CHAPTER SEVEN

TRADE CONTROL, LAW AND FLEXIBILITY: MERCHANTS AND CROWN INTERESTS IN PANAMA, 1700–1750

Silvia Espelt Bombín

The War of the Spanish Succession and the passing of the Spanish dynasty from the Habsburgs to the Bourbons at the beginning of the eighteenth century precipitated a series of reforms that changed the workings of the Spanish Empire and State, with the nuances analyzed by McFarlane and Storrs in this volume. As this collection of papers demonstrates, the early Bourbons implemented a reformist program from the first reign of Felipe V that covered Spain and Spanish America, though with differing intensity and success.

One of the areas the Bourbons hoped to control and reform was imperial trade with Spanish-America, in order to maintain and increase revenue. The crown and ministers were very aware of foreign intervention in Spain’s trade with Spanish America—legal and illegal—and throughout the first half of the eighteenth century they tried to control trade and tax collection. Despite lacking control over the trade, Spanish finances depended on the substantial revenues from the fleets and register ships, hence the many projects, proposals and analysis put forward in the decades that followed the Treaty of Utrecht (1713). Among other structural and wide-ranging reforms, there was the relocation of the Casa de la Contratación to Cadiz in 1717; the establishment of the guarda costas in the early 1720s; the regularization of avisos and the introduction of palmeo; the shift towards registro ships during the late 1730s and from 1740 onward, and, in the administrative sphere the restructuring that affected Panama, the short-lived first viceroyalty of New Granada—created in 1717 but only finally established in 1739. There were specific projects aimed at

redressing the situation, the main one being the 1720 Proyecto para galeones y flotas, which was the official trade policy of Spain until the comercio libre reforms of the 1760s–70s. It was not until after the Seven Years War that the Spanish crown, grandees, the council and other figures in Spanish politics were able to plan and implement effective trade reforms.

In addition to major structural or high-impact trade reforms, the crown also tried to implement changes at the local level during the first half of the eighteenth century. This chapter studies specific trade legislation issued by the crown to control the trade in Panama between 1700 and 1750. The crown's main objective was to reduce contraband and increase tax collection, and the different cases studied here show that there was an evolution in the crown's success in exerting its authority. Until approximately 1740, resistance to stricter trade control from local and Peruvian merchants was so high that the measures put forward by the crown in Panama City were mostly unsuccessful and countermanded by the crown itself. After 1740, although merchants continued to resist the reforms by interpreting and writing the conditions themselves, the crown managed to implement new legislation to control contraband and reform trade in Panama.

The degree of flexibility with which trade legislation was implemented in Panama and the way trade was supervised and controlled shed light on the difficulties the crown encountered in controlling tax collection, the degree of influence that merchants had in imperial politics, and the techniques used by the crown to keep some control over trade, both through flexibility in the application of the law and through changing policies, until the major structural reforms of the 1760s. Flexibility and diversity of law existed not only in Spanish America but also in Spain, and the Bourbons addressed this problem from the beginning of their reign, as Christopher Albi has demonstrated. John Phelan has argued that this flexibility

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5 Lynch, Bourbon Spain, p. 153. Allan Kuethe argues that the 1720 Proyecto para galeones y flotas was a capitulation from Spain to England (in line with the Treaties of Utrecht), but at the same time Spain was very aware that there was no way a fleet would arrive annually in America; Allan J. Kuethe, "The Colonial Commercial Policy of Philip V and the Atlantic World", in Renate Pieper and Peer Schmidt (eds.), Latin America and the Atlantic World (1500–1850): Festschrift in honor of Horst Pietschmann (Cologne and Vienna: Böhlau-Verlag, 2005), pp. 319–33 at 331–2. See also McFarlane's contribution to this volume.


7 Christopher Peter Albi, “Derecho Indiano vs. the Bourbon reforms: The Legal Philosophy of Francisco Xavier de Gamboa”, in Gabriel Paquette (ed.), Enlightened Reform