathematical demonstration of the importance of diversification (Harry Markowitz, 1952).

² Sheryllynne Haggerty, ‘Risk and Risk Management in the Liverpool Slave Trade’, *Business History*, 51.6, 2009, p. 819.

be added enemy shipping and privateers in times of war). The combined purchase and market risk (or margin risk - the ability to sell all goods bought at a price that turned an adequate profit) and remittance risk, given the prevalence of the use of credit in trading, were also critical. Credit was the bedrock of the merchant's business at a time when 'Most merchants had little in the way of fixed capital or capital goods except perhaps a warehouse lease and shares in vessels.'³ Those that did generate capital would diversify into other business lines, such as insurance, or investment in financial or real assets.⁴ The transport risk could be mitigated by reducing exposure to any one event – sharing the investment with others, or splitting cargoes, for example – or by purchasing insurance, which was readily available.⁵ The margin risk would be managed through market knowledge and a strong and reliable network of customers and suppliers and intermediaries providing market intelligence, even if, in the event of market volatility, hedging as such was not available. Business was essentially personal, and credit risk was mitigated by trust relationships between individuals, often aided by family connections, and networks of traders reliant on each other to perform.⁶ In the domestic market there was always the possibility of using litigation in the courts or bankruptcy where the trust relationships broke down for whatever reason, although this was not always cheap or easy. As Smail said, 'Merchants could go to court to secure the repayment of a specific debt accrued by way of commerce, and, in the event that a firm defaulted on all of its debts, it was possible to sue for bankruptcy, but both

³ Jacob M. Price, 'What Did Merchants Do? Reflections on British Overseas Trade, 1660–1790', *The Journal of Economic History*, 49.2, 1989, p. 279.

⁴ Stanley Chapman, *Merchant Enterprise in Britain: From the Industrial Revolution to World War I*, Cambridge, 1992, p. 35.

⁵ Herries' 1766 'Directions for the conduct of a merchant's counting house' show insurance integrated into all the other regular activities. See Jacob M. Price, 'Directions for the Conduct of a Merchant's Counting House, 1766', *Business History*, 28.3, 1986, pp. 134–50.

⁶ Walter E. Minchinton, 'The Merchants in England in the Eighteenth Century', *Explorations in Entrepreneurial History*, 10.2, 1957, p. 68.

were difficult, complex, and sometimes expensive processes that often yielded considerably less than was actually due.⁷

The outbreak of war would result in a step change of risk for the trader. The increase in hostile activity at sea as a result of privateers and greater naval activity were an immediate threat to ships, their crews and the cargoes on board, and, for long-distance trade, delays were necessary to allow convoys to assemble.⁸ This led to higher insurance rates.⁹ Crews were also vulnerable to impressment, as gangs of recruiters for the Royal Navy or the *Marine Royale* roamed the port cities. This affected the shipowners' ability to operate, but for the individual sailor it could be a disaster because of lower wages, delays in payment and a significant increase in personal risk as he became part of a fighting force.¹⁰

For smugglers, the normal risks of trade were magnified and distorted. Adam Smith described smuggling as 'the most hazardous of all trades' and 'the infallible road to bankruptcy', while conceding that 'when the adventure succeeds it is the most profitable.'¹¹ To the transport risks for the legal merchant community would be added the risk of seizure by preventative forces affecting not just cargoes but also ships, carts etc. used in the illegal activity. For those caught red-handed, there was a risk of arrest and of being wounded in

⁷ John Smail, 'Credit, Risk, and Honor in Eighteenth-Century Commerce', *Journal of British Studies*, 44.3, 2005, p. 445.

⁸ Gordon Jackson, *Hull in the Eighteenth Century: A Study in Economic and Social History*, London, 1972, p. 136.

⁹ Robert Forster, in *Merchants, Landlords, Magistrates; The Depont Family in Eighteenth-Century France*, Baltimore, 1980, even suggests that rates started to rise as early as 1741 on the prospect of war between Britain and France.

¹⁰ See, for example, Denver Brunsman, 'Men of War: British Sailors and the Impressment Paradox', *Journal of Early Modern History*, 14.1–2, 2010 pp. 9–44.

¹¹ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, cited by Derek Janes, 'The Business of Smuggling in South-East Scotland. John and David Nisbet and Their Associates c.1740–1790', unpublished PhD Thesis, Exeter, 2018, p. 120.

the process and, if conviction followed, fines, imprisonment, transportation or, in certain cases, death.¹² Even if a conviction was not secured, a long stay in prison could be harmful to health and in some cases fatal because of the conditions in which prisoners were kept. Selling in normal circumstances seemed not to represent a problem greater than would have been the case with legal trade, and in many cases easier, with contraband goods for the most part finding a ready market because of their lower price or (in the case of a ban) availability. In the limited cases where credit was used, while relationships were as important as in legal trade, the legal backstop was problematic if the goods concerned could be proved to have been the result of smuggling or fraud.

People risk was one area not clearly included in Haggerty's model, but undoubtedly magnified in the case of smugglers because of the risk of the authorities obtaining information from prisoners, whether through the offer of indemnity, as seems to have been the norm in Britain, or through the more physical means employed, albeit rarely, by the French authorities. Schapira cites the case of Charles Cambray, whose feet were held to the fire by officers of the *Ferme* in an effort to persuade him to divulge the whereabouts of contraband goods, before he was passed on to the prison authorities;¹³ and the occasional use of *brodequins* as a form of torture by the *Commission de Reims* once a criminal had been sentenced to death, in order to obtain the names of accomplices.¹⁴ There were also

¹² Chapter 3 above sets out in detail the penalties for smuggling and smuggling-related violence, and how these evolved during the century.

¹³ Nicolas Schapira, 'Contrebande et Contrebandiers dans le Nord et l'Est de La France, 1740-1789; Les Archives de La Commission de Reims', unpublished thesis, Université de Paris 1, 1990, pp. 105-6.

¹⁴ Schapira, 'Contrebande et Contrebandiers', pp. 140-1. 'Brodequins', literally 'boots', were planks of wood on each leg bound together, between which wedges were inserted. See Rodama: a blog of 18th century and Revolutionary France, <https://rodama1789.blogspot.com/2019/01/torture-in-practice.html>.

substantial risks in trusting colleagues, and to an even greater extent, officials who had been bribed. Who would perform and who might hesitate or refuse to fulfil his side of a bargain?

In both Britain and France, the steady accumulation of new laws and supplementary decrees progressively ratcheted up the personal risks during the course of the eighteenth century, but generally speaking the smugglers had time to adapt and develop strategies to address the increased risk. In Britain there were legal initiatives designed to make major changes to the smuggling climate, such as the indemnity rules in the 1730s and the gazetting process in the 1740s, but these in the long run seem not to have had as much impact as expected at the time. Things were little improved by the 1780s, according to Stamp Brooksbank of the Excise, who complained that the 1746 Act had fallen into disuse, in spite of more recent attempts to revive its provisions.¹⁵ Changes in tax rates, or the lifting of a prohibition on a specific commodity were potentially more dramatic, as they could undermine a whole business line and leave smugglers with expensive inventory. This occurred in the market in Britain for smuggled tea, generally seen as the main item of contraband trade, first in 1745, and again (with greater effect) in 1784 with the Commutation Act, although even then there were other options for filling the holds of smuggling cutters, given that many smugglers did not tend to specialise, even if the degrees of diversification enjoyed by legal traders was not available to them.¹⁶

¹⁵ A. L. Cross, *Eighteenth-Century Documents Relating to the Royal Forests, the Sheriffs and Smuggling. Selected from the Shelburne Manuscripts in the William L. Clements Library*, New York, 1928, document XLIX, *Thoughts upon Smuggling*, Mr. Stamp Brooksbank, 17 January 1783.

¹⁶ Paul Muskett, 'English Smuggling in the Eighteenth Century', unpublished PhD Thesis, The Open University, 1996, p. 83. The Commutation Act is believed to have been responsible, at least in part, for the bankruptcy of John Nisbet (see chapter 4 above), and it is likely there were others in a similar position.

The focus in this chapter is on exploring more fully the nature of these additional risks for smugglers, and how the smuggler-businessman was able to address, mitigate or avoid them, and therefore improve the likelihood of a profitable outcome. The principal forms of additional risk will be examined under the headings of transport risk and margin risk. It will become clear, in spite of the extent and gravity of the risks incurred by smugglers over and above those incurred by merchants engaged in purely legal trade, that the smuggling business was sufficiently profitable to thrive throughout the eighteenth century, and that it was the ability to address the additional risks through technological innovation, organisational skills and entrepreneurial flexibility that underpinned this success.

Transport risk

Additional risks for smuggler-businessmen consisted mainly of the danger of seizure of cargoes and the means of transport and the risk of capture, which in turn could result in personal harm in the process of arrest, imprisonment and if convicted, sentencing to fines, transportation or hanging. With profits, freedom and even life at risk, resistance to arrest was common, and the records are full of descriptions of violent confrontations between smugglers and the preventative forces, resulting in injury and, sometimes, death. In Britain, a period of frequent violent confrontations in the middle years of the eighteenth century prompted, but also were a reaction to, the strengthening of anti-smuggling laws in the 1730s and 1740s, which set out a range of crimes punishable by death, as well as opportunities for indemnity linked to informing on others. The 1746 act introduced to smuggling offences the concept of 'gazetting', where a single witness could inform on a smuggler who, if he then did not hand himself in within 40 days, could be summarily

convicted and hanged, even many years later, leaving the possibility of miscarriage of justice wide open.¹⁷ The confessions of the unfortunate Samuel Hill covering this period illustrate the type and level of violence regularly occurring and the risks to both smugglers and preventative forces as he describes

being told that the officers and soldiers were coming to us, we mounted our horses, and met them; upon which, the officers bid the soldiers fire at us. They did so, and we shot at them again, and killed four or five of their horses, and wounded two of their men: then they fired at us again, and shot five of our horses, and wounded four of us; and I was wounded through the knee...

Later on, when he had recovered from his wound, in Boulogne,

we went to land some goods, and met with the officers and soldiers again; at which time we had three horses shot, and I and another were taken prisoners, and committed to Horsham jail.

He was released after only seven months, and returned immediately to smuggling, in spite of his brush with the law. Only six weeks later:

we went to land some goods at Sandwich Castle, where Mr. Bailey came with the soldiers, who fired at us, and killed one of our company, as we were getting the goods out of the boat; so we took to our horses, and rode away, and lost our goods.¹⁸

¹⁷ 19 Geo II, c.34, *An Act for the further Punishment of Persons going armed or disguised, in Defiance of the Laws of Customs or Excise*....One example of gazetting is Robert Davis, tried in 1753 for not having surrendered himself five years after one Samuel Collington gave the requisite information in the correct manner. Despite claiming, with the support of witnesses, that he was someone else entirely, he was convicted and sentenced to death. OBPO, June 1753, trial of Robert Davis (t17530607-38).

¹⁸ OPBO, *Ordinary of Newgate's Account*, 23 March 1752 (OA17520323).

Samuel Hill tried to walk away from smuggling in 1745, having made £400, but was sucked back in as a result of theft, misfortune and intimidation by his former fellow gang members. He was eventually executed for robbing and murdering his landlady.

Taking the eighteenth century as a whole, although enforcement and conviction was patchy, clashes with the authorities were clearly a major source of risk to the smugglers as well as the preventative forces. The ultimate penalty was execution on conviction, in addition to the lesser sanctions of transportation or fines, but death while awaiting trial was also a possibility. One of the points at which the authorities seemed to have successfully fought back at the violence of the smugglers was the trial and conviction, at the instigation of the Duke of Richmond, initially through special commission to ensure non-local judges were used, of members of the Hawkhurst gang, well known for their use of extreme violence in the 1740s. The Duke of Richmond's papers contain a list of smugglers and what happened to them. Of the 45 on the list, 35 were executed, 8 died in gaol, one drowned evading arrest and one was pardoned.¹⁹ Once the elites made up their mind to bring the full force of the law to bear on the problem, violent smugglers were at greater risk. But this seems to have been the highpoint, as the appetite for pursuing smugglers in this way started to wane from then on. Between 1753 and 1784, for example, only six smuggling trials are reported in the Proceedings of the Old Bailey, compared to 57 between 1736 and 1753, with the vast majority of these taking place after the 1746 Act was passed. Quite why this was so is unclear, but a combination of sufficient success in raising taxes combined with an increasing reaction against the extreme levels of punishment may provide an explanation. The trial

¹⁹ WSRO, Goodwood MSS 154, *Names of the smugglers who have been tried, convicted and executed upon the Crown's prosecution, or that have died in gaol since June 1747*, undated.

rate did pick up again in the 1780s, although with offences punishable by imprisonment rather than death as ‘the Bloody Code... was falling out of favour’.²⁰ Application of the law could itself be unpredictable and bring its own risks. The unfortunate Thomas Powell was persuaded to inform on another smuggler’s activities, on the basis that his own prosecution would be dropped, but instead ‘he was found guilty of both offences and for the first order’d to be transported for seven years.’²¹ Similarly, the two Jeddery Brothers were persuaded to respond to a gazetting notice issued under the 1746 act, expecting mercy, but were instead put in gaol and then ‘charged by capias on information in the Exchequer for £27,000 each.’ The letter sent to the Treasury with this information warned that, once known, this uncertainty could undermine the whole purpose of the gazetting procedure.²²

In France the levels of violence in confrontations between smugglers and officers of the *Ferme* were similar. It was not only the higher profile mid-century activities of a smuggler like Mandrin which led to violence;²³ as in Britain it was also the regular gangs of all sizes using force to get through, as a memorandum from the *Fermiers Généraux* in a review of the special commissions in the second half of the century makes clear. Of the situation, it says, presumably with some degree of exaggeration for effect, ‘we had to confront the armies of smugglers on the border with armies of employees, and citizens ended up fighting citizens to protect the State’s revenues...’ It goes on to describe the smuggling gangs and their activities: ‘unscrupulous people with no morals and no home, who congregate abroad,

²⁰ Annie Tock Morisette, “‘They would have a law of their own’: The discourse on Smuggling at the Old Bailey, 1736-1814”, unpublished MA Thesis, East Carolina University, 2013, p. 74. See also p. 3 and Appendix.

²¹ TNA, SP 36/66/162-3, letter from Scrope to Stone, 24 June 1745, enclosing a note of the case of Thomas Powell to be passed to the Duke of Newcastle.

²² TNA, T 1/328/59, letter dated 29 August 1747.

²³ Kwass describes Mandrin’s as a ‘military entrepreneur’, using overwhelming force and ‘unprovoked aggression’. See Michael Kwass, *Contraband: Louis Mandrin and the Making of a Global Underground*, Cambridge, MA, 2014.

load up with merchandise forbidden to be brought into this country, force their way armed through manned border posts...', and the impact is that 'not a single one of these incursions occurs without violence or murders.'²⁴

Special commissions were set up in 1728 (Paris), 1733 (Valence) and 1740 (Reims) to try smuggling cases in designated regions of the country, and they continued to exist (with fluctuating levels of authority) until the Revolution. The risk of being sentenced to death was perhaps less in France, where the most common sentence was to be condemned to serve in the galleys, but it was still significant. In Schapira's analysis of the records of the *Commission de Reims* which covered the province of Champagne and surrounding areas, he points out that of some 300 court appearances in the two year period 1741-2 early in the Commission's operations, 146 smugglers were condemned to the galleys while 20 were executed, most of the latter being for *contrebande associée à rébellion* or *prévarication*.²⁵ Most of the others were acquitted for a variety of reasons or fined. In France, as in Britain, there was a strong current of liberal thought railing against the unbridled freedom of the *Ferme* and the excessive punishments of smugglers, with Malesherbes, as *Président* of the

²⁴ 'on fut obligé d'opposer sur la frontière des armées d'employés, à des armées de contrebandiers et que des citoyens furent aux prises avec des citoyens, pour défendre les revenus de l'Etat...'; 'des gens sans aveu, sans moeurs, sans domicile se rassemblent chez l'Etranger, y chargent des marchandises dont l'entrée est interdite, forcent à main armée des postes d'employés établis sur la frontière...'; 'Il n'est aucune de ces incursions qui ne soit marquée par des meurtres ou des violences.' From Papiers Paulze et Lavoisier, AN, 129AP/5, pp 21-8, undated, assumed to have been written between 1766 and 1777. However, the use of the term 'citoyen' could suggest a later date.

²⁵ *Prévarication* would be breach of trust by employees of the *Ferme* accused of assisting smugglers. *Contrebande associée à rébellion* is smuggling linked to violence against employees of the *Ferme*. See Schapira, 'Contrebande et Contrebandiers', Tableau IV.6, *Evolution de la répartition des sentences*.

Cour des Aides in Paris (the top taxation court), quoted by Michael Kwass, observing in 1775 'that the punishment for smuggling was tragically out of proportion to the crime.'²⁶

The risks to person and property were substantial even where violence was not employed. Captain Baxter was seized in 1765 with a cargo of tobacco he was trying to smuggle into France, was tried and convicted and fined 1,000 *livres*. As he was unable to pay this sum, he was imprisoned, but he was lucky because the British ambassador intervened on his behalf and he was released.²⁷ At this point, smuggling vessels seem to have become pawns in a diplomatic game between the English and French. The *Henriette Victoire*, having come from Honfleur, was seized near Plymouth and admitted smuggling, but was eventually released, complete with cargo and crew on application from the French authorities, in a form of diplomatic one-upmanship in response to the release of Baxter, whose ship and cargo were not released. Even the smugglers were wise to this diplomatic policy as, according to Halifax, getting assistance from foreign ministers had become 'the chief method now practised' to protect themselves in the event of seizure.²⁸ That smugglers could latch onto and be prepared to use such a policy demonstrates a surprising degree of awareness and flexibility, and, presumably, contacts in high places.

In the circumstances, it is hardly surprising that those at risk employed whatever means they could to avoid arrest. On both sides of the Channel the use of gangs, armed with sticks or guns, was a logical response by smugglers to the risk of seizure resulting from the

²⁶ Michael Kwass, 'The Global Underground: Smuggling, Rebellion, and the origins of the French Revolution', in Suzanne Desan, Lynn Hunt, and William Nelson, eds., *The French Revolution in Global Perspective*, Ithaca, NY, 2013, pp. 15–31, at p. 27.

²⁷ TNA, SP 78/265, f. 136, copy of a letter from Duc de Praslin to Earl of Hertford, 28 January 1765.

²⁸ TNA, SP 78/265, f. 195, letter from Earl of Halifax to Earl of Hertford, 18 February 1765.

strengthening of the laws and the deployment by the authorities of greater surveillance and preventative forces. The smugglers needed to find a way to protect the value of their investments, but in turn their actions increased the risk to them personally as lethal confrontation gave rise to the added risk of an assault or murder conviction. In addition, the way the laws encouraged and rewarded those who informed on the smugglers increased the risk of being betrayed, and the levels of violence would have been as much an attempt to intimidate colleagues, bystanders and local residents as to resist the efforts of the authorities. But this was only the most commonly noticed of a number of potential responses to the problem, and it often complemented other strategies. What follows is an attempt to illustrate the wide range of tactics used by smugglers in responding to the dilemma of transport risk. These are discussed under the four headings of avoidance, concealment, confrontation and insurance.

Avoidance

Avoidance of the preventative forces took many forms. Safe havens as the starting point were essential, whether it be Lorraine or Avignon for smuggling textiles into Paris or the offshore *entrepôts* for smuggling tea into Britain.²⁹ At sea, smugglers had a reputation for faster ships to outrun the customs ships, and as they approached land a system of lights and other signals would make sure the coast was clear before contraband goods were unloaded. The possession by smugglers of a technological edge, particularly in terms of ship design, over the preventative forces is a remarkable feature of the smugglers' strategy for avoiding

²⁹ See chapter 2 for the description of the *entrepôt* of Dunkirk and the province of Lorraine as essential links in the smuggling supply chains. TNA, SP 78/205 f.6 describes in a 1733 letter from Earl Waldegrave, Ambassador to France, to Charles Delafaye, under-secretary in the Southern Department, how the French *contrebandiers* even shelter in the papal enclave of Avignon, 'and from thence carry on their unlawfull trade.'

the problems associated with their chosen trade. McLynn concludes that the smugglers were very responsive to any threats against their business, whether by introducing smaller, lighter craft to get inshore or, later in the century, larger, more heavily armed ships to confront the Customs cutters. ‘Whenever the customs closed the technological gap in ships, the smugglers switched tactics. They possessed amazing ingenuity.’³⁰ On land, the use of spies and lookouts was a common means of avoiding seizure as goods were transported away from the coastal danger zone or across customs barriers into safer hiding places for men and contraband prior to onward distribution. The Rathier band, in their highly organised textile smuggling operations from Lorraine to Paris in the 1770s (see chapter 4 above), paid 20 *sols* per night plus a bottle of wine and some bread to specialists who would ‘scout a route for them, so that they would arrive without being arrested.’³¹ So specialised was the smuggling business in Northern France that these spy-guides had a name, *rebatteurs*, as described by Schapira, and were required when the local customs officers could not be bribed: ‘the scouts are accomplices living near the customs lines and acting as guides purely for crossing the border, if they have not been tasked with bribing the guards in some customs post or other.’³²

In another variation of avoidance, Joseph Degay, known by the more colourful name of Chevalier de Beaupoly, had been a *Ferme* employee before becoming a smuggler who brought tobacco into Paris from the United Provinces, and the knowledge from this

³⁰ Frank McLynn, *Crime and Punishment in Eighteenth-Century England*, Routledge, 2013, p.191-2. See also Ho Cheung and Lorna Mui, ‘Smuggling and the British Tea Trade before 1784’, *The American Historical Review*, 1, 1968, pp. 44-73, at p. 56.

³¹ ‘pour rebattre leurs passages, afin d’arriver sans être arrêtés’; AN, Z/1a/1023, B69, doc. 20, *Interrogation of Claude Curt*, 30 June 1774.

³² ‘les rebatteurs sont des complices habitant près des lignes et servant de guides juste pour le franchissement de la frontière, quand ils ne sont pas chargés d’acheter la complicité des gardes de tel ou tel poste.’ Schapira, ‘Contrebande et Contrebandiers’, p. 119.

background would clearly have been an advantage in helping him to avoid his former colleagues.³³ Gabriel Tomkins was a similar case in England.³⁴ A variation of the technique of avoidance was to sacrifice a small part of a load of contraband in return for tricking the guards into letting through the far larger part. One example of this tactic was fully described in the 1741 Old Bailey trial of John Catt, a hardened and violent smuggler who had already been convicted and transported some years earlier.

Our first contrivance to bilk the officers was perform'd in the following manner; we had a quantity of tea, and knowing the officers would be in pursuit of us, we loaded several horses, and concealed them in a field near the road side, about 3 miles from Lewis in Sussex, five of us being ready likewise concealed along with them; we had order'd two of our companions to go forward, who had two horses lightly loaded with tea, as judging whereabouts the officers would lay in wait for us. It happen'd according to our expectation, for our companions had not got above half a mile from us, before they espyed the officers coming to give them a salute, which they being aware of, pretended to fly; and while they were in pursuit of them, we took our opportunity to convey our goods into the town, and planted them safe before they could have any intelligence of us. But to return to our companions, they had led the officers in chase a long time, 'till being afraid of giving them too great an opportunity, they threw their loads of their horses, and giving them a spur, soon got clear, by reason the pursuers staid to take the prize, which was about an ct. and a half of tea, whilst we made sure of upwards of 1800 lb.³⁵

³³ AN, Z/1a/970, D8, doc. 1, *Interrogation*.

³⁴ Tomkins was apprehended as a smuggler but then joined the preventative services before returning to his smuggling ways. See Kent Barker, *The Smuggling Life of Gabriel Tomkins*, England, 2011.

³⁵ OBPO, *Ordinary of Newgate's Account*, March 1741 (OA17410318).

Perhaps the most effective avoidance technique was bribing customs officials to turn a blind eye as contraband went by. Derek Janes makes the point in relation to John Nisbet of Eyemouth that, if physical avoidance was not possible, bribery and cosy relationships between local merchant-smugglers and revenue officials were a much safer way of getting goods through than outright confrontation. But he also acknowledges that what worked for Nisbet in a small, out of the way port in Scotland might not work as well in the higher volume smuggling areas such as the south-east of England.³⁶ Nevertheless, other examples abound. In France, the *Commission de Reims* recognised that catching crooked officials was as important as the smugglers themselves. Nicolas De Lette, a *sous-brigadier* of the *Ferme* at the Porte de Joigny, was accused in 1742 of letting through a band of smugglers for a payment of 110 *sols* per horse while he was in charge in the absence of a new *brigadier*. The money was placed in an agreed spot, in a hole dug 'at the foot of a thistle, near the spring at Joigny'. He denied everything, even when confronted by one of the smugglers who was part of the band that got through, but it seems to have been a regular arrangement with De Lette's former *brigadier* that was carried over.³⁷ At the border post on the bridge at Mezerolles between Artois and Picardy in 1781, Le Souf, also an employee of the *Ferme*, took this to a whole new level by signing an agreement (see image below) that gave him a pre-determined one sixth share (paid in cash) of the proceeds of smuggling transactions, subject to a guarantee to the carrier to buy back his cart and horses if these were seized. In the lawsuit, the purpose of the agreement was described as being 'to buy contraband, to have it transported, to get it through [the customs lines] and to sell it, with all costs and

³⁶ Janes, 'The Business of Smuggling', pp. 134ff.

³⁷ 'au pied d'un chardon proche la fontaine de Joigny'; AN, Z/1a/973, T11, doc. 6, *confrontation* Nicolas Delette, 6 June 1742, doc. 9, *interrogatoire*, 19 November 1742.

profit to be shared.³⁸ A former *Ferme* employee, Froideval, who acted as informant on this case, described on one smuggling trip how 80 bushels of salt from St. Pol were smuggled across the bridge in a cart hidden under a cargo of oats and animal fodder, and that Le Souf received 51 *livres* as his share.³⁹ As Liander suggests, this is an illustration of how smugglers with capital felt the need to include an employee of the *Ferme* in the venture to help the goods across the border. It also illustrates how close to local smuggling bands the *Ferme* employees could become: 'Having learned the tricks of the trade, they had also noticed that the most lucrative profession remained smuggling.'⁴⁰

³⁸ 'd'achetter, faire conduire, passer et vendre de la fraude à frais et profit commun.' AN, Z/1a/1057, J92, doc. 2, *plainte contre le Mr Le Souf employé, Vimeux, Thuillier, Morel et martin et autres leurs complices*, 2 December 1783.

³⁹ AN, Z/1a/1057, J92, doc. 2, à Monsieur Deu, *directeur des Fermes à Amiens*, 14 September 1782.

⁴⁰ Nils Liander, 'Smuggling Bands in Eighteenth Century France', PhD thesis, Harvard, 1981, p. 73.

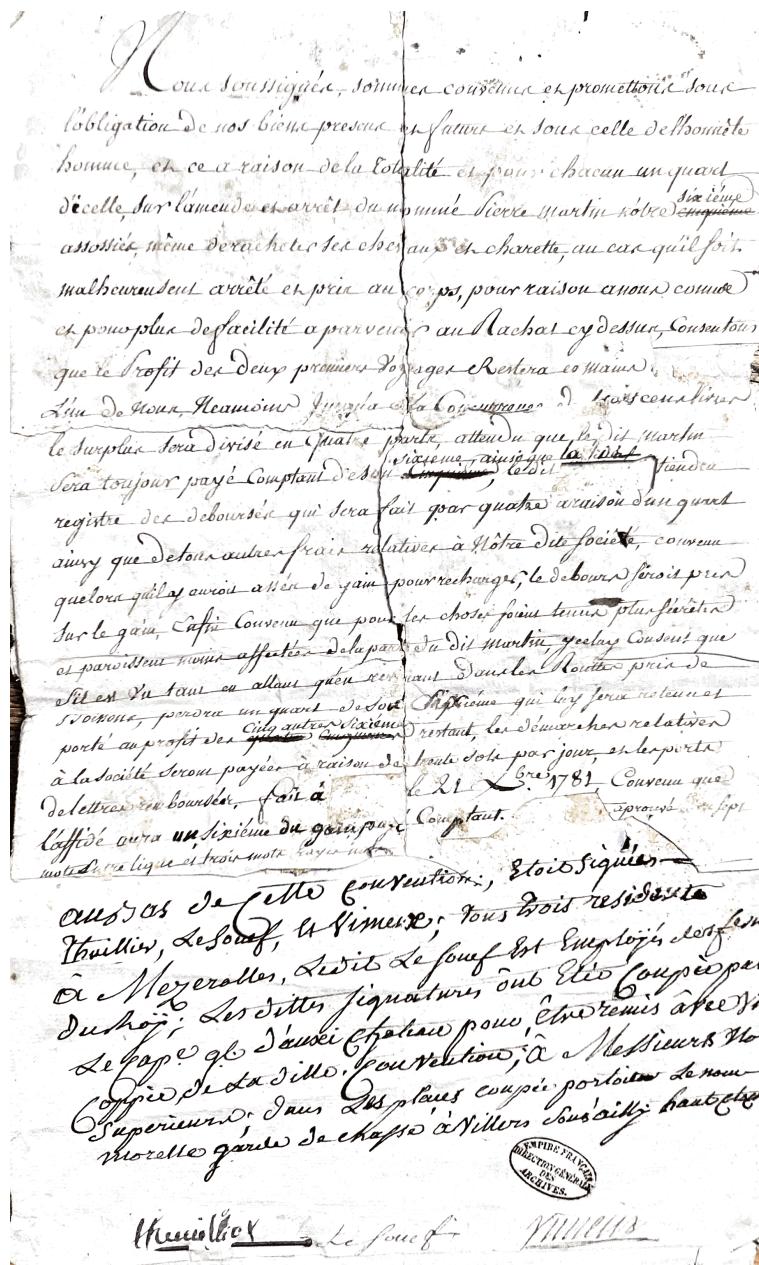


Figure 5.1: Written agreement signed by Thouillier, Vimeux and Le Souf and dated 21 December 1781.

In Britain, there were plenty of examples of customs fraud through bribery or collusion in tobacco trading circles. The 1733 Commons Committee reported that the principal fraud was in the entries made in the landwarter's book of lesser weights than the actual weights of the imported goods. The report went on: 'This arises by the connivance, or the

corruption, of the officers, and which it has not hitherto been possible to put a stop to,' in spite of dismissals and prosecutions where evidence had been found. The problem was that the advantage to the unfair traders by this fraud is so great, and they are enabled thereby to give such large gratuities to the officers who are their confederates, out of their unjust gains from the Revenue, as several of the officers have not been able to resist, notwithstanding the hazard they run.⁴¹

As in the case of Le Souf in Northern France, agreements were reached between merchants and landwaiters, some informal and some more formal.

It has been usual for the unfair traders, to come to an agreement with particular landwaiters in whom they could confide, either by encouraging them to expect a gratuity according to the pleasure of the merchant, or by a specifick agreement for a certain proportion of the duty saved by their means, even to the amount of one third, or one half, which often arises to a very great sum.⁴²

Once these agreements were in place, ships could sometimes wait several days before unloading under the control of a landwaiter the merchant could rely on.

Much of the bribery associated with tobacco smuggling took place in the ports. According to Vigié, the size of packaging in which American tobacco was imported into France made it impractical for transhipping at sea, so that, in spite of the risks, much was smuggled directly through the ports, and the cost of bribing port officials became an essential part of the

⁴¹ *The Report with the Appendix from the Committee of the House of Commons appointed to enquire into the frauds and abuses in the Customs...,* London, 1733 (*The 1733 Report*), p. 6.

⁴² *Ibid.*, p. 8.

working capital requirement for the smuggling business.⁴³ Bribery of officials was also important for the tobacco smuggled in by land, after repackaging in places such as the Austrian Netherlands, and contraband became a part of the way of life for the poorly-paid military support of border guards - 'the soldiers had day-to-day dealings with the local population, in which licit (supplies) and illicit (contraband) were central.'⁴⁴ Some soldiers escorted smugglers across internal French customs borders, and one was so well known he earned for himself the alias *Brise-Barrière*. He was tried by the *Commission de Reims* in 1756 and was hanged.⁴⁵ Price also points out the reality that customs officials were underpaid, and temptation was correspondingly high.⁴⁶ This problem seems to have been recognised in Britain at the time - 'so long as the tides-men (on whom the greatest trust of any officers employed in the revenue rests) are kept miserably poor, what can be expected from their conduct?'.⁴⁷ Widespread bribery would have been costly and the prevalence of bribery in all its forms provides further evidence of the inherent profitability for merchants of avoiding customs duties.

Somewhere between avoidance and concealment comes the relabelling, and false labelling, of contraband. The best example of relabelling is the shipping of French brandy into Britain as Flemish, by shipping it via Dunkirk in the Flanders region of Northern France and benefitting from a much lower rate of duty, to which the authorities turned a blind eye for a

⁴³ Marc Vigié, *L'herbe à Nicot: amateurs de tabac, fermiers généraux et contrebandiers sous l'Ancien Régime*, Paris, 1989, p. 321. Although referring to smuggling into France, the same comments would apply to British imports.

⁴⁴ 'les militaires entretenaient donc avec la population des relations quotidiennes, dans lesquelles les rapports commerciaux licites (le ravitaillement) et clandestins (la contrebande) tenaient une place essentielle.' *Ibid.*, p. 354.

⁴⁵ Liander, 'Smuggling Bands', p. 205. The name translates literally as 'Barrier-breaker'.

⁴⁶ Jacob M. Price, 'The Tobacco Trade and the Treasury, 1685-1733: British Mercantilism in Its Fiscal Aspects', unpublished PhD Thesis, Harvard University, 1954, pp. 519ff.

⁴⁷ *Gazetteer and New Daily Advertiser*, 21 March 1767.

time in the 1720s and early 1730s (see the case against Thomas Ellis in chapter 4 above).

Similarly the case of French cambricks being ‘fraudulently entered under the form of Silesia linen, and paid the duty as narrow Germany, which is one fifth part of what would be the duty on cambricks, in case the prohibition were taken off.’⁴⁸ Avoiding all duties was the aim, of one Portuguese company – ‘large quantities of their wines are deposited in the island of Guernsey which are afterwards fraudulently introduced into England as British property.’⁴⁹

The key feature of this method of smuggling was a lack of violence in attempting to get contraband goods through customs, as vividly illustrated by the somewhat comic reference in Bridges’ 1744 pamphlet on wool smuggling:

a number of merchants here, as well as in other parts, do pack up their goods with screws and press together, in great bails, vast quantities of comb-wool, worsted and cruel [?], and under the denominations of bale goods or draperies, in that shape are sent to the Custom-House keys, entered and passed over slightly by the searchers, perhaps with a hum...⁵⁰

Concealment

Contraband tea and brandy was consistently re-packaged into containers which were not only easier to handle and protect, but easier to hide as well. A Customhouse report describes a seizure of ‘brandy in small casks call’d half ankers which are prohibited to be

⁴⁸ Report from the committee on the prohibition of cambricks, *Journal of the House of Commons*, vol. 25, 22 March 1749, p. 1075.

⁴⁹ TNA, SP 89/55, ff 253-6, letter to Lord Egremont, 6 April, 1762.

⁵⁰ George Bridges, *Plain dealing: or the whole method of wool smuggling clearly discover'd*, London 1744, p. 11.

imported into Great Britain & the casks slung with ropes to large stones &c. in order to be sunk in the sea.⁵¹ This was common practice for 'running' goods onto the coasts of Britain, when the ability to unload rapidly at sea or on land, including the option of throwing the contraband overboard in shallow water for later recovery, and to conceal in the surrounding buildings and woods, was essential. As the preamble in the Old Bailey trial of Peter Tickner and James Hodges (alias Poison) makes clear

No fair merchant ever imports tea in oil-skin bags; 'tis well known by all the people in the country, when they see oil-skin bags, whose they are. Neither can any brandy or wine be imported in any cask less than 60 gallons, but they always import it in casks they call half-anchors, and they fling them the same way.⁵²

In reality, concealment was normal for all stages of the transport of contraband goods, and it ranged from the simplest tactics (carts with straw covering the goods, false compartments in smuggling vessels) to the more sophisticated use of legal goods to conceal contraband. Nicholas Hixon in his statement describes a very basic, and ultimately unsuccessful form of concealment for a load of tea going into London: 'the said tea was taken from the sd. horses & loaded in a cart covered with straw & seized by some officers of Excise as the same was going over Putney bridge.'⁵³ Goods for trade (or potential trade) used to conceal contraband were probably a more convincing disguise, as for example, in the illicit export of wool, as described by a Thos. Spelman in 1725. 'he [Mr. Old] first puts his baggs of wooll into ye hold of his ship and deale boards over them, and then put some coales over them and so passes

⁵¹ TNA, SP 36/20, ff. 140-6, Frecker to Delafaye transmitting a report of the Commissioners of Customs. Half-ankers held about 4 gallons whereas legal imports had to be in 60-gallon casks.

⁵² OBPO, December 1747, trial of Peter Tickner and James Hodges, commonly called and known by the name of Poison (t17471209-52).

⁵³ WSRO, Goodwood MSS. 154, statement of Nicholas Hixon, 8 April 1749.

for a collier into France.¹ The same letter describes the practice of sandwiching contraband wool from Ireland between butter at either end of the barrel, with a ‘head’ either side to protect it, and shipping it as butter. On arrival the butter was repackaged for sale. As one might expect, butter or salt water could leak into the wool, but the smugglers had thought of that as well, as ‘they have seven or eight wooll combers from Irland who washes and combs it and looks white and as well as any other wooll,’ an expense they can clearly justify given that ‘they sell it so much ye dearer that they find their ends in keeping those wooll combers always in employ.’⁵⁴ Butter, used to a precise extent, re-appears as a means of concealment in tobacco smuggling into Paris in the case of a student-surgeon from Artois, Jean-Baptiste Vast, living in Paris. Vast had a depot in Paris, so this was clearly not a one-off trip, and he transported ‘ground tobacco [ie snuff], concealed under a layer of butter four inches thick,’ packed in slop pails.⁵⁵ It is not clear whether the butter was or could be sold separately. Concealing contraband under legal imports was also used later in the century even for bringing goods into Guernsey. In briefing papers for the Lords’ Committee of the Privy Council in 1766, a customs official quoted a letter from Richard Kent of Portsmouth describing the practice:

with regard to tea conveyed to Guernsey, it is brought in Dutch, Danish or Swedish vessels... the upper part of their lading was generally deals & timber. They had likewise false bills of lading with them (in case of meeting with any of our cruising vessels) for some port in Spain.⁵⁶

⁵⁴ TNA, SP 35/59 ff. 132-4, Informations of Spellman against some smugglers of wool, 19 November 1725.

⁵⁵ ‘tabac rapé, masqué d’un lit de beurre de l’épaisseur de 4 pouces’; AN V/7/493, dossier 1, 1771-2.

⁵⁶ BL, Add MS 36220, f. 49.

Fake or duplicate bills of lading for ship-borne contraband were a frequently used tactic, and sat alongside a wide range of false papers for use on land or at sea to hide the smuggling activity behind a purportedly legal transport activity. As governments increasingly tried to control the flow of contraband, one method they resorted to was creating a system of permits for transporting certain commodities. There were plenty of objections to the idea.

In 1751, the General Evening Post contained an article entitled *Reasons humbly offer'd against General Certificates for the Conveyance of Tobacco's etc.* in which it was argued that 'the use of certificates, or permits, instead of preventing, will be a great encouragement to the practice of smuggling; it being notorious, that in the tea, rum and brandy trades, certificates, or permits, are a commodity publicly bought,'⁵⁷ and as Hamilton pointed out in his 1791 *Principles of Taxation*, the usefulness of these permits depended on 'the rate of the tax, to which the goods are subject.' Taxes at too high a level had led to forgeries, which the authorities had attempted to limit by using printed forms, to bribery of officials and even to a ready market in the permits.

Nothing can more strongly mark the abuse of permits, than their being considered by smugglers an article of sale, which they at all times purchase. Their price was well known; and was proportioned to the rate of the duties on the article which they could protect, joined to the demand for the goods at the time.

Hamilton recorded that in Scotland in 1774 spirits dealers paid from 6d to 1s 3d per gallon for imported brandy permits.⁵⁸ He then quotes from the First Report from the Committee of 1783 which uses Deal as an example of permit fraud, that

⁵⁷ *General Evening Post*, 16-18 May 1751.

⁵⁸ A. Hamilton, *An Enquiry into the Principles of Taxation*, Dublin, 1791, pp. 43-4.

the quantity of foreign spirits and tea permitted to the town of Deal, from the stocks of dealers in London and its neighbourhood, for a period of twelve weeks ending the 15th of March last, amounted to 76,420 gallons of spirits, and 24,442 pounds weight of tea; although it is sufficiently obvious, that not one drop of those spirits, nor one ounce of the tea, actually went from London.⁵⁹

The trial of Joseph Wilson of Deal shows that efforts were being made on the ground to clamp down on this practice. Wilson secured permits to transport brandy in large quantities from around the country, some 1,106 gallons in little more than two months, but as the Solicitor General stated at the trial,

when you know that London is the great place of consumption can you conceive that a man at Deal would really and truly carry brandy from London along with these permits to such a place as Deal. We know that a great quantity of brandy comes from Deal that never has paid duty but that such a quantity should have come from these various places down to Deal is a thing utterly incredible.⁶⁰

These permits were clearly being used to cover contraband brandy imported by Wilson into the country. However, the jury found for the defendant on the basis, one suspects, that on the face of it the goods seized from Wilson's premises were, after all, covered by valid permits.

In France there could be fake papers circulating with contraband textiles, including fake customs receipts (see image below), and counterfeit seals attached to the cloth. In the case against Jean-Baptiste Rathier described in the previous chapter, Curt, the merchant

⁵⁹ *The first report from the committee appointed to enquire into the illicit practices used in defrauding the revenue*, 24 December 1783, p. 12.

⁶⁰ TNA, CUST 103/3, Excise trials 1778-84, case of Joseph Wilson of Deal.

presented a number of customs receipts (see example below) ‘which didn’t tally with the goods actually seized’⁶¹, believing that this would protect them. ‘They thought they were immune from seizure, having attached to the merchandise false and counterfeit seals and tickets, whose only merit was that the forgeries were well done.’⁶² It is not clear how the fake receipts were procured, whether by bribery or forgery, nor is there evidence of an active market in them as there was in Britain. There was, however, a specialist in applying fake *Compagnie des Indes* seals, Gilles Bertrand, who was arrested coming out of the shop of the Bar-le-Duc trader Excellmans who was known to sell textiles to smugglers for transporting to Paris.⁶³

⁶¹ ‘celles-cy ne pouvant avoir aucun rapport aux marchandises présentes’. See note below.

⁶² ‘Ils se croient a l’abri de toute saisie y ayant après leurs marchandises qu’ils amènent de l’étranger des plombs et bulletins faux et contrefaits qui n’ont pour leur merite que d’être bien imités avec les véritables.’ AN, Z/1a/1023, B69, doc. 1, deposition of the officers of the Ferme, 23-25 April 1774.

⁶³ AN, Z/1a/967, B3, doc.20. See also note 70 to chapter 4 above.

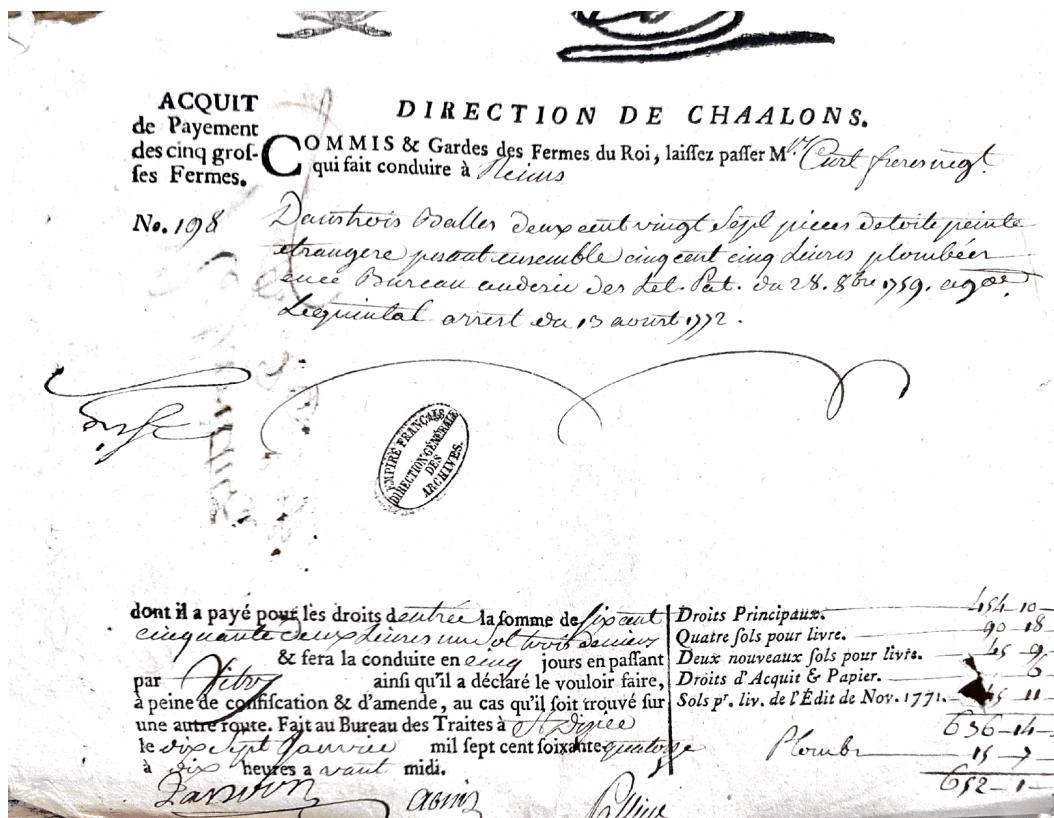


Figure 5.2: Ferme receipt, dated 17 January 1774, for import duties for 227 pieces of foreign painted cloth.

For ship-borne contraband, perhaps the most common documentation used to conceal the trade were false bills of lading and sailing permits for fictitious destinations. False bills of lading were used almost routinely, even in relatively modest smuggling operations throughout the eighteenth century. In a case of collusive privateering by Charles Mullett of the Anne sloop as early as 1704, it was agreed that

ye said ship should be pretended to be bound for Riga and to have colourable or sham bills of lading for that place to prevent the capture, and yet ... she should make the best of her way from Bordeaux to Mountsbay or Penzance in Cornwall, and to hover thereabouts till the said Capt. Mullett's privateer, ye Anne sloop... should be ready and fitt to putt to sea.⁶⁴

⁶⁴ TNA, HCA 32/48/39, charges brought against Charles Mullett and Thomas Wilkins, 24 April 1705, item 10.

Thomas Darby's smuggling trip with tea from Flushing to be landed near Rye in 1734, but intercepted by the Rye customs sloop, used a false bill of lading for Lisbon.⁶⁵ Gamba & Archdeacon, Dunkirk merchants organising regular smuggling trips to Britain, had false bills of lading (*connoissements simulés*) for Lisbon and Calais, according to the Chamber of Commerce of Dunkirk.⁶⁶ In 1766, Jeremiah French (or French) from Sussex, *patron* of a small boat ('La Bonne Volonté', so-called in the official report, with a crew of only three), supposedly heading from Dunkirk to Guernsey, was caught smuggling tobacco into France by the officers of the *Ferme* in Fécamp in Normandy with multiple bills of lading signed by himself. French claimed that he only put into Fécamp for provisions, but since he had previously been seen just up the coast in Tréport by the same *Ferme* officers and he was known to have spent 8 hours in the local inn, his story was not believed. When they searched the boat, they found two *connoissements* (bills of lading) with the same date, in the name of the same shipper, but for two different consignees in two different destinations, one being Guernsey, the other Rye in England; these two bills of lading were made out for the same amounts of tobacco, were signed only by the master, French, and there were 5 other blank bills, presumably intended to be completed as he progressively offloaded the tobacco which the boat was carrying.⁶⁷

The bill of lading was an agreement between a consigning merchant and the master of the ship on which the goods were to be carried, so presumably easy to forge. Clearly this raises

⁶⁵ ESRO, SAY 271, deposition of Philip Gawen, 22 July 1734.

⁶⁶ DK, 1S42, pp. 82-6, *mémoire*, 1777.

⁶⁷ 'de même date, au nom du même chargeur, mais pour deux différents consignataires et pour deux différentes destinations, l'une étant pour Guernsey, et l'autre pour le port de la Rie en Ang.re [presumably Rye]; ces deux connoissements portoient la même quantité de tabac, ils n'étoient signés que par le patron French, et il en avoit encore 5. autres en blanc, destinés sans doute à être remplis à mesure qu'il auroit versé le tabac dont son bateau était chargé.' TNA, SP 78/272, ff. 127-132, *mémoire à l'Ambassadeur d'Angleterre*, 5 July 1766.

the question of how valuable a fake bill of lading really was as a method of concealment as it would have been relatively easy to procure, other than possibly as a means of deterring the casual searcher.

The official sailing permits would have been of a different order of importance, and these were also used to conceal the real destination of contraband goods. They are noted as early as the 1733 Parliamentary report on smuggling, in relation to tobacco re-landing: 'The vessels employed in this smuggling trade, take out clearances for the ports of Spain, Portugal, or some other foreign country, in order to produce, in case they are met with on the coast off Britain or Ireland, while they are endeavouring to run their cargoe.'⁶⁸ Cullen describes the routine use by Irish smugglers of false permits: 'Masters also frequently made false declarations to the officers of the Admiralty in French ports so as to obtain a *congé* or permit for a destination other than their intended one.'⁶⁹ In a 1764 summary of letters from ministers and consuls abroad, it is made clear that tea smuggled from Denmark and Sweden to Scotland and the Isle of Man 'is chiefly carried on by ships clearing out for Spain or Portugal, in order to conceal their real destinations.'⁷⁰ In the absence of official papers, smugglers could still claim they were headed elsewhere in an attempt at defending themselves, often blaming bad weather for their presence where they should not be. William Slingerland, a French merchant and seasoned smuggler of goods onto the South coast of Britain, claimed in 1724 that his ship, loaded with brandy, was actually headed for

⁶⁸ *The 1733 Report*, p. 13.

⁶⁹ L. M. Cullen, 'The Smuggling Trade in Ireland in the Eighteenth Century', *Proceedings of the Royal Irish Academy*, 67, 1968, pp. 149–75, at p. 167.

⁷⁰ TNA, T 1/429/31, p.2.

Lisbon, but was forced onto the Isle of Wight by the weather, and that a few anchors of brandy were offloaded without his knowledge.⁷¹

During wartime, some French authorities were happy to issue passes to individuals active in smuggling into Britain (the official view being that smuggling undermined the enemy's economy). The smuggling vessel Dove was taken by a Customs sloop off Harwich, and in a letter to the London Customhouse the names of those on board were listed, including the master Thomas Harvey who also carried a *laissez-passer* from the French regional authorities to keep him safe from French privateers.⁷² Similarly in the later American war, every effort was made to accommodate English smugglers in Dunkirk and make them feel safe, even if the Dunkirk Chamber of Commerce's wish to provide them with official papers was turned down. 'You can assure their commanders very positively, that if it ever happens, then or later, that they are no longer admitted to the port of Dunkirk, they will always be free to leave with their crews and cargoes without worrying...'⁷³ It is clear from the numbers of English smuggling boats leaving Dunkirk during this period that any residual concerns did not have much impact (see chapter 2 above). Dunkirk was also the source of a large quantity of Flanders-grown tobacco in Jersey undermining the local manufacturing industry, 'under bills of lading for Bilbao, & here unloaded in the night.'⁷⁴ It is likely that this was part of the

⁷¹ See chapter 4 above and TNA, SP 35/48, f. 159, affidavit by William Slingerland.

⁷² TNA, SP 36/83/1 ff. 72-4, copy of *laissez-passer* dated 26 March 1744. The wording is: 'Nous commissaire de la Marine ordonateur au département de flandrie et picardie prions tous ceux qui sont a prise de laisser librement passer Messrs. Robert Fuller et Thomas Harvey negociants anglois établies a Boulogne.' Robert Fuller was not on board, so perhaps he secured the Boulogne end of the operation.

⁷³ 'Vous pouvés assurer très positivement ceux qui les commandent, que tels que puissent être les évènemens, et dans le cas même où pâr la suite, on ne jugeroit plus les admettre dans le port de Dunkerque, ils auront toujours la liberté d'en sortir avec leurs équipages et cargaisons, sans être inquiétés...' DK, 1S43, p.157, copie de la lettre de M. de Sartine aux officiers de l'Amirauté de Dunkerque, 20 May 1778.

⁷⁴ TNA, T 1/517, ff270-1, Levrier to Treasury, 15 March 1775.

raw material for tobacco to be smuggled back into France, which is possibly why there is no evidence that the Treasury officials bothered to follow it up.

The complaints of the Virginia tobacco growers in 1733 provide a useful summary picture of how unscrupulous tobacco traders in Britain would get around the regulations and conceal the illicit trade from the authorities in the eighteenth century. After complaining about the low quality of some tobaccos exported purely for the purpose of securing drawback (stalks, bad leaves, sweepings from the warehouse), the writers explain how the tobacco re-landing trade works, in the process providing a useful summary of the strategy and levels of sophistication of concealment.

it has always been suspected, upon very good grounds, that great quantities, after being shipped off, and landed in foreign parts, are brought back again and landed a shore in Great Britain; and, as it happens, it can be proved that there are constantly eight or nine sloops or other vessels, from 30 to 60 tons, that go backwards and forwards from Ireland to Dunkirk, making three or four voyages at least in a year: they go in ballast and load with tobacco, carrying from 30 to 50 hogsheads each; the tobacco is shipped from London in time for their arrival; they break up the hogsheads and repack them with presses they have for that purpose in bales of 100 weight each, not unlike bales of linnen; they take their clearances for Bilboa, and make false bills of loading, and charter parties with fictitious consignments to a merchant there, for their security when they put into any British ports; for they

generally proceed first for the English coast, and as opportunity offers, sell what they can; but if they don't do their business there, they go on to Ireland.⁷⁵

Confrontation

As the authorities tightened up anti-smuggling legislation and the severity of the penalties for breaking the law, the stakes increased for smugglers; and as they increased, attempts to intimidate those responsible for enforcement, as well as the public at large and even other gang members increased commensurately. As mentioned above, it became more and more important not only to use force to prevent the seizure of goods and the capture of those caught smuggling, but also, as rewards for information leading to arrest became more of a feature, to deter those who might be tempted to inform the authorities on the smugglers and their activities. The violence of gangs involved in smuggling in the first half of the century is well documented, not just in recent historiography, but also in the contemporary press and pamphlets. Violence particularly affected the south coast of England, where the larger volumes of contraband goods came through from the continent, with gangs such as the Hawkhurst Gang, one of whose leaders, Arthur Gray, was notoriously violent. The Ordinary of Newgate's description of Gray after his conviction includes the horrific details of his treatment of Bolton and James, two of the four Customs officers who apprehended him in Shoreham, but also the strange way he trained horses 'that by a check of the reins, or a kick with the heel, they will instantly fling out their legs in a surprizing manner; to the great danger of any person who should unfortunately be within their reach.'⁷⁶

⁷⁵ *The case of the planters of tobacco in Virginia, as represented by themselves*; signed by the President of the Council, and Speaker of the House of Burgesses, London, 1733, pp 31-2.

⁷⁶ OBPO, *Ordinary of Newgate's Account*, May 1748 (OA17480511).

The violence in the south of the country would seem to some extent to have abated after the Duke of Richmond's Special Commission in 1748, but violent gangs continued to exist, as this example of the London Riders in Essex in 1784 shows. 'Not content with their illicit commerce in its fullest extent, they begin now to treat the Revenue officers, who fall in their way, with the most savage barbarity... who with bludgeons and other weapons wounded one of them desperately... destroyed the rigging of the officer's vessel... a revenue officer on the other side of the river, whom they beat mercilessly, breaking three of his ribs...'⁷⁷ This behaviour was perhaps not as extreme as that of the Hawkhurst gang in the 1740s, but nevertheless represented a significant deterrent to recruitment and retention of customs officers. The article goes on: 'In short, unless some spirited exertions are speedily made, not a revenue officer will remain long in the country.' There is no evidence of a similar difficulty for the smugglers in recruiting gang members, even if violence was expected of them at times. Financial need was a strong motivation, bringing gang members back again and again, and violent pressure could be exerted to keep them in line if the temptations of financial gain proved illusory.⁷⁸

Land-smuggling in France was no less violent, with gangs attacking customs posts and, with the local populations on their side, causing riots. One of the earlier cases taken up by the *Commission de Reims* was the 1740 attack on a customs post at Laherie in Thiérache, which 'was guarded by two employees who were put to flight and pursued by a band of 25 to 30

⁷⁷ Extract of a letter from Maldon, Essex, *Morning Chronicle* (1770), issue 4611, London, 26 February 1784.

⁷⁸ See the examples of Samuel Hill, cited above, and Samuel Chilvers who 'was inveigled into the Service of some Smugglers, to which he was led by Promises of great Gains for little,' OBPO, *Ordinary of Newgate's Account*, 18 March, 1748 (t17480115-28).

armed smugglers leading loaded horses who broke the chain which secured the customs post.⁷⁹ Liander documents 29 riots of more than 200 people within the Commission de Reims' jurisdiction in the period from 1740 to 1789, most commonly started as a result of *Ferme* employees arresting someone or taking a prisoner to jail.⁸⁰

Broadly speaking, the smugglers' tactics seem to have worked. Local populations were generally on their side anyway, and threats of violence no doubt emphasized that.⁸¹ In Britain, the Ordinary of Newgate, returning to a common theme, makes clear the situation in a long moral sermon about the evils of smuggling after the conviction of Thomas Fuller, a Hawkhurst Gang member, and others, in 1747:

The common people of England in general, fancy there is nothing in the crime of smuggling, but cheating the King of a small part of his revenue; and that there is no harm done to the community in general, or to the properties of particular persons: they think they have a right to shun, as much as possible, paying any duty for their goods, and what they get by their dexterity in that manner is honest gain, to be enjoyed as the fruits of their industry and labour.⁸²

⁷⁹ étoit gardé par deux employés lesquels ont été mis en fuite et poursuivis par une bande de 25 a 30 contrebandiers armés et conduisant des chevaux chargés, qui cassèrent la chaîne dont le d. poste étoit fermée...' AN, Z/1a/974, &14, *Affaire de Laherie*, summary.

⁸⁰ Liander, 'Smuggling Bands', pp. 156-158.

⁸¹ 'The cases tried before the *Commission de Reims* reveal the extent to which violence was accepted, and they clarify the limits to what was considered right and wrong at the local level, in the small villages of the French countryside.' See Liander, 'Smuggling Bands', p. 102. Liander does not, however, find evidence that this constitutes the 'class warfare' that Cal Winslow describes in 'Sussex Smugglers', in Douglas Hay, Peter Linebaugh, John Rule, E. P. Thompson, and Calvin Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, London, 1975.

⁸² OBPO, *Ordinary of Newgate's Account*, November 1747 (OA17471116).

This was true to such an extent that the local residents would come out and threaten officers attempting to seize goods, as John Newton, comptroller of the customs found in Plymouth in 1791:

I received a message from Mr. Bradley, mate of the excise cutter, saying that he had made a seizure of a quantity of spirits, and was presently opposed by a large mob, and begged for God's sake, I would go to his assistance: I went; when I came up in the square, before the house of Jones the victualler, I saw a mob of people, to the amount of two hundred: the windows were broke presently, I saw Bradley, I made the best of my way to him through the mob with my men.⁸³

The violence clearly paid off. The Ordinary of Newgate acknowledges later in the same sermon after Fuller's conviction that intimidation is successful in local communities, starting with owners of horses: 'the owners dare not complain for fear of having their throats cut, or their houses set on fire: not only single houses, but whole villages and trading boroughs are kept in this slavish dependence upon them, out of real apprehension of danger.' This would have made it easier for smugglers to secure transport and hiding places for their goods. Moreover, right up to the end of the century it proved difficult to secure convictions of smugglers in local courts, though it remains unclear whether this was a result of intimidation, bribery or simply inclination. In the indictment of John Cooper of Kirdford in Sussex in 1791 for assaulting an excise officer, Fielding said, when explaining why the case was being heard at the Old Bailey 'many offences committed and prosecuted in those counties where smuggling was carried on, it was found over and over again, that

⁸³ OBPO, June 1791, trial of Anthony Balless and Stephen Edwards (t17910608-41). Balless and Edwards were indicted for opposing, obstructing and assaulting revenue officers. Balless was acquitted and Edwards received a sentence of three years' imprisonment.

prosecutions instituted, properly supported by the most indubitable testimony, yet there was unaccountable partiality, and conviction was almost impossible.⁸⁴ The lesson of the Porteous riot in Scotland in 1736, sparked by the conviction of three smugglers for theft, suggests that local opinion was generally on the side of smugglers criminalised by the law, and that it was possible to summon quickly large crowds prepared to obstruct the authorities.⁸⁵

Transport risk insurance

One of the more unexpected features of smuggling in the eighteenth century was the availability of insurance for the goods being smuggled. Some appears to have been available from normal commercial sources and on commercial terms,⁸⁶ but the vast majority of insurance was achieved using a wide range of informal mechanisms. In a 1764 letter summarising issues raised by consuls abroad, the Customhouse pointed out that goods were smuggled from Ostend and Dunkirk 'by insuring them from seizure for a small premium', but gave no further information.⁸⁷ Obadiah Wright, a hosier in London, in his 1765 submission to the Commons committee on silk manufacture provided more detail when relating how a person in Dunkirk offered to send him any quantity of stockings without having to pay the duty. 'The person offered to stand all the hazard of their being seized, and to deliver them at his own shop; it is very easy to smuggle these goods as the captains of ships take the

⁸⁴ OBPO, July 1791, trial of John Cooper (t17910720-41). This was also the reason the Duke of Richmond used the Special Commission structure, with judges from London, to try the members of the Hawkhurst Gang he was hoping to break up.

⁸⁵ See H. T. Dickinson and Kenneth Logue, 'The Porteous Riot, 1736', *History Today*, 22.4, 1972, pp. 272-81. Porteous was the overbearing commander of the Edinburgh city guard and was arrested and convicted after six members of the public were killed during the riot. His execution was delayed by the English authorities, but the mob broke him out of prison and lynched him.

⁸⁶ See Richard Platt, *Smuggling in the British Isles: A History*, Stroud, 2007, p. 29.

⁸⁷ TNA, T 1/429, f. 31, report from H.M. Customhouse London, 16 October 1764.

whole upon themselves.⁸⁸ No premium is mentioned, but is presumably included in the price. Twenty years later, Smith set out in a detailed letter to Pitt three forms of informal freight and insurance cover. The first, 'when large dealers purchase solely on their own account, for the London market,' was a premium for safe delivery of 20-25 per cent. 'on the first cost'. The second, for a reputable smuggler buying from a merchant to whom he was well known, was when 'the merchant agrees to take half the loss on himself if the vessel should be captured, or the teas seized before they reach the place of their destination'. The third and most common was a straightforward guinea a bag premium for freight and insurance, a structure that 'induces many adventurers to take part of it'.⁸⁹ The result was that uninsured commodities sold on the coast cost little more than half what the 'honest consumer' pays, whereas insured goods delivered to the metropolis come out at about two thirds.⁹⁰

This shows that insurance for contraband goods did, therefore, seem to be of two sorts. The first was a simple assumption of risk for the buyer by the seller, not always with any obvious premium being charged, presumably on the basis that the business was profitable enough and / or the likelihood of seizure low enough for the seller (or smuggling shipper acting as an intermediary between the seller and the buyer) to be prepared to take the risk in the interests of securing a sale. An example appeared in a list of the advantages for the French authorities of having English smugglers in Dunkirk even in wartime. 'Another advantage that the English smugglers will bring during the six winter months is that, on payment of a small

⁸⁸ 'Report of Committee on the Silk Industry', *Journal of the House of Commons*, vol. 30, 4 March 1765, pp. 208-19.

⁸⁹ TNA, PRO 30/8/293, f. 35, Smith [presumably Nathaniel Smith, EIC Chairman] to Pitt, 1 July 1784.

⁹⁰ *First report from the Committee appointed to enquire into the illicit practices used in defrauding the Revenue*, 24 December 1783, p.6.

insurance premium, they will introduce into England several million [livres] by value of cambricks and other goods manufactured in this kingdom.⁹¹ In this type of insurance of course the premium paid was not strictly to protect the smuggler from additional transport risk, but instead was to protect him from loss of sales - the smuggler is assuming additional risk in order to protect the market for his contraband products.

The second is a more formal insurance 'market' where rates were known so that, in practice or in theory, outsiders were able to purchase those risks on the basis that they judged the returns to be sufficient, although it is perhaps more likely that this was viewed as another form of gambling. If a bag of tea contained 27 pounds and the purchase price ranged from some two shillings and fourpence for bohea to five shillings and tuppence for souchong, the guinea a bag premium would have represented some 15 to 33 per cent. of prime cost, which is not out of line with the 20-25 per cent. for large dealers mentioned above.⁹² These rates were considerably higher than those for legitimate trade, which ranged from 1.5 to 5 per cent. in peace time,⁹³ but without insurance, each buyer of goods, of which there were sometimes many for any one cargo, would take the risk of seizure themselves if they were the initiator of the trade. It is unclear how widespread the use of these forms of insurance

⁹¹ 'Un autre avantage que procureront les fraudeurs anglois, pendant les six mois d'hiver, c'est que, moyennant une prime d'assurance, ils introduiront en Angleterre pour la valeur de quelque millions de batistes et autres manufactures du Royaume.' DK, 1S43, 'Commerce clandestin de Dunkerque avec l'Angleterre', 23 September 1778.

⁹² This is based on the tea prices shown in the *First report from the committee*, 1783, p. 11. For the 27 pound-bags, see OBPO, April 1749, trial of Thomas Kingsmill, alias Staymaker William Fairall, alias Shepherd Richard Perin, alias Pain, alias Carpenter Thomas Lillewhite Richard Glover (t17490405-36). Other records within the OBPO refer to bags as containing 'half an hundred, and some a quarter of an hundred', OBPO, October 1747, trial of Thomas Fuller (t17471014-4).

⁹³ Christian Pfister, 'L'assurance maritime à Dunkerque au XVIIIe siècle', *Revue du Nord*, 369.1, 2007, pp. 43-60 provides an example. Rates in wartime went up to 12-15 per cent. For British merchants active in the American trade, rates were around 2.5%. See S. D. Smith and T. R. Wheeley, "Requisites of a Considerable Trade": The Letters of Robert Plumsted, Atlantic Merchant, 1752-58', *The English Historical Review*, CXXIV.508, 2009, pp. 545-70.

was, but the high-volume smuggling routes certainly enjoyed the benefits. Interestingly it reveals that there was a strong element of 'smuggling to order', at least at this time in the latter part of the eighteenth century, where a buyer initiated the contraband trade and paid for it in advance (hence the need for insurance), rather than the smuggler bringing goods in purely speculatively.

Smugglers in France took a very similar attitude to insurance, although many of the smaller-scale smugglers were acting for themselves, buying and reselling packets of salt or tobacco, so had no need of insurance. It was the committed smugglers, acting for merchants in transporting luxury goods, who took on the role of *assureur* when transporting goods illegally. Indeed the idea of smugglers or smuggling bands insuring goods seems to have been widespread in France as early as the 1720s. As Montenach puts it, 'This system of insurance is found in all the provinces where there was an active cross-border smuggling trade.'⁹⁴ There was even a merchant, *le sieur* Falque, one of the richest merchants in Grenoble, seemingly an exception in that he was one to whom other merchants turned to insure their goods, who was caught in 1724 with twenty bales of prohibited muslins and chintzes which he had insured for 2,500 livres. However, he was wealthy enough to pay the fines.⁹⁵ In the calico smuggling networks of the 1740s, described in chapter 4 above, the *assureur* was an independent smuggler taking the risk of delivery for a merchant, sometimes using bills of exchange as security, although this would seem to have been a relatively rare occurrence. Desnovalles, for example, charged 25 pistoles for delivering a horse load of

⁹⁴ 'Ce système d'assurance se retrouve d'ailleurs dans toutes les provinces où se pratique une active contrebande transfrontalière', Anne Montenach, *Femmes, pouvoirs et contrebande dans les Alpes au XVIII^e siècle*, Grenoble, 2017, p. 229.

⁹⁵ *Ibid.*, pp. 229, 231.

contraband cloth from Bar-le-Duc to Paris, and Claude Robert, an agent for Paris merchants in Bar at the time, suggested a 25% premium would be reasonable.⁹⁶ The role of *assureur* became more common later in the century. Another example, described by Deceulaer, is that of Colingris in the 1750s, a former soldier who specialised in smuggling tobacco into Northern France from the Austrian Netherlands and branched out into raw wool for the factories of Tourcoing and Roubaix. When he was caught in 1757, he had on him a contract which specified a payment to the merchant of half his fee, which would be reimbursed with a commission on safe delivery of the goods. With the 3,000 lb load of wool, his fee would have amounted to 187.50 florins, equivalent to 50 per cent. of the duty, out of which he had to pay 76 florins for smugglers and transport hire. But he also had to promise to reimburse the owners of the horses and carts he hired if they got seized, so that, with the two elements, his overall exposure was significant, hence the necessity of employing intimidation and violence to protect the goods and mitigate the extra risk he was taking. Colingris' reputation as a magician was part of the 'hard man' image he cultivated, which was, as Deceulaer points out, 'an almost entrepreneurial tactic intended to reduce the risks of smuggling'.⁹⁷

Margin risk

Margin risk for smugglers came from factors that affected the margins they enjoyed by having an impact on the price at which they could purchase and transport goods or affecting

⁹⁶ Liander, 'Smuggling Bands', p. 277. The *pistole* was a gold coin similar to a guinea.

⁹⁷ 'une stratégie presque entrepreneuriale visant à réduire les risques de la fraude,' Harald Deceulaer, 'Violence, magie populaire et contrats transfrontaliers', in Gérard Béaur, Hubert Bonin et Claire Lemercier, eds., *Fraude, contrefaçon et contrabande, de l'Antiquité à nos jours*, Geneva, 2006, pp. 61-90, at pp. 81-2 and Conclusion.

the appetite and price tolerance of their customers. Probably the greatest form of market risk for smugglers was a change in legislation. This could take the form of a change in a prohibition, a monopoly or the level of duty, or an alteration in packaging rules, potentially leaving smugglers with unsold stocks or eroding the margins they had previously enjoyed; or it could come from a strengthening of the anti-smuggling laws in the form of an expansion in the definitions of the crime, additional ways in which smugglers could be caught or a change in the penalties for those convicted, increasing the threat of seizure and the risks to the individuals engaged in smuggling. Allied to the risk of legislation change is increased or improved enforcement, which would have had similar effects. The outbreak of war could also disrupt the market for any trade, licit or illicit. For smugglers, as for legal traders, war increased the risks of seizure because of the system of licensing privateers and the heightened incidence of Royal Navy vessels in and around the sea lanes, all of them incentivised by the prospect of seizing valuable prizes.⁹⁸ The final area is credit risk, although this is applicable to a proportion of smuggling transactions only, with the smaller-scale smugglers operating on a cash basis. The reality is that this category of risk is harder to define, and measures to mitigate it rarer in the sources, but the following attempts to illustrate each in turn and how smugglers dealt with the risks as they arose.

Changes in legislation

A change in legislation with a potential impact on pricing occurred for British tea smugglers in 1745, when the rate of excise duty on tea was reduced from a flat four shillings per pound to one shilling plus a 25% *ad valorem* charge, (without any adjustment to customs duty),

⁹⁸ Collusive privateering, where ships with letters of marque conspired with smugglers to seize them and their cargoes, was not unheard of – see the 1705 case of Captain Charles Mullett and the Anne sloop mentioned above, TNA, HCA 32/48/39.

and again in 1767 when the one shilling charge was dropped temporarily.⁹⁹ The idea was for the East India Company (the monopoly holder) to be able to increase its share of the tea market at the expense of the illicit trade, and prices reduced for a while, causing some disruption to smuggling, but in neither case was the impact long lasting. In 1784, by which time the quantities of smuggled tea in Britain had increased by some two and a half times, Pitt's Commutation Act, which slashed total duties to 12.5% against over 100% of cost, represented a far more dramatic threat to the smugglers' business.¹⁰⁰ This would have had a big impact on smugglers' margins in the longer term, even if for a while prices remained high. Moreover, the sources of tea for smuggling would have been greatly reduced when, given the long lead times for goods from China, the EIC started purchasing from the European tea importing companies, and 'a total of 25.5 million pounds was purchased between 1785 and 1787.'¹⁰¹

Smugglers attempted to respond to these risks in a number of ways. Perhaps the most blatant example was at the first sale of tea by the EIC after the Commutation Act was passed when smugglers were seen to participate in an effort to keep prices high. And when the EIC started buying in Europe, the larger continental dealers, who although probably not smugglers themselves had the most to lose in a sudden reduction in tea prices, clubbed together to negotiate sales to the EIC under the Amsterdam house of Voute, in order to maintain prices, at least for a time, so that they could reduce inventories and adjust future

⁹⁹ 18 Geo II, c.26; 8 Geo III, c.25.

¹⁰⁰ The *First report from the committee*, 1783, estimates some 7.5 million pounds were smuggled annually compared to 3 million in the 1745 *Report of the House of Commons committee to enquire into the most infamous practice of smuggling*.

¹⁰¹ Hoh-Cheung and Lorna H. Mui, 'The Commutation Act and the Tea Trade in Britain, 1784-1793', *Economic History Review*, 16.2, 1963, pp. 234-53, at p. 235.

purchases.¹⁰² Although these moves may have succeeded to the extent that prices remained high for a while, to Pitt's frustration, over time tea became a far less important component in the portfolio of goods smuggled into Britain, even if the rates of duty increased again during the French wars.¹⁰³ However, it is clear that the contraband trade continued to thrive even after tea stopped being the motor of the industry, with plenty of opportunities for product diversification into brandy, wines, tobacco and textiles for instance. There are occasional examples of tea being smuggled after this period, but only if there was a sufficient price discount available on tea from the Scandinavian ports, and some of the importing companies there effectively withdrew from the Canton trade.¹⁰⁴ In another example of a response to prospective legislation change, the ever-inventive smugglers offered insurance to address the risk of the possible removal of the prohibition on French cambric imports, which would have had an impact on the prices dealers needed to pay. 'The smugglers have offered to insure the dealers for 8,9 or 10 per cent. or even half the amount of what the duty would be in case the prohibition were taken off.'¹⁰⁵

Shortages of supply could also represent a problem for smugglers, whether or not as a direct result of legislation change. In 1782 at a time of shortage of tea available to buy on the European continent, smugglers ended up buying from the EIC itself on the basis that it

¹⁰² Ibid., pp. 236-7; Hoh-Cheung and Lorna Mui, 'William Pitt and the Enforcement of the Commutation Act, 1784-1788', *The English Historical Review*, 76, 1961, pp. 447-65, at pp. 453, 460ff; TNA, PRO 30/8/294, ff90-107, letter to the Directors of the East India Company, August 1788.

¹⁰³ See Mui & Mui, 'William Pitt and the Enforcement'; White, 'The Carteret Priaulx Papers: The Influence of the Napoleonic Wars on Guernsey', *Transactions de La Société Guernesiaise*, XVII.4, 1963, p. 452.

¹⁰⁴ L.M. Cullen, 'Smuggling in the North Channel in the Eighteenth Century', *Scottish Economic & Social History*, May 1987, vol. 7, pp. 9-26; Mui & Mui, 'The Commutation Act', p.237.

¹⁰⁵ Report from the committee on the prohibition of cambricks, *Journal of the House of Commons*, vol. 25, 22 March 1749, p. 1075.

was important for them to keep their customers happy. In a letter to the EIC, Francis

Garrett, a tea dealer, explains how the smugglers,

finding they could not supply their old connections here, formed themselves into companies & purchased teas at your last sale as a temporary supply, shipped them to Ireland & from thence to Ostend. Various other methods were also adopted to top up their declining trade until they could be supplied with tea on more reasonable terms from the foreign markets.¹⁰⁶

This level of sophistication was a long way from the violent landing gangs of the 1740s and in this the smuggling business displays a much closer affinity with the legal trading business. The necessity of maintaining a flourishing business during a temporary shortage clearly outweighed the costs associated with a more convoluted supply chain, and, although these were unusual circumstances, the smuggler-businessmen displayed their customary adaptability.

Greater enforcement

The prospect of greater enforcement of anti-smuggling laws in the entrepôt of Guernsey when a representation was prepared for Captain Major to have the full powers of a Revenue Officer caused William Le Marchant, well-known to the authorities as a smuggler-merchant, to write strongly to his associate, urging the associate to send from the mainland for the remaining goods 'for it would be a great loss if it were to remain on hand, and he should be sworn.'¹⁰⁷ In practice, Le Marchant and others addressed the risk of Captain Major increasing his surveillance of the island by getting the local courts on side, destroying

¹⁰⁶ BL, IOR/E/1/70 f. 289, 3 May 1782.

¹⁰⁷ TNA, T 1/499, ff. 233-4, copies of the correspondence of William Le Marchant to John Channan from Major's papers.

Major's vessel and even at one point imprisoning him, and in this way managed to delay any realistic clamp down of anti-smuggling legislation for many years.¹⁰⁸ Thirty years later, Guernsey merchants were still active in smuggling goods to the mainland. For one of these, Carteret Priaulx, the market started to become more difficult in the years 1802-7 because of the greater effort at enforcement of the legislation, compounded by the lack of funds experienced by many of the coastal communities his firm relied on as customers. For a while, Carteret Priaulx' strategy was to urge his agents to order as much as possible so he could reduce stocks before the smuggling bill of 1805 was introduced, and, as enforcement activity increased, to try to limit the overall risk in other ways (about the ship *Speculation*, his agent Randle writes 'I find she is a most excellent vessel, as the risk will be so great it will not do for us to have goods in a bad vessel'). As mentioned in chapter 4 above, he also ran the risk of his smuggling customers feeling less inclined to pay their bills in anticipation of the legislation changes. His response seems to have been to restrict the availability of goods to the agents struggling to secure payment, a move acknowledged by Randle:

We do not think it proper to have a cargo in a vessel upon freight for our place for all the concern until they all settle for the bad voyages. They are the more backward in paying in consequence of being in expectation of the business of the island going to be stopped and we are determined we shall not have any more goods without the pay as we know it do not meet your approbation.¹⁰⁹

An increase in enforcement efforts by the British government also constituted a threat to smuggling activity of the continental entrepôts. The Chamber of Commerce of Dunkirk, ever

¹⁰⁸ TNA, T 1/499, f.206, Summary of the case of John Major, August 1773.

¹⁰⁹ White, 'Carteret Priaulx Papers', p. 464.

keen to promote the economic activity that British smugglers brought to the port, and concerned about the increased surveillance measures put in place by Pitt in 1785, made its concerns clear in a letter to M. Esmangart, the *intendant* of Flanders and Artois.

The measures taken by Mr Pitt and the activity of the coast guard vessels make it more difficult and more dangerous than ever to smuggle goods from France into England, and for this reason it seems from this side that we should more than ever be favouring measures to enable it to continue with as few risks as possible.¹¹⁰

As a result, they urged the recipient to press the Dunkirk merchants' case with de Calonne, *contrôleur général des finances*, to rescind the requirement to reveal more about the goods passing through the port.¹¹¹ Overly strict law enforcement by the French government on the foreign population of Dunkirk could also impact the commercial affairs of merchants, many of whom sold contraband goods to smugglers, including their ability to obtain credit, as the Earl of Hertford, British ambassador in Paris, explained in a 1765 letter to the Earl of Halifax: 'besides their apprehensions from the exercise of arbitrary power, they feared that their credit must thereby be hurt with all their correspondents, who, from the present instances, would look on their abode in France, and the continuance of their commerce, as uncertain and precarious.'¹¹² All parties engaged in the smuggling-based commerce of Dunkirk were anxious lobbyists of those in positions of power in order to head off or reduce risks to the profitable *status quo*.

¹¹⁰ 'Les mesures prises par M. Pitt et l'activité des bâtimens gardes côtes, rendent la fraude de France en Angleterre de plus difficile et plus dangereuse que jamais, et par cette raison il nous semble que de ce côté-ci l'on devroit plus que jamais favoriser les moyens de la faire avec le moins de risques possibles.' DK, 1S55, Lettre à M. Esmangart, 10 December 1785.

¹¹¹ DK, 1S55, Mémoire de la chambre de commerce de Dunkerque, November 1785.

¹¹² TNA, SP 78/266, f.37, dated 10 April 1765.

War

Outbreak of war increased the risks for all sea-borne trade. For smugglers the intensity of shipping and the governments' focus on shipping routes was especially problematic. In order to protect their businesses, many smugglers moved away from places such as Dunkirk to neutral ports, as the records of the activities of Hanning during the War of the Austrian Succession and the letters to the Prince de Robecq about Holman and others during the American War illustrate, and in spite of attempts by the authorities in the port towns to keep them.¹¹³ Similarly, *laissez-passer* documents issued to smuggling captains who did stay, to protect them from French privateers, would have gone some way to mitigating the risks, although increased surveillance by naval vessels and the presence of British privateers would still have created additional risk.¹¹⁴

War could affect the availability of supply, as was the case of tobacco from the Americas during the American Wars. One way this was solved by smugglers was to import local tobacco from Dunkirk into Guernsey. In March 1775, before the start of war, but 'taking advantage of the misunderstanding between England and her colonies,' a Guernsey merchant noticed a significant increase in illegal tobacco imports 'of the growth and manufacture of Flanders' being landed in Guernsey.¹¹⁵ Disruption in the supply chain was swiftly solved by the smugglers securing a new source of supply, even if the nature and quality of Flanders tobacco was different from the American.

¹¹³ For information on Robert Hanning and Jean Holman, see chapter 4 above, 'Dunkirk and nearby ports.'

¹¹⁴ See above under 'Transport Risk, Concealment' for a discussion of the *laissez passer*.

¹¹⁵ TNA, T 1/517/270-1, Levrier to Treasury, 15 March 1775.

For governments, the intelligence risk gave further impetus to prevention. During the war of the Spanish succession, a letter to Sir Charles Hedges, secretary of state, described smuggling activities between Boulogne and Romney Marsh 'yett it is nothing to ye great hurt of their coming and bringing treasonable intelligence'.¹¹⁶ In 1745, Ipswich customs officers, presumably concerned about Jacobites, named a smuggler called Macnamara, whom they had in gaol 'suspecting him to be a person carrying on a private correspondence wth. the enemies of His Majesties person and government'.¹¹⁷ And indeed in the context of a possible invasion by the French in 1745, 'the people of the smuggling cutters, which trade to Boulogne, are all taken up to serve as pilots'.¹¹⁸ On the other side of the Channel gaining intelligence was seen as a reason for allowing smugglers to continue to use the French ports during wartime, and a 1778 memorandum from Dunkirk was clear about the benefits of keeping the port of Boulogne open during the War of the Austrian succession: 'this method produced intelligence of the highest importance, which would not have been obtainable elsewhere with such speed and certainty,' backed up by various reasons why there would be no love lost between the Irish and English smugglers and the British government, although this sentiment is hardly surprising given the reliance of the merchants of Dunkirk on the smuggling trade.¹¹⁹ But there was also a faction that was no less concerned that in allowing smuggling to continue from Dunkirk the government risked intelligence being taken back to the benefit of the British government.¹²⁰ Commercial interests were given priority,

¹¹⁶ TNA, SP 34/8, f.58, Letter to Hedges from Abraham Stock dated 19 August 1706.

¹¹⁷ TNA, SP 36/80/2, f.77, Letter to Newcastle from Messrs Cornelius and Rant dated 12 January 1745.

¹¹⁸ 'Extracts from letters from Holland in December 1745. Forwarded by Admiral Vernon to the Admiralty', TNA, CUST 143/18, f.53.

¹¹⁹ 'cette voie a donné des intelligences de la plus grande consequence, qu'on n'aurait pas pu se procurer par ailleurs, avec autant de sûreté & de célérité', ADN, C4611, doc. 13, mémoire, *Nécessité de favoriser le commerce d'interlope des cutters irlandais &c.*, 1778.

¹²⁰ ADN, C4611, doc. 3 is a memo dated 31 May 1779 from Poirier, a local lawyer, listing all the arguments why English smugglers coming to Dunkirk are likely to be spying, but all are robustly denied with unknown annotations in the margin.

albeit under strict rules, and it is not clear that either government in fact took any further significant steps specifically to prevent smugglers from also carrying intelligence.¹²¹

Credit risk

Credit was an essential lubricant in the trading system of the eighteenth century, and relied on trust, reputation and often kinship or religious connections in a trading network.¹²² This was also true of smuggling in certain cases, generally where the trade in contraband most closely resembled legal trade, complete with agents to arrange distribution and collection locally, even though the vast majority of the smaller-scale contraband trade seem to have been cash based. Slow payment or credit losses would therefore have constituted significant additional risks for those few. Although the smuggler would have had no recourse to the courts to enforce debts, for the most part one would expect customers enjoying credit terms to honour their agreements if they wished to remain customers. This would hold true until a change of circumstances left them able to exploit an opportunity, as was potentially the case with customers of Carteret Priaulx (see above). The motives of Le Marchant's customers, who turned on Channan when pressed for payment, accused him of smuggling offences and had him arrested, are altogether less clear, but possibly they sensed the weakness in Le Marchant's organisation.¹²³ What Le Marchant did do was to rely on trust, much as did the legal merchant trade. He outsourced the function of debt collection to an agent he trusted, even if this trust proved of limited value under pressure. It probably goes

¹²¹ The rules, which apply only to *bona fide* smugglers, were originally issued by the *Ministre de la Marine* and are set out in 1778 in Dk 1S43, pp. 334-5. Boats needed to register on arrival, not contain arms and not deviate from a direct route; only the captain and one other could land; merchants dealing with them had to make a deposit of 20,000 livres for each voyage; etc.

¹²² See Peter Mathias, 'Risk, Credit and Kinship in Early Modern Enterprise', in John McCusker and Kenneth Morgan, Eds., *The Early Modern Atlantic Economy*, Cambridge, 2001, pp. 15-35.

¹²³ TNA, T 1/489, ff118-120, report on petition of William Le Marchant, 29 June 1772.

without saying that, in the illegal world, any use of credit, even if backed up by vigorous intimidation and enforcement, was potentially dangerous.

The use of credit by the calico smugglers between Bar-le-Duc and Paris seems to have been completely normalised and shows a far greater level of sophistication, in the sense that all parties in the circular trade relied on each other to complete the circle, very much as in the legal merchant trade. As shown in chapter 4 above, the use of *lettres de change*, with payments handled by the banker Cottin, distinguished this trade from the cash-based trade in salt and tobacco across the borders of Northern France. But, as with the legal trade, there were difficulties at times in receiving payment. In a letter from Francois Dunant (alias Desforges), a Bar merchant, to Jacques Pachot one can detect an urgent tone in the request for payment of the sum of 3,588 *livres*, made up of 3,419 due from the agreement of the previous March and 169 remaining from the '*ancien compte*'. He explained why he needed the funds: 'I need to make a remittance to the United Provinces in order to release other merchandise I have there ready to go.'¹²⁴ The smugglers were well aware of the risks, and, while relying on business methods of the legal trade, did take precautions. As Liander maintains, the 'Bar-le-Duc merchants insisted on a bill of exchange before the delivery of goods', contrary to 'standard business procedure', because they 'knew well that they were dealing with shady characters who might refuse to pay if the contraband was lost *en route* to Paris.'¹²⁵ The letter from Dunant, who, although mostly trading from the safety of Bar, was known to travel to Paris with his contraband goods, referred to a reconciliation (*arrêté*) of their account, and it would seem in this case that he had left himself unpaid for a delivery

¹²⁴ 'il faut que je fasse remise en Hollande pour faire venir d'autres marchandises que j'y ay et qui sont toutes prettes a partir.' AN, Z/1a/977, A18, letter from Dunant to Pachot dated 4 April 1741.

¹²⁵ Liander, 'Smuggling Bands', p. 267

recently made in person. Other examples came in the correspondence of Claude Robert, an agent in Bar-le-Duc for Paris merchant-smugglers. In a business letter to Petot & Ramé, Paris-based merchants, he asked for their help in collecting a debt from Duhamel to whom he had advanced money. He in turn was being pressed for payment by the supplier of the goods he delivered. 'I beg you to speak to him and find out his intentions,' and later, 'I beg you to press him to pay me,' he wrote. The amount is relatively small (117 *livres*), but he feared it would be a repeat of another merchant 'who caused me to lose ten écus.'¹²⁶ Whether Robert had any realistic way of enforcing unpaid debts is unclear, but in an earlier letter, to a Monsieur Marandait, he issued what could be taken as a threat: 'I am not a man who asks twice for a debt to be repaid.'¹²⁷

Another danger was that *lettres de change* could be open to forgery as appeared in the case against Francois Pachot, son of Jacques. Interestingly, a legal case in Paris against Francois Pachot had been started (although it is unclear by whom) 'for having signed with a name not his own five letters of credit together amounting to the sum of two thousand, nine hundred and two livres in favour of merchants with whom he carried on this evil trade', but this was then joined to the *Commission de Reims* case against the same individual because they were the result of prohibited trades by Pachot and therefore closely linked.¹²⁸ This episode served to confirm how closely this particular contraband business resembled a legal trade, even involving the legal authorities in the case of forged bills of exchange.

¹²⁶ 'Je vous prie de luy parler et savoir son dessin'; 'je vous prie de le pousser qui me paye,'; 'qui ma fait perdre dix écus.' AN, Z/1a/969, H7, letter to Messieurs Petot & Ramé marchand a Paris dated 24 January 1741.

¹²⁷ 'je ne suis pas un homme a demander une dette deux fois.' AN, Z/1a/969, H7, letter to Monsieur Marandait, dated 13 September 1740.

¹²⁸ 'pour avoir signé d'un autre nom que le sien cinq lettres de change montant ensemble a la somme de deux mil neuf cent deux livres au profit de marchands avec lesquels il faisoit ce mauvais commerce...' AN, Z/1a/977, B18, doc. 20, memorandum to Monsieur Colleau dated 8 April 1743.

Conclusion

Smugglers incurred significant additional risks in their businesses compared to legal traders.

The nature of the sources means that we are afforded only snapshots of how smugglers reacted to these additional risks, and many of these relate to smugglers caught and put on trial, representing probably only the tip of the iceberg of smuggling activity. But these snapshots nevertheless give the impression that, with a mixture of trickery, bribery, intimidation and flexibility, smugglers were able to address those heightened risks, even in wartime, and continue to operate their businesses, and that, to all accounts, they were able to operate sufficiently profitably, in spite of the additional costs, because of the huge margins available. The risk-mitigating organisational ability required to marshal large gangs at the right place and right time, or to bribe revenue protection officers and ensure they were the ones on duty when goods were being transported, or the flexibility to switch commodities or arrival locations, these were exceptional skills by any standard. That smugglers were able to offer gang members adequate compensation, and even a way of life, which other opportunities failed to provide, was also a key element of the business model.

France's extensive land borders meant that there was a high proportion of land-based

smuggling whereas in Britain all smuggled goods arrived in the country by ship.

Nevertheless, with the exception of risks of seizure at sea, smugglers of contraband goods

into France ran very similar risks to those experienced in Britain. Britain's customs sloops,

port-based customs officials and mobile riding officers were replaced at key entry points

through France's customs borders by posts manned by officials of the *Fermes Générales*.

And the smugglers' approach to managing the risks was very similar, using guile, violence

and bribery to protect their investment in contraband goods, and offering informal product insurance to buyers. Moreover, where smuggling was closest to licit trade and credit was used extensively, credit risk issues were encountered both by the Guernsey smugglers into Britain, with their system of local agents, and by the textile smugglers in North-Eastern France. In both cases, the risks were greater than for the legal trade because the nature of the underlying trade made recourse to the normal recovery routes unlikely or difficult, although not impossible, to engineer.

Smugglers on both sides of the Channel faced serious challenges to their businesses as a result of external factors. In Britain it was legislation change, such as in 1784, which would have caused problems both to the smugglers of tea and their suppliers, if they were not able to find replacement products. In France, the various changes of legislation also would have had an impact, although the replacement of the total ban on *indiennes* in 1759 with a tariff structure seems to have led to larger volumes of contraband textiles, partly because the high levels of taxation continued to provide good margins and partly because their assimilation into legal inventories would have become significantly easier. But the real watershed was the French Revolution, which started, as noted in chapter 2 above, with an attack on the customs posts around Paris, and which led to a massive reduction in risk for a period of time. First the Assembly 'dismantled the judicial machinery that had criminalized trafficking,' then abolished the *gabelle* and the internal customs borders and, finally in 1791, 'shuttered the tobacco monopoly and nullified the contract between Farmers General and king'.¹²⁹ While there was a significant boost in particular to tobacco smuggling once the

¹²⁹ Kwass, 'The Global Underground', pp. 29-30. From papers sent from the Somme region, it seems that initial compliance with existing customs regulations was good, but that within three months '*tous les bons citoyens*

barriers had been torn down, as a letter from Le Marchant in Guernsey shows,¹³⁰ under Napoleon a salt tax was reintroduced in 1806 and the tobacco monopoly was recreated in 1810.¹³¹

This review of the risks run in the smuggling business and the risk mitigating strategies employed reveals a wide spectrum of type of smuggler, ranging from criminal gangs to highly sophisticated businessmen. As the century progressed, the market grew and levels of sophistication clearly increased alongside the size of many of the individual businesses, and even though there were violent gangs later in the century and sophisticated schemes in the earlier years, it is possible to discern a process of development. But the fundamental reality remains that the business opportunities of smuggling were attractive to a wide range of characters and skills, from merchants operating illegal activity alongside legal trades with great sophistication and flexibility to criminal gangs prepared to use violent means to protect their investments.

[of Amiens] sont indignés de la facilité avec laquelle les contrebandiers font entrer dans la ville le sel et le tabac et les vendent dans les rues et les places.' AN, F/4/1060, letter from Delgay, 26 December 1789.

¹³⁰ See Jacob M. Price, *France and the Chesapeake. A history of the French tobacco monopoly, 1674-1791, and of its relationship to the British and American tobacco trades*, 2 vols., University of Michigan Press, 1973, p. 796. The letter from Le Marchant is contained in correspondence from Amherst, Governor of Guernsey, to Dundas dated 1791 in TNA, HO 98/23, pointing out that 'in consequence of the French revolution there has, since, been imported in this island five thousand hogsheads of tobacco every year, which being manufactured here, has been sold to the French who come here in small crafts, and pay it in Louis d'Ors and six liver pieces.'

¹³¹ Eugene White, 'The French Revolution and the Politics of Government Finance, 1770-1815', *The Journal of Economic History*, 55.2, 1995, pp. 227-55.

6 – Conclusion

General

Smuggling as a business grew substantially during the eighteenth century. Governments imposed taxes and monopolies as part of their mercantilist policies and as a means of raising funds, thereby creating the profit opportunity that entrepreneurs not afraid to break the law were swift to exploit. As the appetite for certain luxuries increased, alongside disposable incomes, widespread demand for the goods smugglers brought in illegally grew and, combined with the duty rises required by the pressures on government finances, led to a significant increase in those profit opportunities. From the smugglers' perspective, a market had been created and, once the sources of supply, transport on sea and land and distribution networks had been secured, there was every incentive to exploit it. The opportunities resulted over time in a number of specialist roles being developed within the smuggling industry. Roles in the supply of contraband goods to the smugglers ranged from tea importers in Scandinavia to offshore manufacturers processing tobacco products and a whole range of merchanting operations based on the *entrepôts* such as Guernsey, Dunkirk and Geneva. Fake stamps and seals were created, specially designed containers for brandy and tea were made and fast ships were developed specifically to avoid preventative forces and assist the distribution of goods. Moreover, from the records available, there is little evidence of significant competition among smugglers, although there may well have been some at the margins between competing gangs. While this may imply that violence by gangs was aimed at protecting a smuggling territory as much as at intimidating local populations and the gang's own members, this apparent lack also suggests that the growth in the market

was sufficient to accommodate newcomers. With enforcement always seemingly inadequate, the risks of the smuggling business were outweighed by the rewards, even though it would probably be fair to argue that the risk/reward ratio was considerably less favourable for the foot soldiers of the operations, the people most likely to be caught and punished, than for the masterminds, the suppliers of goods and the merchants, shopkeepers and ultimately consumers who benefitted from cheaper goods. Even when government clamp downs did seem to be succeeding, the measures employed were regarded by some as overly harsh and hard to sustain in the face of popular resistance.

While many historians have acknowledged that eighteenth century smuggling appealed to a variety of participants because of the profit potential arising from government restrictions on trade, there is nothing written from the perspective that smuggling was fundamentally a business. This thesis has redressed that imbalance by assembling a wide range of information and highlighting the business aspects of how smuggling operated. A lack of reliable economic data on smuggling volumes and how they changed during the century, or specific information on smuggling businesses, has meant that the approach has needed to be largely qualitative rather than quantitative, focussing on business themes rather than financial analysis or attempting to document growth accurately. As such, it explains how these businesses worked in spite of the constraints put upon them by governments, what sort of person promoted them and how all participants dealt with the obvious risks of handling and carrying contraband goods. The picture of smuggling that emerges is very different from that of the 'social crime' of Winslow, Linebaugh and others. It appears instead as a business requiring dynamic entrepreneurial adaptability to navigate frequent changes in legislation and enforcement and create and exploit sophisticated supply chains.

In spite of the evident specialisation of so much, particularly smaller-scale smuggling, this thesis also shows how close smuggling techniques could be to those of legal trade by merchants, clearly overlapping at times. It also points out how similar the business of smuggling in Britain was to that in France, comparing two opposing nations with different structures but using essentially the same techniques to try to get ahead economically, and in the process creating broadly similar business opportunities that were exploited in broadly similar ways.

The introductory chapter highlights the importance of smuggling in the work of many historians of the eighteenth century, even if it remains the main preoccupation of just a few, as well as the economic background to, and key features of, smuggling in England and France. The second chapter gathers the facts available and sets out the mechanics of the smuggling business into and around Britain and France, concluding that the supply chains were as sophisticated as those of merchants at the time, and that the smugglers displayed an extraordinary entrepreneurial inventiveness as they adapted to the problems they encountered. They reacted to stricter government regulations and enhanced prevention measures, exploited the fungibility of many contraband commodities with those imported legally and, in wartime, secured protection from belligerent foreign powers or simply relocated to neutral territory. Dunkirk was particularly notable as a supply chain *entrepôt* and acts as a model for others. It stood just within France's national boundaries, but not its customs borders, and was granted a special status that ensured it remained tax-free until after the French Revolution. In spite of the restrictions to size of shipping caused by periodical English insistence on destruction of its infrastructure and the shifting sands outside the port entrance, it was ideally located not just for smuggling into France and

across the Channel but also for receiving goods shipped down from the Baltic or up from the French Atlantic ports, and close to the route followed by East Indiamen returning to their home ports of London, Amsterdam and Gothenburg. Its role as an *entrepôt* was strengthened by the English, Scottish and Irish merchants who settled there, whatever their backgrounds, to do business with the smugglers as merchants and manufacturers, assembling cargoes of goods, transforming tobacco to meet the demands of specific target markets across Europe and manufacturing spirits to feed Britain's gin craze.

In chapter three, I review the tax structures that gave rise to smuggling opportunities, and the legal systems that were developed in governments' attempts to control them, highlighting the similarities in approach between Britain and France in contrast to the structural differences. The result in both cases was an extraordinary profusion of customs regulations, significantly complicating the task of customs collectors and enforcement agents, much as today's tax regimes are complicated and full of loopholes which the astute tax adviser can exploit. Operating a smuggling business against a backdrop of shifting regulation and varying levels of efficiency in enforcement, including distinguishing between which part of the overall operation was legal and which not at any given point in time, was one of the key achievements of the smuggler-entrepreneur.

Chapter four examines the limited information available on those who were behind the smuggling operations. The conclusion is that a whole range of individuals from all classes were involved in smuggling at various times and to varying degrees, but that for the most part the business was very fragmented and covered a wide spectrum of organisation. Tobacco fraud in the British ports was a largely discrete form of smuggling conducted by

importing merchants mostly by bribing customs officials to ignore a range of ways in which they contrived to import more product than was declared to the authorities. By contrast, participants in the widespread illicit transport of goods to evade duties ranged from substantial European trading companies who imported (entirely legally) goods for the smuggling trade, to smaller merchants in the border areas and the *entrepôts* who were responsible for wholesaling goods to the smugglers (again, for the most part legally), to the entrepreneurs and carriers based on the frontiers, some just sole traders. This last group made a business out of the illegal transport of contraband goods across the customs border and the arrangement of the logistics of onward transportation. The risks this last category ran and the measures they took in mitigation are examined in chapter five. With a mixture of bribery, flexibility and intimidation, these businessmen were able largely to overcome changing regulations, increased surveillance and greater risk of seizure and imprisonment. As smuggling started to converge with the legal trade, they began searching for orders, offering credit and assuming the risk of safe delivery, culminating at a certain point in third party insurance becoming available.

A number of themes emerge from the analysis in this thesis which will be covered in the paragraphs that follow. The attitudes and actions of governments were central to the development and growth of the smuggling business, and yet there was little effective impetus to change course and clamp down on smuggling. Although the governments of Britain and France differed in many ways, and their structures of customs collection and enforcement had relatively little in common, yet their policies on international trade were similar and led to smuggling businesses with a similar impact on the legal systems that sought to restrain them and on the communities where they operated. What is clear from

this thesis is that business considerations were uppermost in the minds of smugglers, and the involvement of merchants remained widespread, even if not directly in the smuggling act itself. Although most of the upper echelons of the merchant class seem to have remained aloof from smuggling, the merchants and merchant networks were important in the supply chains, and at times the closeness of the smuggling and legal trading businesses inevitably led to opportunities to merge contraband with legally sourced goods. And finally, the social aspects of smuggling allowed the industry to grow, providing cheap goods under the noses of the hated customs officials and employment for communities on the margins of survival, thus making acceptable the use of violence to protect these gains. Following on from these themes, I will make some comments on developments during the eighteenth century and on any relevance to the smuggling problems faced by governments today.

Themes

Government

At the root of any form of smuggling is a government policy that, as a side-effect, creates a market for contraband and ensures the smuggling business is profitable enough to attract entrepreneurs unafraid to break the law. As rates of duty and / or demand for the items targeted increase, the profit potential and the temptation to break the law grow, sucking more and more participants into the market. Commentators in both Britain and France in the eighteenth century were aware of this effect, even if it was unclear what guided governments and why they seemed for the most part to be oblivious or slow to react. A report looking back from 1834 after the liberalisation of the tea market was particularly critical of the British government's motivations in fiscal matters, reflecting perhaps the

reality that these motivations were behind the inconsistency of governments in the way they treated one article compared to another. 'For the most part, the fiscal policy pursued has been to favour one or another interest, as happened to be most convenient to the minister of the day, at the expense of the public.' The writer then used the example of Pitt's 1784 Commutation Act. 'The minister wanted the support of the East-India Company in order to defeat his opponents.'¹ Horwell's thesis on taxation in eighteenth-century Britain reaches for a more generous explanation with his examination of the thinking behind the choices of how taxation was levied in eighteenth-century Britain, how the pressing need for revenue was balanced by attempts to ensure the legitimacy of individual taxes, and in particular attempts to ensure that taxes for luxuries fell for the most part on the wealthier consumers.² Clearly there were political considerations to how and where any adjustments were made, limiting freedom of action, but there were also economic factors which effectively capped the level to which individual duty rates could rise without entirely undercutting the viability of the merchant community. But whatever the thinking behind tax policy, and however counter-productive certain taxes may now seem, ultimately, Horwell concludes, Britain's government was well-resourced as tax policy achieved what was needed at the time. 'Although there were weaknesses within the system and an uneven application of it in practice, the eighteenth-century British state was nevertheless capable of levying and collecting sufficient sums to service a phenomenal level of debt for the purposes of waging war on a global scale without bankrupting itself and without collapsing in the face of popular tumults.'³

¹ John Bowring, ed., 'ART. VI.1. Report on Tea Duties', *Westminster Review*, 22.44, 1835, pp. 361–403, at p. 376.

² Shane Horwell, 'Taxation in British Political and Economic Thought, 1733-1816,' unpublished PhD Thesis, University College, London, 2019.

³ Horwell, 'Taxation', p. 310.

Clearly attempts to limit the loss of revenue through smuggling were made in both Britain and France. Better enforcement was the obvious way to limit smuggling, as the recurring laments of commentators and officials recorded in this thesis show, and there was growth in the preventative forces during the century, with, for example, estimates of the policing force of the *Ferme* in France showing apparent growth from 19,500 in 1768 to 23,000 in 1784.⁴ But enforcement measures always seemed woefully inadequate given the length of the customs borders in both countries and the strength of the smuggling gangs, due as much to the self-interest of local officials and merchants and the resistance of the local populations to further encroachment on their access to income opportunities and cheap goods, as much as it was due to the lack of funds on the part of government. There was also some realisation that lower taxes would reduce smuggling without necessarily resulting in lower levels of revenue, and there was always pressure from the merchants who saw their core business undercut by lower-priced, smuggled goods available for sale. There were experiments in Britain in reducing duty rates to try to undermine the profitability of the smuggling market. The government tried a reduction in tea duties in 1745, which seemed to work, although only measured over a short timeframe. Even adjusting for the fact that dealers held off purchasing before the reduction became effective in midsummer 1745, the quantity of tea subject to duty grew from some 800,000 lb. to 2 million lb. on an annualised basis according to Stephen Theodore Jansen in his evidence to the 1745/6 commons committee.⁵ But the 1745 restructuring was not sustained under pressure of the need for funds in subsequent wars. Pitt's 1784 Commutation Act, which involved replacing much of

⁴ George Matthews, *The Royal General Farms in Eighteenth-Century France*, New York, 1958, p.110. However, the estimates are from 3 different sources so may not accurately reflect the growth.

⁵ *Commons' Journals*, vol. xxv (1745-50), p. 102.

the duty on tea by window taxes, was altogether more revolutionary, but even that was watered down during the wars that followed. Another strategy was for the government to attempt to shift the burden of collection from customs to excise, thought at the time to be more effective. Walpole tried this with wine and tobacco in 1733, ten years after successfully doing this with tea, coffee and chocolate, but his initiative was blocked for political reasons, using 'the fear of the threat to liberty and property from the intrusion of the revenue into private affairs,' seemingly egged on by the wine and tobacco merchants.⁶ Fifty-five years later, Pitt tried again with tobacco, this time more successfully, when he split the 1s. 3d. duty rate between the Excise (9d.) and Customs (6d.).⁷

For the French government, mostly because collection and enforcement were outsourced, there was less flexibility and little in the way of experimentation by restructuring the tax regime. The main changes to tax rates, the *sous pour livre*, adding an additional 5 per cent., were only ever upwards, although some increases applied to certain items and not others, and exemptions were allowed on some and then taken away in subsequent increases.⁸ The ban on *indiennes* was lifted in 1759, and replaced by a duty, but this actually increased the volume of product smuggled as the market expanded rapidly once the material itself was no longer illegal to own and wear.⁹ While there were frequent representations against taxes and the way they increased during the eighteenth century, much of the public anger was directed at the *Ferme* and the way their army of enforcement officers interacted with the

⁶ Horwell, 'Taxation', p. 318. See also Paul Langford, *The Excise Crisis: Society and Politics in the Age of Walpole*, Oxford, 1975.

⁷ 29 Geo. III, c.68, An act for repealing the duties on tobacco and snuff..., 1789, *Statutes at Large*, vol. 36.

⁸ Matthews, *The Royal General Farms*, pp. 84-6.

⁹ Nils Liander, 'Smuggling Bands in Eighteenth Century France', unpublished thesis, Harvard University, 1981, p. 457: 'the lifting of the ban in 1759 led to a marked increase in the volume of trade, as legitimate merchants could now participate in this lucrative activity and as the market expanded rapidly.'

public. The legitimacy of a private sector company enforcing government policy was questioned, and the *Ferme* was accused of brutality in the process of collection and the retention of too great a proportion of the total yield.¹⁰ Eugene White provides a table showing the returns of some of the 6-year leases as prepared in his defence by Antoine Lavoisier, one of the last farmers general who was subsequently guillotined in 1794, and concludes that the returns were not excessive given the risks, but the perception that the farmers general had made themselves fabulously rich at the expense of the country persisted.¹¹

Further study of governments' motives could explore more fully the statement in Bowring's 1835 report cited above about the importance in Britain of 'satisfying interests' in the way it set tax policy and extend the analysis beyond Pitt's Commutation Act to tax legislation that was enacted throughout the century. Another aspect of legislation to be analysed is the proportion of failed legislation to that which was successful, and what this might reveal about attitudes within parliament as well as the actual institutional appetite for legislating on smuggling matters and how this changed across the century.

Similarities and differences

The legitimacy of a tax structure in France for the benefit of an absolutist government, and administered for it by a private sector company, compared to Britain's model of a parliamentary system seen to be debating changes proposed by ministers of the crown, is

¹⁰ Eugene White, 'From Privatized to Government-Administered Tax Collection: Tax Farming in Eighteenth-Century France', *The Economic History Review*, 57.4, 2004, pp. 636-63, at p. 645.

¹¹ White, 'Tax Farming', p. 649.

one of the main differences between the two nations relevant to an analysis of the eighteenth-century smuggling business. Yet it would be wrong to overstate the autocratic power of the French *Conseil d'état* over its subjects, given the role of the *parlements* in approving legislation, as the tussle over the *commissions* set up to try smuggling cases shows.¹² In reality, overall taxation levels in France were half what they were in Britain on a per capita basis throughout the century, and arguably more progressive because of the lower proportion of indirect taxes.¹³ On the other hand, widespread exemptions, regional disparities and a high proportion of indirect taxation on salt, a necessity of everyday life, probably meant that ordinary people suffered disproportionately, so that the anti-tax sentiments of the population were much stronger than in Britain, leading to a widespread questioning of the legitimacy of the system. Mathias & O'Brien summarise the situation by suggesting that the weakness of the *ancien régime* was too little, not too much taxation, and that France's problems arose not from the high levels of taxation so much as from greater resentment at the behaviour of the *Ferme* and the widespread nature of exemptions.¹⁴ The *Ferme* and the *gabelle* and other duties seem to have acted as a focus for the anger and dissatisfaction of the population at their situation.

In addition to the differences at the institutional level, France's external land border and its internal customs borders made for particular challenges. The nature of the actual items subject to duty and the way they were taxed was also not strictly comparable, the obvious example being the anomalies of the *gabelle* in France. Under the archaic *gabelle* system, the

¹² See chapter three above.

¹³ Peter Mathias & Patrick O'Brien, 'Taxation in Britain and France, 1715-1810. A Comparison of the Social and Economic Incidence of Taxes Collected for the Central Governments', *Journal of European Economic History*, 5.3, 1976, pp. 601-50, at p. 619.

¹⁴ Mathias & O'Brien, 'Taxation in Britain and France', pp. 633ff.

Ferme was responsible for collecting duties, but also for stocking and supplying the salt and ensuring the compliance of particularly those communities in the border areas which were required to buy specified amounts of salt, in contrast to entire regions of the country which remained exempt from the tax altogether. Only tobacco, of the three major items smuggled in each country, was common to both. In Britain tobacco was imported from the Americas into ports such as London and Glasgow, where significant on-site fraud allowed merchants to evade taxes and generous re-export rules ensured a steady supply of cut-price processed tobacco products smuggled in from the *entrepôts* of Dunkirk, Isle of Man or Guernsey. Tobacco for the French market, once a taste had been acquired for American tobacco, was purchased mainly in Britain by the *Ferme* as monopoly holder from 1730 and France's own West Indian plantations having failed to grow it in substantial quantities. Smuggled tobacco products in substantial quantities from British re-exports, undercutting the *Ferme's* monopoly, followed a similar route and entered France through *entrepôts* such as Jersey or, often after mixing with locally grown tobacco, Dunkirk and the other Flanders manufacturing centres.

However, the impact of taxing imported goods and commodities in the two nations was remarkably similar in terms of the structure and operations of the smuggling businesses it generated, the problems for preventative forces of controlling smuggling on the ground and the impact it had on local populations. Smugglers adapted and specialised as changes in the business environment required, gangs on both sides of the Channel fought pitched battles with the preventative forces as the values of their cargoes grew, and co-opted local populations through intimidation. In both countries, smuggling brought employment, often regular, and wealth to communities suffering poverty and poor wages for the work that was

available, with the result that these communities would line up against the authorities' attempts to enforce the law. This, combined with a sense among the elites – seemingly growing during the century – that smuggling was an artificial crime created by government policy and that the prescribed punishments for smuggling were excessive, made enforcement an often uphill struggle in both countries. Further research into this aspect in both Britain and France is required, and, most interestingly, the extent to which thinking in French intellectual circles influenced that across the Channel and *vice versa*.

Merchants

There is much that past historians have assumed about merchant involvement in smuggling, particularly as the business overall, and presumably individual smuggling enterprises, grew during the eighteenth century, requiring more substantial investment, but the question depends so much on definitions. Where was the line between merchant and wholesaler, or merchant and local tradesman, and by 'smuggling' do we mean the whole supply chain from source to consumer, or the illegal activity of carrying goods across a customs boundary without paying duties? Many merchants, particularly those specialising in commodity goods such as tea, were probably driven to purchase lower-priced goods from smugglers as a means of protecting margins in their legal businesses when smuggled product became widely available. Even though governments attempted to make these purchases illegal with seals and permits, there was little practical chance that prosecutions would succeed, given the difficulty in distinguishing smuggled commodities from the legally imported. Moreover, merchants (at any rate the better sort) probably had sufficient financial and political influence over any legal process, in much the same way as French aristocrats, if they did get

into trouble.¹⁵ What is also notable of course is the fact that selling and buying merchants tended to operate through illegal intermediaries when handling contraband goods, rather than having direct relations with each other, and presumably this was done knowingly, so perhaps they were as complicit in law-breaking as the transporter of the goods across customs lines.

Overall, the evidence of merchants as smugglers during the eighteenth century is far from clear. There were large networks of merchants, based in many of the ports of Western Europe, whose livelihood depended at least in part on the supply of goods for smuggling into Britain and France. But these merchants, often connected by family relationships, were not generally involved in the act of smuggling itself, unless and until they started arranging and funding smuggling trips. As shown in chapter four above, with a few notable exceptions, there was a class of merchant, based in *entrepôts*, who did just that, with Le Marchant in Guernsey and Nisbet in Eyemouth the obvious examples. But there were also the aspirational successful smugglers, like Hanning or Rathier, who pursued a strategy of backward integration and started to act as merchants in the *entrepôts*, serving both their own smuggling interests and those of others. The way that Robert Hanning was integrated into the merchant community of Dunkirk illustrates how these individuals could operate alongside local merchants not directly involved in smuggling. Substantial sums could be made from smuggling, and the wholesaling of goods for smuggling would be a logical business extension for the successful smuggler, just as funding sea voyages and land

¹⁵ Even if they were fined for smuggling offences, this didn't seem to affect their careers. Matthew Blakiston, a London grocer, went on to become Lord Mayor in 1760. See Paul Monod, 'Dangerous Merchandise: Smuggling, Jacobitism, and Commercial Culture in Southeast England, 1690-1760', *Journal of British Studies*, 30.2, 1991, pp. 150-82, at pp.175-6; and chapter 4 above.

journeys would be a logical business extension to supplying the trade. This was little different from successful merchants funding the import of the goods they were distributing.¹⁶ Hopefully more merchant books and letters will come to light through the Prize Papers programme and other research to shed light on the extent to which merchants' businesses were directly or indirectly involved with smuggling operations.¹⁷

Impact on society

The impact of smuggling on society in the eighteenth century was notable. The volume written about smuggling in newspaper reporting, public debates and petitions by individuals caught up in it, together with the weight of government correspondence and the frequency of legislative changes, while hard to quantify in terms of a proportion of society's overall concerns, all point to an issue of which significant sections of the populations of Britain and France were aware and concerned. This was particularly true of the border areas which saw the maximum benefit of the smuggling trade, but also bore the brunt of the violence to which governments' attempts to clamp down gave rise. Many of these communities, generally distant from the centres of power and industry, suffered poverty and underemployment, so the opportunities offered by the smugglers at a premium to traditional day rates, identified by Hufton as one form of the 'economy of makeshifts' of the French border areas, were a financial lifeline to those whose income was far from secure.¹⁸

¹⁶ For an example, see Jackson's description of the Pease family in Gordon Jackson, *Hull in the Eighteenth Century: A Study in Economic and Social History*, London, 1972, chapter 5.

¹⁷ The Prize Papers project is a joint venture between Britain's National Archives and Göttingen's Academy of Sciences and Humanities, and its website is <https://www.prizepapers.de/>.

¹⁸ Olwen Hufton, *The Poor of Eighteenth-Century France, 1750-1789*, Oxford, 1974, pp. 284-305. Hufton goes as far as describing smuggling as a 'national industry', and even states that the 'economy of at least three provinces received an important support from the potentialities that smuggling salt alone afforded,' p.284.

This is also illustrated by Liander's analysis showing that, apart from soldiers, unsurprisingly the largest groups by profession of those accused of smuggling crimes by the *Commission de Reims* were workers, labourers and farm workers, all of which enjoyed insecure incomes.¹⁹

The fact that members of these communities, whatever their social position, could buy tobacco or spirits easily and cheaply, or as gang members have them provided as part of their remuneration, resulted in a common interest among members of the community that united them against the forces of law. Inhabitants of towns and villages would turn out if preventative forces came close to apprehending smugglers or seizing contraband goods as Hastings did to protect Grayling and his smuggling operations when the Royal Ranger was apprehended off the town in 1744, and thereby retain the local financial benefits of the business.²⁰ There were times, as Rogers points out, when the levels of violence used by the gangs turned even these border inhabitants against them, but generally the close relationship held up, so that governments found themselves forced to employ special measures (trial outside the county in Britain, special *commissions* in France) in their attempts to restore order.²¹ There seems little evidence that this behaviour was motivated by anything other than self-protection, any more than the smugglers themselves were driven by anything other than the profit motive. Elements of social protest were present, and could lead to major upheavals, as Kwass' analysis shows, but taken as a whole the actions of local communities and smugglers were driven more by common interest in preserving the advantages of the trade than a desire for social change.

¹⁹ *manouvriers, laboureurs, employés des fermes*, Liander, 'Smuggling Bands', p. 481, table 20. Soldiers were often used by smuggling gangs as escorts.

²⁰ TNA, HCA 32/148/24, CP38, statement of Captain Bazely, Commander of the Eagle.

²¹ Nicholas Rogers, *Mayhem: Post-War Crime and Violence in Britain, 1748-53*, Yale University Press, 2012, p. 129.

Development

As a final point, there was clearly significant change during the century. Consumer appetites continued to grow, and duties on many commodity and other items remained high, maintaining a robust demand for smuggled goods which the entrepreneurs of the coasts and border areas were only too happy to satisfy. Greater investment was required to transport ever larger quantities of goods, and there would seem to have been no shortage of funds available, and no doubt smuggling entrepreneurs became richer as their operations increased in sophistication from the 1770s on. Mui & Mui detect this progression in tea smuggling into Britain when they refer to the more sophisticated 'large-scale importer and wholesale distributor', or the cooperation of three companies in Scotland.²² But the increase in sophistication and professionalism is perhaps best illustrated in chapter four above by Rathier, the smuggler of *indiennes* from Lorraine across the customs border into France, who was transporting goods in sufficient quantities to be able to use systematic bribery rather than raw violence. Liander sees Rathier as a 'simple businessman, an *assureur* insuring contraband for delivery to France,' in a now distinctly separate profession from the merchants who employed him and the bankers who financed the transactions.²³ His smugglers didn't even need to resort to violence or carry arms, as they were 'locally recruited, and at all times they operated in an area they knew well and where they could expect almost universal support.' Not only was it therefore unlikely that they would be

²² Hoh-Cheung and Lorna Mui, 'Smuggling and the British Tea Trade before 1784', *The American Historical Review*, 1, 1968, pp. 44-73, at pp. 58-9.

²³ Liander, 'Smuggling Bands', p. 456.

reported to the local *Ferme* employees, but, in his efforts to eliminate risk, Rathier had also bribed almost any such employee in the area.²⁴

A reduction in violence on both sides is also detectable in Britain between the first half of the eighteenth century and 1770s onwards. While smuggling was becoming increasingly business-like, tending to avoid rather than engage in violence, to move away from the 1740s when violence was an integral part of attempts to manage risk for the contraband trade, public opinion was changing too, and, as Beattie contends, 'all physical punishments—hanging, public flogging, the pillory—were being widely questioned,' because of an 'unwillingness to accept their legitimacy.'²⁵ This sentiment is reflected in the Excise's 1778 correspondence with the Treasury which opposed an overly rigorous application of the law, saying 'if those laws were to be executed according to the letter of them without any discretionary power of mitigation, the severity of them would become intolerable.'²⁶ Even if the violence that brought them to trial at the Old Bailey persisted in some form, there was a greater propensity to sentence smugglers to imprisonment or hard labour than to death and transportation, reflecting a very different attitude to violent retribution.²⁷ This needs to be addressed in further research on attitudes in France and Britain generally to punishment and whether and how these changed during the eighteenth century.

²⁴ Ibid., p. 458.

²⁵ J. M. Beattie, *Crime and the Courts in England, 1660-1800*, Princeton University Press, 1985, pp138-9. See also Paul Muskett, 'English Smuggling in the Eighteenth Century', unpublished PhD Thesis, The Open University, 1996, p. 438.

²⁶ TNA, T 1/542/227, Report by Excise to Treasury on tea dealers' memorials and correspondence, 24 March 1778.

²⁷ See Annie Tock Morisette, "They would have a law of their own": The discourse on Smuggling at the Old Bailey, 1736-1814', unpublished MA Thesis, East Carolina University, 2013, Appendix: Smuggling Cases at the Old Bailey, 1736-1814. This shows that of 50 convictions for tax offences in the 1736-67 period, 38 were condemned to death (or died of disease) and 11 to transportation; of the 59 convictions from 1772-1814, 34 were sentenced to imprisonment, 15 to hard labour and only 8 to death or transportation.

Relevance to today

Smuggling across the world in the twenty-first century is not the subject of this thesis, but it is probably fair to say that there has been no let-up in smuggling opportunities, even if the character of much of the smuggling has changed. On the one hand, in spite of having a much wider range of types of tax at their disposal, governments continue to levy duties on consumable items, whether imported or domestically produced, and while these do lead to illegal trade, the amounts seem to be relatively limited and generally give rise to little public comment or complaint, at least in Britain. Tea and textiles are no longer subject to high duties, but tobacco, for example, is a product that is still taxed in Britain and many other Western countries, but primarily for reasons of public health rather than to raise money. The industry has changed of course, and is now associated almost entirely with branded cigarettes, but even if there seems to be acceptance of the tax regime in many markets, smuggling remains a problem in the world as whole, with widespread counterfeiting of well-known brands and, in an echo of the eighteenth century 'Gottenburgh Tea', the creation of new brands specifically for the illicit market.²⁸ In France, tobacco remained a monopoly until the advent of the European Economic Community, and Dunkirk remained a centre of smuggling, featuring for example in *La Maison dans la Dune*, a short novel written in 1932 about a former boxer turned smuggler who used his dog to smuggle tobacco across the national frontier from Belgium.²⁹

²⁸ Luk Joossens and Martin Raw, 'From Cigarette Smuggling to Illicit Tobacco Trade', *Tobacco Control*, 21.2, 2012, pp. 230–34.

²⁹ Maxence van der Meersch, *La Maison dans la Dune*, Paris, 1932.

On the other hand, governments continue to set up artificial barriers for political or policy reasons, barriers that quickly create opportunities for the twenty-first century successors of the Hawkhurst Gang or the Bande de Wignhies to exploit. The illicit drugs industry is an example, but the most visible in terms of its current impact is the restriction on immigration, which is leading to large numbers of people, desperate to access the economic advantages of Europe and North America and therefore prepared to pay the smugglers and risk their lives to immigrate illegally. Many smugglers and organised crime gangs will be making good money from this, not unlike their eighteenth-century forebears, and it is no surprise that smugglers today are sending illegal immigrants in trucks and small boats along the same routes as were used in the eighteenth century from around the ports of north-west France onto the beaches of south-east England. It feels as though little has changed. Much has been achieved with the growth of internal markets such as the European Union, but again the development of EU policies can have unintended consequences, and these policy choices as much as tariff structures ensure that the borders between that union and the rest of the world remain smuggling hotspots.³⁰ The lesson surely is that governments across the world need to develop policy responses which seek to avoid creating business opportunities, using international cooperation where necessary to prevent industries growing in one jurisdiction that cause harm in another. Without this, business opportunities for smugglers will continue to flourish.

³⁰ An example of the unintended consequences would be the creation of a black market for HFCs when the EU limited imports. See Jude Webber, 'Companies warn of huge black market in greenhouse gas,' Financial Times, 26 January 2020, at <https://www.ft.com/content/16ad55ea-3f30-11ea-bdb5-169ba7be433d>.

Postscript

Although the period is outside the scope of this thesis, smuggling as a business took a different turn during Napoleon's continental blockade of 1806-1814, when Britain's merchants were forced by the official closure of access to their important markets in Europe to find alternative routes and connections. 'More or less all classes up to the highest ranks in society were involved in seeking loopholes to circumvent the blockade' and 'developed a network of trustworthy and reliable business partners on the other side of the Blockade.'³¹ Crouzet in *L'économie britannique et le blocus continental* examines in detail the impact on Britain of the blockade, starting with the strength of the economy before it was put in place in 1806.³² The initial impact was muted due to the corruption of local officials and the lack of any real appetite for enforcement among Napoleon's European allies who needed the goods, until Napoleon was freer after the Treaty of Tilsit to focus on enforcement of the blockade.³³ Although Britain's foreign exports, and therefore its economic strength, relied also on its ability to penetrate new markets such as Latin America and on the state of its relations with the United States, this pattern was repeated during the rest of the life of the blockade, with peace in Europe corresponding to recession in Britain as Napoleon's troops were free to stiffen local enforcement of the blockade around the coasts of Europe.³⁴ Breaking the blockade was by definition smuggling, and it was an essential part of Britain's

³¹ Margrit Beerbuhl, 'Trading Networks across the Blockades: Nathan Meyer Rothschild and his Commodity Trade during the Early Years of the Blockade' in Katherine Aaslestad and Johan Joor, eds., *Revisiting Napoleon's Continental System: Local, Regional and European Experiences*, Basingstoke, 2015, p. 137.

³² François Crouzet, *L'économie Britannique et Le Blocus Continental (1806- 1813)*, 2 vols, Paris, 1958.

³³ Ibid., pp. 248-9. See also, p. 282, 'L'application du Blocus continental était sans cesse menacée par la corruption des agents d'exécution, par la mauvaise volonté des vassaux et des alliés, par l'hostilité des populations et, spécialement, des classes commerçantes.'

³⁴ 'paix en Europe, crise en Angleterre; guerre en Europe, boom en Angleterre; ainsi peut on définir sommairement la période 1808-1813.' Ibid., p. 283.

temporary periods of prosperity.³⁵ It was made possible – and profitable - by exporting merchants incorporating all the techniques of smuggling into their business operations. They demonstrated a combination of reaction speed and flexibility, supported by the licensing system of the British government, the corruption of local officials along the European seaboard, and the complicity of local populations and merchants to receive and redistribute the goods.³⁶

This represented a dramatic shift in the perception and application of smuggling. Suddenly, smuggling was embraced by merchants across the social scale, with the whole-hearted backing of the government, as an essential tool in beating Napoleon's continental blockade and maintaining Britain's export trade to Europe. New offshore smuggling hubs were developed rapidly in places such as Heligoland for Northern Europe and Malta for Southern Europe to deliver goods through circuitous new trade routes and networks, complete with forged papers, and merchant-smugglers had to keep abreast of legislative developments and troop movements on the continent, setting up warehousing operations, diverting cargoes to new markets and re-siting stocks where necessary.³⁷ But self-evidently this was smuggling of a different type and scale. Smuggling to undermine the finances of the wartime enemy had been promoted during the eighteenth century (see chapter 3 above) but not as a major plank of policy, as in this case, where a series of orders in council were

³⁵ 'Elle reposait, en effet, avant tout, sur les succès de la contrebande avec l'Europe, résultant eux-mêmes de circonstances politiques et militaires qui ne devaient être que temporaires.' Ibid., p. 420.

³⁶ 'les barrières péniblement élevées le long des côtes de l'Europe contre le commerce anglais, furent balayées sans résistance par le jeu combiné de la complicité générale des populations et des hommes d'affaires, de la corruption des agents français, et des forces économiques - appuyées par l'action des Ordres en Conseil - qui rendaient la contrebande éminemment profitable.' Ibid., p. 419.

³⁷ From Beerbuhl, 'Trading Networks' and Crouzet, *L'économie Britannique*.

issued on the British government side to counter Napoleon's decrees.³⁸ The fact that merchants were able to adopt smuggling so easily also demonstrates how similar smuggling was to the legal trade and how real was the potential for the two to overlap. The outcome of this roller-coaster period for merchants was that, although Britain's capitalist system was damaged, as Crouzet concludes at the end of his detailed study, Britain's European competitors were damaged more, and it emerged from the experience well ahead of France.³⁹

Regular smuggling of contraband into Britain evidently continued, in parallel with this explosion of smuggling into France and the European nations under her control, with official support from the French side because it further undermined Britain's economy. The case of Gravelines, near Dunkirk, illustrates this well. Dunkirk was originally permitted to accept English smugglers from 1810, but security concerns led to its closure and Gravelines replaced it the following year.⁴⁰ Different areas of this town within a town (see below) were allocated to the various players in the smuggling trade. Contraband goods continued to flow into Britain in return for guineas and some escaped prisoners of war. In Daly's words:

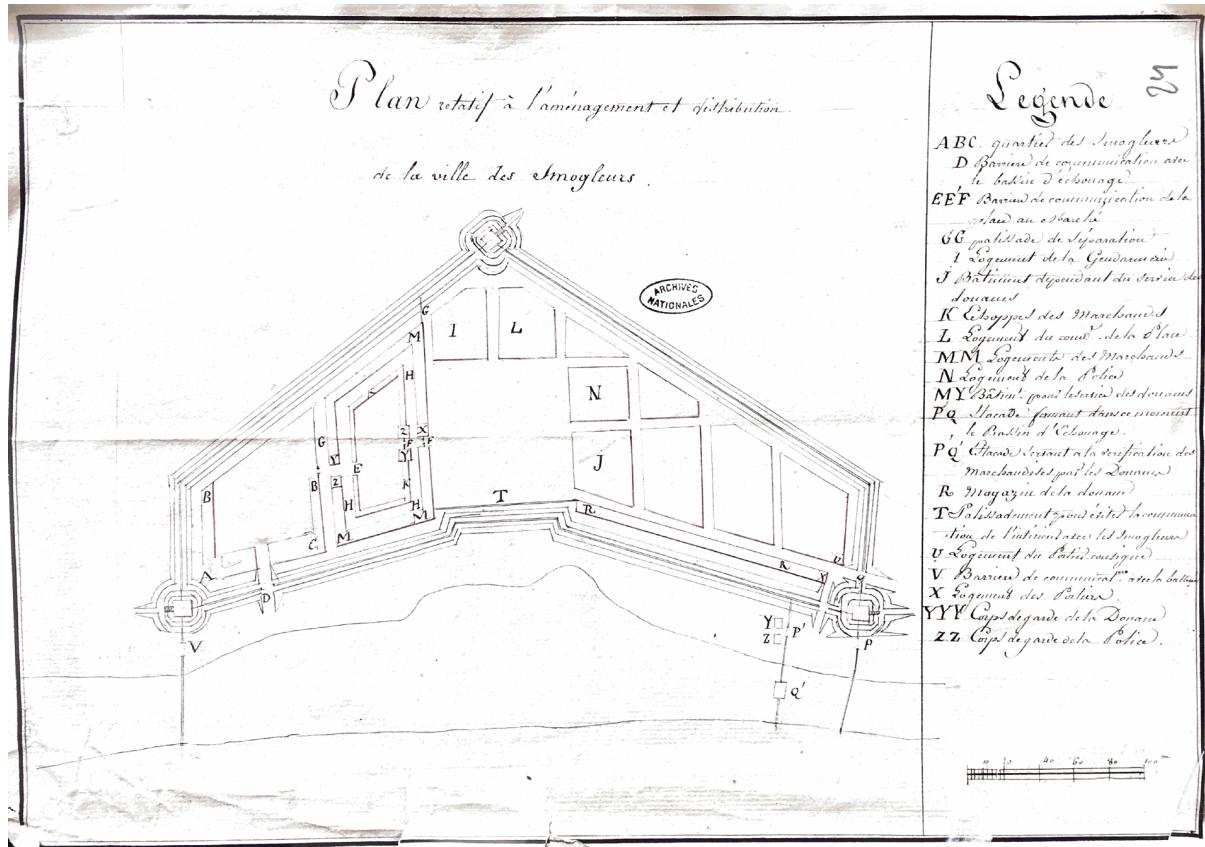
Between 1810 and 1814, the Napoleonic state officially sanctioned and supported the smugglers, using them as a weapon of war against the British and to boost domestic French industry. This smuggling was sophisticated, part of an international

³⁸ See Tom Holberg, 'The Acts, Orders in Council, &c. of Great Britain, 1793 - 1812' in *The Napoleon Series*, https://www.napoleon-series.org/research/government/british/decrees/c_britdecrees1.html#decrees, accessed 26 August 2024.

³⁹ 'il est incontestable qu'en 1815 l'avance économique que l'Angleterre possédait sur ses rivaux continentaux et en particulier sur la France, était beaucoup plus sensible qu'en 1793.' 'Le capitalisme britannique sortait de l'épreuve meurtri, mais intact dans ses forces profondes, et plus dynamique que jamais. Pendant un siècle, il allait dominer le monde.' Crouzet, *L'économie Britannique*, p.872.

⁴⁰ Gavin Daly, 'Napoleon and the "City of Smugglers", 1810-1814', *The Historical Journal*, 50.2, Cambridge, 2007, pp. 333-52.

economic environment, not merely limited to the Kent and northern French coasts, but with ties to greater Britain and France, to London and Paris, and encompassing a diverse world of professional smugglers, fishermen, labourers, shipowners, merchants, manufacturers, bankers and ultimately consumers.⁴¹



of the family with the British government, number 70 on the list is a James Rothschild, listed as born in Frankfurt and currently resident in Paris.⁴³ French support for English smugglers even went as far as providing them with a system of signals, discovered by the British authorities in 1812, designed to keep them safe from French naval vessels and coastal gun batteries when close to the shore or entering harbour.⁴⁴

This topic requires further study, in particular the mechanics of the merchant smuggling business as a means of breaching Napoleon's blockade, and the extent to which they differed, if at all, from smuggling into Britain. The relationship between smuggling into the continent and smuggling into Britain would also make an interesting topic for further study, including the extent to which the two forms of smuggling were intertwined, the extent to which there was two-way traffic in smuggled goods, for instance, and whether the ships and crews were the same. In many ways, however, this episode represents the triumph of smuggling as a business model, ensuring Britain's economy was able to weather the storm of the economic blockade so that its forces could play their part on the continent in countering the threat of the Napoleonic empire.

⁴³ AN, F/7/8358, *Sur les permissions accordées pour communiquer avec les smogleurs à Gravelines*, 1813. On the Rothschild connection, see Larry Neal, *The Rise of Financial Capitalism: International Capital Markets in the Age of Reason*, Cambridge, 1990, p. 189: 'In 1811, Nathan's younger brother James moved to Paris, apparently to be the recipient of gold smuggled across from England, presumably by Nathan. Thus began the development of a unique linking of remittance paths across the belligerent states of Europe.'

⁴⁴ Daly, 'Napoleon and the "City of Smugglers"', p. 343.

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