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# The Serious Nature of the Link Between Smuggling and Organised Crime

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## Abstract

This study examines the gravity of the intertwined relationship between the crime of smuggling and cross-border organised crime, and the ways in which it poses a direct threat to states' security and their political and economic stability. The research problem lies in identifying the forms of this interconnection and its implications, as smuggling is no longer merely an individual criminal act, but has become a logistical and financial pillar relied upon by organised crime networks for the trafficking of drugs, weapons and human beings, as well as for laundering their substantial proceeds through money-laundering operations. The study concluded that this criminal alliance contributes to the erosion of border sovereignty, the depletion of the national economy and the weakening of security institutions. It has therefore become essential to formulate comprehensive security and legal strategies, whilst strengthening international and regional cooperation and activating information-sharing mechanisms to counter this cross-border threat.

**Keywords :** smuggling, organised crime, border security, customs offences, smuggled goods.

## Introduction

Contemporary criminal activities have transcended local and regional boundaries to take on a transnational character, thereby threatening international security, peace and the interests of peoples. Technological advances, modern means of communication and transport, and financial globalisation have contributed to creating a fertile environment that has enabled criminal networks to develop their tools and organise their operations across continents.

This structural evolution of crime has given rise to extremely dangerous patterns of illicit activity, at the heart of which lies the dangerous link between smuggling and organised crime; these two forms of crime are no longer merely isolated or marginal phenomena, but have become complex systems that directly affect the national and economic security of states. Manifestations of this dangerous interconnection are evident in crimes such as drug trafficking, counterfeiting, money laundering, as well as trafficking in human beings and human organs, and the smuggling of arms and antiquities.



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Although neither smuggling nor organised crime are modern phenomena or foreign in origin, their mechanisms and methods have undergone a qualitative transformation; they have moved from a limited, traditional scope to organised, cross-border forms of criminal activity. The danger of this interdependent relationship lies in the fact that it has given rise to transcontinental threats that exceed the security and legal capacities of individual states—even the most advanced among them—making this criminal convergence a threat to economic and social structures and necessitating an in-depth academic analysis to unpack its dimensions and implications.

In light of the rapid developments mentioned above, it is clear that the danger no longer lies in the crime of smuggling in itself or in organised crime activities taken separately, but rather in the point of convergence and structural integration between them; where smuggling has transformed from a mere traditional customs violation into an operational and financial lifeline upon which transnational criminal empires are built.

Faced with this qualitative shift, which strikes at the very heart of states' economic and social security, the legal and security dilemma arises from the fact that this criminal convergence has produced complex dimensions and consequences that transcend traditional legal classifications, thereby necessitating an analysis of this relationship to identify the source of the immediate threat it poses.

In light of these facts, the central issue of this article is encapsulated in the following fundamental question: **'To what extent does the relationship between smuggling and organised crime constitute a threat to the security and stability of states, and what are the forms and implications of this interconnection?'**

The significance of this study stems from its contribution to enriching legal and criminal literature by presenting a specialised academic analysis that unpacks the structural dimensions of the interconnection and alliance between smuggling and organised crime. It seeks to move beyond the traditional view of smuggling as merely a criminal activity confined to the border, and instead offers a deeper understanding of it as an integral part of a cross-border criminal network.

Alongside this theoretical significance, the practical importance of this analysis lies in the fact that it provides an accurate criminal assessment, equipping decision-makers and intelligence and security agencies with the information necessary to identify the patterns of on-the-ground interconnections between criminal networks. This perspective enables those responsible for formulating criminal policy to grasp the scale of the structural threat, the operational mechanisms of these networks and their constant evolution, thereby equipping them with more effective tools to pre-empt the grave risks targeting the security, economic and institutional dimensions of the state, and thus ensuring the protection of its infrastructure and the preservation of its sustainable stability.

Through this study, we seek primarily to analyse the nature of the reciprocal relationship between smuggling and organised crime, and to assess the extent of the structural threat that this criminal alliance poses to the security and stability of states. This primary objective is achieved by unravelling the patterns and forms of interconnection between smuggling networks and organised crime groups, whether in their



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logistical, financial or organisational dimensions, whilst revealing the common criminal aspects of this interconnection, such as the close link between smuggling and the trafficking of drugs, arms and human beings, as well as money laundering.

The study's analytical endeavour also extends to monitoring and elucidating the grave consequences and repercussions of this complex criminal interconnection on the security, economic and institutional structures of states. This is achieved through a meticulous focus on diagnostic aspects and the monitoring of the criminal reality and its effects, thereby ensuring that the scale of the risks is highlighted and their structural mechanisms are dismantled.

To achieve the study's objectives and address its main research question, a descriptive-analytical approach has been adopted; the descriptive component is used to closely examine the nature of the crimes of smuggling and organised crime and to unpack the dimensions of the interconnection between them, whilst the analytical component is utilised to unpack the consequences and risks arising from this criminal convergence and to elucidate them in an objective and focused research manner, thereby contributing to a comprehensive scientific analysis of the depth of the phenomenon.

In order to address this issue and meet its requirements, this research has been divided into two main sections:

Section 1: An Introduction to the Offences of Smuggling and Organised Crime

Section 2: Forms of the Relationship between Smuggling and Organised Crime and their Implications

**Section 1: An Introduction to the Crimes of Smuggling and Organised Crime**

Establishing legal concepts and defining their jurisprudential and legislative implications is the fundamental and first step in analysing any criminal phenomenon, particularly when that phenomenon is characterised by complexity and constant evolution. Smuggling stands out as one of the most serious economic and security crimes threatening the sovereignty of states and the stability of their societies; it is no longer merely a series of individual acts aimed at evading customs duties or taxes, but has in many cases evolved into a structured activity managed by highly organised criminal networks.

From this perspective, smuggling intersects with organised crime, as the latter provides the operational and institutional framework that facilitates the illegal movement of people and goods across borders. To ascertain the legal nature of these two types of conduct and analyse their dimensions, it is necessary to precisely define each of them separately; whether in legal doctrine, within the framework of international conventions, or in national legislation. Accordingly, we shall divide this section into the following two subsections:

Section 1: Definition of the offence of smuggling

Section Two: Definition of the crime of organised crime

**Section One: Definition of the offence of smuggling**

Jurisprudential and legislative views have diverged on establishing a comprehensive and exhaustive definition of the offence of smuggling, given the rapid evolution of its methods and the breadth of its scope, ranging from financial to security threats. This jurisprudential divergence has



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resulted in a marked variation in the wording of national and international legislation; each legislative framework has sought to define the phenomenon in a manner consistent with its own economic system and the protection of its national borders. To provide a comprehensive understanding of the conceptual significance of this crime, we shall address this section through the following two subsections:

Section One: The Jurisprudential Definition of the Crime of Smuggling.

Section Two: The legislative definition of the offence of smuggling.

**Section One: The jurisprudential definition of the offence of smuggling**

Dr Zakaria Muhammad Bayoumi holds that the conduct constituting the offence of smuggling refers to any breach or violation of the legal system governing the movement and volume of goods and materials across border crossings, whether this takes the form of evading the customs duties and taxes incurred on the shipment of such goods entering or leaving national borders, or relates to the export operations themselves (1) .

In the same context, the jurist Fayez al-Sayyid Ashraf Fayez al-Namsawi defines smuggling as any criminal activity that violates the rules and procedures governing the movement of goods across a state's borders, whether such conduct is intended to evade customs duties payable on import and export, or involves the direct prohibition or restriction on the import or shipment of certain such goods (2) .

For his part, Professor Magdi Mahab Hafez defines this offence as conduct that contravenes the regulations and frameworks established by the legislature for the management of the movement of freight and goods across border crossings; these regulations take the form of either absolute bans on the import or export of certain products, or in rules subjecting products to the prescribed customs duty upon their crossing the state's territorial borders(3) .

Meanwhile, Professor Khalifa Ahmed offers a concise and comprehensive definition, stating that smuggling is any breach or deviation from the mandatory and definitive provisions and rules established under customs legislation(4) .

In the field of comparative jurisprudence, the jurists Claude Pierre and Henri Trimo view smuggling as the act of bringing goods into or taking them out of the country without passing through official customs controls and offices, as well as a violation of the legislative and regulatory rules governing the transport and possession of property and goods outside the customs territory; The essential criterion lies in the unauthorised crossing of borders(5) .

The researcher Cécile Dubré, for her part, defines smuggling as import and export activities carried out outside the prescribed official frameworks and channels, and without being subject to inspection by the customs authorities; that is, they rely on illegal routes, making them a clear example of customs evasion and fraud(6) .

By examining the various previous jurisprudential definitions, it has become clear that there is no comprehensive, definitive definition upon which jurisprudence can agree, as legal approaches have varied depending on the perspective from which the offence is viewed. Despite this variation in jurisprudential approaches, these definitions converge on a set of common essential elements upon which



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the classification of the material conduct of goods smuggling is based; foremost among these elements is the positive element represented by conduct that contravenes the rules governing the movement of freight and trade across the territory. Added to this is the element of concealment and secrecy, which manifests itself in bypassing official border procedures and avoiding customs inspection and control points through the use of illegal channels. These elements are complemented by the dual nature of the criminal intent, whereby the conduct involves either an explicit financial motive aimed at achieving financial gain by evading customs duties, or a security motive aimed at circumventing absolute legislative prohibitions on the import or export of substances that are criminal in themselves.

However, the shortcoming of these definitions is their predominantly traditional nature; for the most part, they have focused on smuggling as an individual economic crime or an independent customs offence. This approach has failed to capture the contemporary dimension of the crime of smuggling, namely its transformation into an operational tool and logistical arm in the hands of transnational organised crime networks, which have moved beyond mere customs evasion to complex practices linked to the financing of terrorism, money laundering, and trafficking in human beings and arms.

Based on the foregoing, the crime of smuggling can be defined as: any act or omission, committed by an individual or a criminal organisation, that contravenes the laws and regulations governing cross-border trade and shipping, using fraudulent or covert methods that circumvent customs controls, with the aim of evading duties and taxes, or to circumvent legislative bans on goods and services, or to facilitate the logistical and financial aspects of cross-border crimes.

**Section Two: The Legislative Definition of the Offence of Smuggling**

Among the legislation that has defined the phenomenon of customs smuggling, we present the following examples, by way of illustration only:

**Firstly: in French legislation**

Article 417 of the French Customs Code (7)defines smuggling as: 'import or export operations carried out outside customs offices, as well as any breach of legislative or regulatory provisions relating to the possession and transport of goods within the customs territory.'

This Article (417) defines the essential concept of the offence of smuggling with a view to protecting the national economy and border control, and encompasses two main forms: the first is an external material offence, which is committed through any import or export operations carried out outside authorised customs offices and checkpoints in order to evade control; and the second is an internal form, which the French legislature has expanded to criminalise any breach of the laws and regulations governing the possession and transport of goods within the customs territory, without being limited to the border zone.

**Secondly: In Egyptian legislation**

The Egyptian Unified Customs Law (No. 207 of 2020) (8) in Article 77, an expanded definition of the offence of smuggling comprising 13 specific customs-related forms, ranging from direct physical evasion to acts of documentary and organisational fraud. The physical forms include concealing goods



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at border crossings or attempting to remove them without going through the proper procedures, and the unlawful unloading or dumping of goods from ships and aircraft outside designated areas, as well as unjustified shortages or substitution of goods in transit or held at customs offices, warehouses and free zones, in addition to the possession of smuggled or prohibited foreign goods with the intention of trafficking, and the possession of duty-exempt tobacco and alcoholic beverages with the intention of sale.

These offences are compounded by acts of fraud and procedural manipulation, which include the submission of forged invoices and documents, the obliteration or removal of distinctive marks on goods; the disposal of exempt or released goods under special regulations without the Authority's consent and without payment of duties; or the disposal of goods rejected for regulatory reasons. The legislator has also prohibited fictitious exports and the manipulation of samples to recover taxes and guarantees without justification; providing comprehensive protection by stipulating that any other act intended to evade tax or contravene the prohibition on goods shall be deemed smuggling, without requiring the seizure of the goods to prove the offence.

**Thirdly: In Moroccan legislation**

Smuggling is defined in Moroccan customs legislation, pursuant to Chapter 282 of the Customs and Indirect Taxes Code [9]، as any unlawful activity aimed at bringing goods into or out of the country, or possessing them, in contravention of customs regulations, with a view to evading control and the taxes due; this concept is not limited to the traditional, serious form, but takes three main forms:

The first form is direct physical smuggling, which is carried out through the import or export of goods, or their loading, unloading and transfer from one means of transport to another, outside customs offices, ports and airports.

The second form is regulatory smuggling, which involves contravening the provisions of the Customs Department and is based on a clear breach of the rules and regulations governing the movement, possession or transport of goods within the land and maritime zones subject to the Customs Department's control.

The third form is defined as judicial smuggling linked to unlawful possession, and occurs when goods subject to origin verification controls are possessed without the presentation of supporting evidence proving their legitimacy, or when forged documents or documents that do not correspond to the seized goods are presented.

**Fourth: Under Algerian law**

According to Article 324 of the Algerian Customs Code No. 79-07، as amended by Article 130 of Law No. 17-04 [10] , smuggling is defined as comprising three main forms:

1. Importing or exporting outside the competent customs centres and offices.
2. The fraudulent unloading and shipment of goods.
3. Violation of the provisions and procedures set out in Articles 51, 53 bis, 60, 62, 64, 221 to 223, 225, 225 bis and 226.



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However, the legislator exempts these acts from the classification of smuggling where they relate to minor or low-value goods, as determined in accordance with Article 288 of the same Act.

Smuggling is defined in the customs legislation as any unlawful conduct or act aimed at bringing goods into or out of the national territory without the effective control of the competent authorities; the mere transport or transit of goods across the border outside the customs offices designated by law constitutes a standing offence, which is intended to undermine the national economy.

The legislator has not limited the definition of smuggling to the movement of goods across borders, but has broadened the concept by criminalising acts of unloading and loading involving fraud and deception. Under this broadening of the concept, the covert unloading or discharge of goods from means of transport—whether by sea, land or air—constitutes a clear form of smuggling, provided that the act was carried out with the intention of fraud and to circumvent customs inspection and scrutiny.

More specifically, the definition of smuggling extends to include procedural and formal aspects; the legislation classifies the breach of specific provisions and rules (such as those relating to movement within the customs territory, the possession of consignment notes, and transit permits) as an act of smuggling in its own right. Although these regulatory offences do not, on the face of it, involve the physical crossing of borders, the legislator has deemed them to be conclusive legal evidence of smuggling, given that they infringe upon the frameworks governing the movement of goods within border areas subject to control.

The scope of the definition of smuggling is further defined by a threshold based on the financial and material value of the goods involved in the offence; the acts and offences mentioned are excluded from the description of smuggling if they relate to goods of negligible value, in accordance with the criteria set out in Article 288. This legislative restriction indicates that the concept of smuggling, with its severe criminal and financial penalties, applies primarily to acts that pose a tangible economic threat, whilst minor offences of low value fall outside the scope of the offence of smuggling and are subject to customs provisions and offences of a less severe nature and with a lesser deterrent effect.

In Article 2-a of the Law on Combating Smuggling, the Algerian legislature defines smuggling as follows: "Smuggling: acts described as smuggling in the applicable customs legislation and regulations, as well as in this decree."

Referring to Decree 05-06 on combating smuggling [(11)], and specifically Article 2(a) thereof, it is noted that the Algerian legislature has based its definition of smuggling on the technique of reference and legislative integration; it has broadened the concept to include all acts classified by the customs legislation and regulations in force as 'smuggling', in addition to all acts described as such within the provisions of Decree No. 05-06 itself.

The Customs Act constitutes the general law governing all smuggling offences, alongside specific laws addressing particular forms of smuggling. In accordance with the well-established principle of interpretation whereby the specific restricts or qualifies the general, the cases of smuggling provided for



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in special legislation are excluded from the provisions of the Customs Act and are subject to the specific rules and provisions set out by the legislator for them.

The concept of customs smuggling encompasses all acts involving customs tax evasion or contravention of customs prohibition regulations, with the Customs Act remaining the primary reference for such acts unless a special law provides otherwise. According to established case law, the special provision takes precedence over the general provision ( ) and the latter is only referred to as a supplementary reference, provided that the criminal act is the same and its constituent elements correspond between the conflicting provisions [(12)] .

**Section Two: Definition of Organised Crime**

Organised crime is an extremely serious criminal phenomenon; nevertheless, it still lacks a precise definition, as legal scholarship and legislation have not yet arrived at a comprehensive and unified definition of it[(13)] . Despite the abundance of research discussing organised crime at the international and regional levels, formulating a precise and specific definition of cross-border organised crime continues to face numerous obstacles. This difficulty stems from the multitude of criminal patterns and activities that fall under this umbrella, as well as the intellectual debate surrounding its very nature; with some researchers viewing it as an ambiguous concept, whilst others regard it as a term that became prevalent in media discourse before becoming established in academic literature and forums without acquiring a strict legal basis[(14)] .

The divergence of views regarding the definition of the term 'transnational organised crime' has led to the emergence of a school of thought advocating the need to rethink the issue, by setting aside theoretical and legal analyses and focusing on the practical dimension of the phenomenon. From this perspective, the primary task lies in understanding the actual scale of the criminal threat and comprehending it through all available mechanisms, starting with the formulation of a precise and comprehensive definition that encompasses its various dimensions[(15)]

**Section One: The Jurisprudential Definition of Organised Crime**

Referring to jurisprudence, we find that some view organised crime through the concept of organisation, others through continuity, and still others through the collusion of a group of people in planning it in a manner that ensures its success; whilst others view it as the product of a particular group's greed to obtain money and political and economic influence through unlawful means, There are definitions of organised crime that focus on the perpetrators of the criminal behaviour rather than on the criminal act itself.

One of the most important of these legal definitions is that organised crime is a collective crime not committed by a single individual, aimed at achieving financial gain through the pursuit of a range of lawful and unlawful activities, and through the use of violence, intimidation or other inducements, such as the payment of bribes and the provision of services to those who cooperate with it in achieving its criminal objectives, as well as the strict system upon which its internal structure is based [(16)] .



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Organised crime has also been defined as an unlawful act or acts committed by a criminal group with a hierarchical structure, which is characterised by continuity and whose members operate in accordance with internal rules defining each member's role, ensuring their loyalty and obedience to orders issued by their superiors. The aim of these acts is often to make a profit, and the criminal group uses threats, violence or bribery to achieve its objectives; its criminal activities may also extend across several countries[(17)] .

It is also defined as a crime committed by a structured criminal organisation comprising two or more persons, governed by specific rules—the most important of which is the code of silence. This organisation operates continuously for an indefinite period, its activities cross national borders, and it seeks to make a financial profit [(18)] .

**Section Two: The Definition of Organised Crime in International and Regional Treaties**

There have been numerous international efforts to define organised crime. Among the most significant definitions in this regard is that set out in Article 2 of the United Nations Convention against Transnational Organised Crime, which defines an 'organised criminal group' as follows: the term 'organised criminal group' means a group with an organisational structure, consisting of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or criminal acts as defined in this Convention, in order to obtain, directly or indirectly, a financial or other material benefit [(19)] .

The early 1990s marked a real turning point in international efforts to combat organised crime; the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, adopted a definition of organised crime as: a complex set of criminal activities carried out on a large scale by organised groups or organisations, whose main motives are financial gain and the acquisition of power, by opening up, maintaining and exploiting markets for illegal goods and services. These crimes often transcend national borders and are not only linked to the corruption of public and political figures through bribery and collusion, but are also associated with threats, intimidation and violence[(20)] .

The preliminary seminar on organised crime held by Interpol in France in May 1988 concluded by defining organised crime as: a group of persons which, by virtue of its constitution, engages in unlawful acts on a continuous basis, with the primary aim of making a profit, even if its activities extend beyond national borders.

However, this definition drew comments from several countries, such as the United States of America and Canada, as it did not refer to the use of violence to achieve the organised group's objectives. This led Interpol to redefine organised crime, adding a requirement regarding the structure of the organised group and introducing a new element: the frequent reliance on intimidation and corruption in the pursuit of its objectives[(21)] .

In 1993**,** the European Union's Group on Drugs and Organised Crime defined organised crime as: a group comprising more than two persons engaged in criminal activity by committing serious



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offences over a long or indefinite period, with each member having a specific role within the criminal organisation, with the aim of gaining power or making a profit, and which uses violence and threats to commit its crimes, as well as exerting influence over political, media and economic circles and judicial bodies[22] .

In recognition of the importance, in the view of the League of Arab States, of legislative, judicial and security cooperation—particularly in preventing and combating cross-border organised crime, which continues to threaten the security and stability of the Arab nation, and hinders the economic and social development of Arab countries, this Organisation has signed the Arab Convention on Combating Transnational Organised Crime, which defines 'transnational organised crime' in Article 2(2) as: any offence of a transnational nature which is committed, participated in, planned, financed or attempted by an organised criminal group as described in paragraph (3) of this Article. The same Article 2 defines an organised criminal group as: any group with a specific structure, consisting for a period of time of three or more persons, whose members have agreed to commit one of the offences covered by this Convention in order to obtain a direct or indirect material benefit [23] .

Article (3) of this Convention sets out the criteria that confer a cross-border character on the offence; it requires that the criminal act take place in a territory extending beyond the borders of a single State, or that it be committed within a single State but accompanied by cross-border circumstances. These circumstances consist either of the planning, financing or management of the offence taking place from abroad, or its commission by a criminal group operating in several States, or the extension of its serious effects to the territories of other States.

It is clear that the League of Arab States has formulated its definition of transnational organised crime in a manner that encompasses all the forms such crime may take.

**Section Three: The Definition of Organised Crime in National Legislation**

In this section, we shall limit ourselves to highlighting a selection of comparative legislation, by way of illustration rather than an exhaustive list:

**Firstly: French legislation**

French legislation has dealt with organised crime solely in terms of traditional models, such as the offence of 'forming a criminal gang'. Although there have been legal efforts to develop a specific definition of organised crime, these attempts have been rejected; this is due to the ambiguity of the concept of a 'criminal organisation' and its infringement of the principle of legality of offences and penalties[24] .

**Secondly: In Italian legislation**

Italian legislation considers organised crime to exist whenever a criminal organisation comprises three or more persons, modelled on the 'Mafia'; The defining characteristics of this offence are the members' exploitation of the group's power and prestige—which enforces a code of silence—to gain the influence necessary to commit crimes, and the direct or indirect control of economic resources and administrative facilities, with a view to obtaining illicit profits[25] .



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**Thirdly: US legislation**

With regard to US legislation, in 1970 the federal legislature passed a specific law to combat organised crime known as the 'RICO' Act; this law focuses on countering the activities of criminal groups that rely primarily on extortion and violence to achieve their aims. The preparatory work for this Act defined organised crime as: a group operating outside the scope of societal and governmental oversight, which is not limited to committing isolated crimes, but continues for years according to a premeditated, with the aim of achieving comprehensive control over a specific sector of activities; this is done to maximise their capacity to supply illicit goods and services, as well as to infiltrate legitimate economic initiatives and projects(26) .

**Fourth: In Egyptian legislation**

The legislative text of Article 1 of Egyptian Law No. 64 of 2010 on combating human trafficking provides a precise definition of key concepts as follows:

- Organised criminal group: This refers to any group based on a specific structural organisation comprising at least three individuals, whose activities are carried out on a permanent or temporary basis, and which aims to commit a specific offence or a series of offences, including offences of human trafficking, whether committed alone or in conjunction with others, with a view to obtaining material or non-material benefit, whether directly or indirectly.
- Transnational crime: any crime that transcends the territorial boundaries of a single state; whether through the involvement of multiple states in its commission, the distribution of planning and financing activities across states, its commission by a group engaged in multiple international activities, or its effects being felt in a state other than the state of commission.

**Fifth: In Jordanian legislation**

Article 2 of Jordan's Law No. 9 of 2009 on the Prevention of Trafficking in Persons defines an organised criminal group as: any group consisting of three or more persons, which exists for a period of time and acts in concert, with a view to committing one or more of the offences criminalised under the provisions of this Act, for the purpose of obtaining, directly or indirectly, financial gain or any other material benefit(27)

**Sixth: In Algerian legislation**

As for the Algerian legislature, it has followed in the footsteps of most contemporary criminal laws; it has refrained from formulating a general legal definition of the offence, and consequently the national legislation lacks a specific definition of transnational organised crime. This approach is based on the view that definitions are a matter of jurisprudence rather than legislation; moreover, adherence to a specific definition may constitute an obstacle to the development of criminal policy and schools of penal thought, preventing them from keeping pace with the developments brought about by modern legal thought (28) .

Article 176 of the Algerian Penal Code is the sole statutory reference from which the Algerian legislature's approach to defining organised crime can be inferred. The legislator has included it in



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Chapter Six, concerning felonies and misdemeanours affecting public security, under the section on ‘criminal associations and aiding criminals’; it stipulates that the offence of ‘criminal association’ is committed merely by the existence of an agreement or grouping, without any restriction as to duration or the number of members, provided that its purpose is to prepare for felonies or misdemeanours punishable by a term of imprisonment of not less than five years, targeting persons or property, and this offence is committed as soon as the agreement and common intent are established [(29)] .

Although this provision is the sole basis for inferring the Algerian legislature’s approach to cross-border organised crime, it is criticised for failing to capture the precise conceptual framework of this offence; the provision lacks the fundamental elements constituting its specific nature, particularly those relating to the element of structural organisation, and the element of continuity and permanence, as well as the nature of the means employed and the geographical extent extending beyond national borders[(30)] .

It should be noted that the Algerian authorities have adopted a firm and clear stance towards the international legal frameworks concerned with combating cross-border organised crime and curbing its associated activities; they have taken the initiative to ratify and endorse the majority of treaties and instruments emanating from international and regional forums. Foremost among these is its adoption of the United Nations Convention against Transnational Organised Crime, alongside its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition[(31)] .

Based on the definitions set out above, organised crime can be defined as a collective criminal enterprise comprising the following elements:
Organisational dimension: the convergence of two or more intentions to carry out a criminal activity.
Spatial and temporal scope: a transnational nature carried out over a period of time
Purpose: the direct or indirect acquisition of financial and material benefits.
Means: the use of intimidation or corruption [(32)] .

Finally, having discussed organised crime, we must not fail to mention its many forms, which include, for example: illicit arms trafficking; trafficking in human organs – counterfeiting and circulation of currency – theft of works of art and archaeological artefacts – trafficking in precious metals – car theft – armed robbery – illegal immigration - forgery and misuse of documents – money laundering – drug trafficking – child trafficking – maritime piracy – aircraft hijacking.

At the conclusion of this section, the points of overlap and distinction between these two criminal phenomena can be identified, in terms of theoretical concept, through several key areas, which can be highlighted as follows [(33)]:

In terms of definition and legal framework, both smuggling and organised crime lack a standardised definition at the level of national legislation and international conventions; Domestic and international legislators have refrained from providing a specific and direct definition, contenting themselves instead with establishing penal frameworks and criminalising the activities and conduct of smugglers or organised criminal groups, whilst imposing harsher penalties for such offences.



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As for the historical background and nature of the phenomena, both are classified as long-standing criminal phenomena that have accompanied the development of human societies; furthermore, the two crimes share the characteristic of being committed for purely economic and commercial motives aimed at achieving illicit profits and financial gains in various fields.

With regard to organisational structure and the nature of the perpetrators, fundamental differences between the two phenomena emerge in terms of organisation and character; Whilst organised crime requires a permanent organisational structure and is carried out by criminal groups operating on a continuous basis, smuggling may take an organised form or be committed individually; it is also carried out by individuals or groups that may be formed on a temporary or permanent basis, depending on the nature of the customs or security operation.

As for criminal methods and execution, both offences rely on the utmost secrecy and the use of modern technology and techniques to carry out criminal schemes and evade detection, However, organised crime makes violence a fundamental pillar and a consistent, systematic approach in the management of its activities, whilst the use of violence in smuggling remains a possibility and is linked to circumstances of confrontation or the complexity of the infiltration and transit process.

Finally, in terms of its scope, smuggling is primarily international in nature due to its direct link to the crossing of customs and territorial borders between states, whereas the scope of organised crime extends to encompass both the national and international spheres, given its capacity to manage local criminal activities within the territory of a single state as well as its cross-border reach.

**Section Two: Forms of the Relationship between Smuggling and Organised Crime and their Implications**

The structural shift in the nature of smuggling has revealed functional overlap and operational integration between it and organised crime networks, with smuggling being utilised as a logistical arm to facilitate and carry out more serious crimes, such as money laundering, terrorist financing and illicit trafficking. Based on these facts, this section seeks to delve deeply into this interactive relationship by highlighting the most prominent examples of practical overlap and organic links between the crime of smuggling and certain forms of organised crime, followed by an analysis of the grave consequences and repercussions of this overlap at the security, economic and social levels. To provide a thorough understanding of the dimensions of this topic, this study has been divided into two main sections:

Section One: Forms of the relationship between smuggling and other cross-border crimes

Section Two: The implications of the overlap between smuggling and other cross-border crimes

**Section One: Forms of the relationship between smuggling and other cross-border crimes**

The relationship between organised crime and the crime of smuggling is characterised by reciprocity and complementarity; each constitutes both a cause and a consequence of the other, whilst the crime of smuggling serves as the structural and logistical foundation upon which the organisational framework of organised crime is built[34] .



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From this perspective, the network of smuggling extends to encompass various forms of cross-border crime, including: the illicit arms trade, trafficking in human beings and human organs, counterfeiting and circulation of currency, smuggling of antiquities and precious metals, vehicle smuggling and child trafficking, as well as illegal immigration, money laundering, bribery, terrorist financing and drug trafficking. Given the broad scope of these forms of crime, this study will focus solely on the relationship between smuggling and specific types of these offences.

**Section One: The Relationship between Smuggling and Money Laundering**

The crime of money laundering takes on a serious international dimension due to its close links with organised crime, particularly illicit drug trafficking, arms smuggling, widespread corruption and the proliferation of terrorism. This link between money laundering and cross- -border criminal activities has a negative and direct impact on the stability of the global economy. This offence is also considered one of the most prominent manifestations of organised crime, as it is based on the principle of multiple participants working together towards a single criminal enterprise, both materially and morally, whereby the perpetrators' actions complement one another through the distribution of specific roles, each of which contributes to achieving the criminal outcome (35) .

Smuggling activities constitute one of the main sources of illicit financial flows, which are subsequently subjected to processing and laundering operations that give them the appearance of legitimacy; the profits derived from customs offences are a key target for asset concealment networks. The nature of the offence of money laundering lies in its function as a conversion mechanism whereby the proceeds of prohibited activities, often on a massive scale, are channelled into the formal financial system to become legally tradable, thereby enabling perpetrators to integrate and invest these funds in legitimate economic sectors whilst concealing their illicit origin.

Algerian legislation has defined the forms of the offence of money laundering and its constituent elements under Article 2 of Law No. 23-01, amending and supplementing Law No. 05-01 on the prevention and combating of money laundering and terrorist financing(36); the legislator has classified criminal acts in this context into the following main categories: the transfer or movement of property, knowing that its proceeds are of criminal origin, with the aim of concealing its unlawful origin or enabling the perpetrators of the predicate offence to evade judicial proceedings, as well as concealing or obscuring the true nature, location, method of disposal, movement or rights associated with such property, whilst being aware of its criminal source. These forms also include the mere possession, acquisition or use of such property at the time of its transfer, whilst being aware of its illicit source, not to mention the criminalisation of all forms of criminal participation, including complicity, conspiracy, incitement, attempt, aiding and abetting, or providing advice. The same article emphasised the complete independence of the offence of money laundering from the predicate offence that generated the proceeds, as the newly established offence stands on its own, regardless of the outcome of the prosecution or conviction in relation to the first offence.

**Section Two: The Relationship between Smuggling and the Financing of Terrorism**



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Criminal networks active in the field of smuggling constitute the primary source of funding for illicit activities, as cross-border smugglers focus on maximising financial gains regardless of the nature of the smuggled goods or the parties benefiting from them, not to mention the disregard for national security and the public interest in the pursuit of quick profits with minimal risk of law enforcement action. It is perhaps this convergence that has provided a fertile environment for the growth and expansion of terrorist organisations, thanks to the financial and logistical support provided by smuggling gangs.

In this context, terrorist operations rely on smugglers for their logistical needs; whether by integrating them as operational wings within the organisational structure of the terrorist group as part of the 'division of labour' system in place within these networks—such as reconnaissance, recruitment, and combat operations, or by contracting professional smugglers as external parties providing logistical services in return for payment(37) .

When analysing the extent to which terrorism relies on criminal activities for funding, two main channels can be distinguished: **The first** consists of financial flows based on donations and solidarity-based funding, both domestic and foreign, whereby terrorist entities exchange financial support to expand their confrontation with ruling regimes, particularly when establishing new cells or branches. **The second** is linked to proceeds from the drug trade, for despite the prevailing discourse on so-called 'drug jihad', those actually carrying out smuggling operations are not necessarily members of terrorist organisations; however, these organisations reap huge financial benefits indirectly from this illicit trade(38) ..

This is clearly evident in the behaviour of international criminal organisations, which exploit the security vacuum and instability in conflict zones – and even seek to fuel them – in order to conclude dubious deals for the trafficking of arms, drugs and explosives; the effects of this are clearly evident in hotspots of armed conflict such as Iraq, Afghanistan, Sudan, Lebanon, Rwanda, Libya and several regions across the African continent(39) .

In short, the essence of the relationship between the two parties is embodied in a quid pro quo arrangement, in which smuggling networks provide financial support and arms supplies to terrorist groups, in exchange for the latter providing security cover and on-the-ground protection to safeguard the smugglers' routes and ensure the continuity of their activities.

**Section Two: The implications of the overlap between smuggling and other cross-border crimes**

The repercussions arising from the intersection of organised crime and smuggling constitute the most serious and complex threat to modern security and economic stability; as this overlap is not limited to the mere commission of multiple criminal acts, but extends to reflect a state of criminal solidarity that exacerbates the harm inflicted upon the state and its institutions.

The fundamental importance of this issue—which makes it the aspect most closely linked to the core of our research—lies in the fact that it translates the theoretical dimensions of the phenomenon into tangible reality, highlighting the direct threats to national security and the stability of societies. Smuggling is no longer merely an illicit activity aimed at quick profits; rather, it has become a vital artery



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through which funds flow to finance cross-border crimes, and a safe conduit for threatening the very existence of the state from various angles.

Accordingly, and in order to highlight the gravity of this interference and its catastrophic consequences, we shall divide this section into three interrelated subsections as follows:

Section One: Economic implications

Section Two: Security Implications

Section 3: Social Implications

**Section One: Economic Implications**

Various countries are keen to protect their production systems – both industrial and agricultural – as these form the cornerstone of their economic strength; From this perspective, customs duties are imposed on imports as a mechanism to protect emerging industries and enable them to develop and compete, particularly in strategic sectors such as agriculture, on which the state relies to achieve its economic and social objectives. However, the phenomenon of smuggling undermines these policies designed to protect the domestic sector by flooding the local market with products that evade customs duties and charges, thereby allowing them to be sold at prices far lower than those of domestic produce. This price disparity, often accompanied by reasonable quality, drives consumers towards smuggled foreign goods, resulting in a decline in the market share of domestic products and their gradual erosion, ultimately leading to worker redundancies and the closure of production facilities.

This deterioration leads to widespread unemployment and exacerbates social crises, which in turn fuels the informal economy and illegal activities, as smuggling attracts the unemployed—particularly in border regions—as an alternative source of livelihood. In this context, smuggling is characterised by a self-perpetuating cycle; initially paralysing the productive base and causing a decline in growth rates and gross domestic product, which in turn leads to further job losses and rising unemployment—a situation that, in turn, creates a fertile environment for the reproduction of smuggling and the negative feedback loop fuelling various forms of economic deviance [(40)].

Smuggling is also a prominent feature of the parallel economy, which acts as a barrier to attracting foreign capital, given the sensitivity of such investment to the business climate and the prevalence of practices that fall outside legislative frameworks and the principles of fair competition. In this context, organised crime groups exploit their vast financial resources to extend their influence over specific economic sectors or to dominate the foundations of the economic system as a whole, whilst also exerting pressure on private sector actors through extortion and financial fraud. These networks also contribute to the undermining of public finances through widespread tax evasion and the promotion of suspicious financial activities.[(41)]

In light of the above, organised crime has become one of the most significant obstacles threatening the economic stability of states, particularly following the infiltration of criminal proceeds into the formal economic sectors through money-laundering mechanisms. This infiltration has had a negative impact on levels of growth and economic stability, and has led to an erosion of confidence in



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the banking system and economic freedom; this, in turn, has affected the pillars of economic democracy, the rule of law and human rights principles.

These crimes pose a direct threat to the prestige and sovereignty of the state, exploiting the precarious living conditions—particularly in developing and poor countries—to lure individuals with promises of quick and fantastical profits against a backdrop of worsening poverty rates; at a time when governments are striving to develop policies capable of ensuring a decent standard of living for their citizens(42) .

The negative repercussions of these two crimes are not confined to the local level, but extend to have a direct impact on the state's foreign trade system through several channels; illicit activities distort statistical data and indicators relating to the volume and value of exports and imports, thereby skewing the reading of the trade balance between the countries concerned. This misleading data undermines the effectiveness of trade policies and planning based on inaccurate indicators, with the impact of this misrepresentation extending to national accounts relating to production, consumption and national savings rates, which in turn casts a negative shadow over the efficiency of the state's economic policies and development strategies in general.(43)

**Section Two: Security Implications**

The phenomenon of smuggling's intertwining with cross-border crimes such as arms trafficking, drug trafficking, human trafficking and money laundering, to transform smuggling from a mere economic or customs violation into a complex security threat that strikes at the very heart of national and international security, as criminal networks merge to form extremely dangerous hybrid alliances.

The primary security implications of this are the undermining of border control and the erosion of national sovereignty; smuggling networks allied with organised crime seek to exploit geographical and technological security loopholes with increasing sophistication, thereby creating vast areas that are effectively beyond the state's control. These border areas are transformed into zones governed by gang-like logic, thereby weakening the ability of border guards and security agencies to enforce the law and control the movement of people and goods.

This overlap also contributes directly to the financing and empowerment of terrorist groups and armed organisations. When drug and goods smuggling routes converge with cross-border criminal networks, a fertile environment for the bartering of services arises; where smuggling networks, with their expertise in clandestine routes and money laundering, provide logistical and financial support to extremist organisations in exchange for protection and favourable treatment in the areas under those groups' control.

On the other hand, this integration has led to the widespread proliferation of weapons and an escalation in violence. The use of self-organised smuggling routes to transport light and medium weapons equips gangs with greater combat skills, thereby raising the intensity of armed confrontations with security forces. This illicit flow of arms not only threatens the authorities, but also destabilises society and deprives border regions of public safety.



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At the level of the security apparatus, this interplay imposes a state of attrition and tactical and intelligence exhaustion; security agencies find themselves confronted with complex criminal patterns that transcend traditional specialisms and require costly interrogation and surveillance techniques. This is accompanied by the risk of widespread institutional corruption, as these networks exploit their vast financial proceeds to bribe certain local actors and border guards, leading to an erosion of trust in executive institutions and their infiltration from within.

For example, against the backdrop of the fierce racial, ethnic and internal conflicts afflicting the African Sahel region, political instability in the area has worsened, transforming it into a fertile environment and an open arena for the trade and smuggling of various types of light and heavy weapons. These smuggled weapons flow into the African continent annually from several sources, most notably the countries of Central and Eastern Europe, Russia and China, as well as certain other African states. It is worth noting that a significant proportion of these shipments pass through official channels and under the guise of legality, exploiting the widespread corruption and bribery within certain government agencies and military institutions. Data from the United Nations Development Programme (UNDP) confirms the scale of this phenomenon, with its statistics estimating that there are around 100 million small arms in circulation across the African continent; West Africa alone accounts for some 8 million of these, whilst the Sahel region is estimated to hold around 100,000 weapons.[(44)]

Against a backdrop of fragile political stability following the events of 11 September 2001 and the waves of the Arab Spring, the widespread proliferation of weapons has created an environment that fuels terrorist organisations and provides them with a sustainable source of funding for their activities, whilst simultaneously generating huge profits for organised crime networks and extremist groups active in this field. This phenomenon expanded sharply following the fall of Muammar Gaddafi's regime in 2011 and the resulting leakage of massive and alarming quantities of military equipment; estimates suggest that between 10,000 and 20,000 assault rifles were smuggled from Libyan territory into Mali at the onset of the crisis. The repercussions of this arms flow were not limited to security concerns alone, but extended to undermine political and institutional stability, the most prominent manifestation of which was the use of these smuggled weapons in the military coup in Mali on 22 March 2012. [(45)]

The activities of organised crime groups in various forms across the Sahel region have cast a shadow over neighbouring countries, foremost among them Algeria, where the direct geographical proximity and interconnection with this tense region have exacerbated the negative repercussions on Algeria's security situation in its various dimensions. The most notable of these security and political repercussions are evident in the alliance forged by terrorist groups with organised crime networks active in the field of smuggling; Smugglers have become a financial and logistical lifeline, funding and supplying terrorist groups with their various needs, in return for which the latter provide protection and security support to these networks against their adversaries, and secure the secret routes and pathways they use.


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In this context, some of the operations carried out by terrorist groups have involved hidden objectives aimed at facilitating smuggling activities; for example, the attack that took place in late June 2010 in the ‘Tin Zouaten’ area in the province of Tamanrasset, which resulted in the deaths of 12 members of the Algerian Border Guard. This operation was claimed by Al-Qaeda with the aim of opening and facilitating a route for the smuggling of seven qanater of processed cannabis into the country. This operation forms part of a series of attacks targeting security and regulatory agencies, the most notable of which was the 2006 attack in El M’nia, which claimed the lives of 13 unarmed customs officers at the hands of the ‘Salafist Group for Preaching and Combat’, in addition to repeated armed attacks against border guards in the province of Bechar(46).

The risks to security are not limited to the illicit flow of weapons; they extend beyond this to intersect with an equally serious threat, namely the growth of cross-border drug trafficking networks. In this context, the effects of drug trafficking and smuggling emerge as a second dimension undermining Algerian national security; this activity has evolved from mere traditional, transient crime into a serious threat to sovereignty, particularly as Algeria has evolved from being merely a consumer market to a major transit hub for drug shipments bound for the rest of North Africa and European markets, capitalising on the country’s geopolitical location adjacent to major production areas in the region (particularly Morocco) and on supply routes originating in West Africa.

The gravity of this phenomenon is further compounded by the security fragility of neighbouring states, widespread corruption and the inefficiency of security institutions in some Sahelian countries, which has created ‘grey zones’ controlled by mafias. The situation is further complicated by the nature of the terrain and the vast geographical extent of Algeria’s southern border, which places a logistical burden and constant strategic pressure on the military and security services to counter armed smuggling groups.

Perhaps the most serious threat lies in the organic alliance between smuggling networks and terrorist groups active in the Sahel region; organised crime networks provide financial and logistical resources and weapons to extremist groups, in exchange for the latter providing protection and securing clandestine smuggling routes , as evidenced by the repeated attacks targeting customs and border guard patrols in adjacent border areas.(47)

Official statistical reports highlight the seriousness of this threat; the quantities of drugs seized annually by the security services and relevant agencies have risen dramatically, particularly with regard to cannabis (hashish), cocaine and psychotropic substances (stimulant tablets).

Several factors on the ground have contributed to facilitating this geographical expansion of smuggling operations, foremost among which are the facilities and alliances provided by certain cross-border tribal networks and gangs in northern Mali and Niger to organised crime syndicates, Added to this is the security cover and logistical support provided by terrorist groups operating in the region, foremost among them ‘Al-Qaeda in the Islamic Maghreb’. This has led to a surge in the illicit flow of



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these toxic substances to such an extent that it now threatens human stability and adversely affects community and public security in Algeria[48] .

**Section Three: Social Impacts**

As for the social repercussions of these threats on Algerian national security, they are closely linked to the local value system and social structure; The continued flow of irregular cross-border movements gives rise to new behavioural patterns and customs that often clash with the cultural and social specificities of Algerian society.

The gravity of this social dimension is compounded by the intersection of illegal cross-border movements with organised crime networks, particularly groups specialising in the trafficking of drugs and psychotropic substances; as these networks target young people as a primary audience for their toxic substances, which has a negative impact on social stability by draining the country's active human resources, dismantling family ties, and pushing the targeted groups into a cycle of addiction and dependence on these criminal networks.

This situation results in social deviance and a rise in urban crime rates linked to the financing of addiction; the impact of cross-border trafficking thus shifts from being merely an external security threat confined to the southern borders to an internal threat targeting social peace and national cohesion at its very core.[49]

**Conclusion**

Based on the analysis and breakdown presented throughout this study, it is clear that the relationship between smuggling and cross-border organised crime is no longer merely a coincidental convergence of illicit activities, but has evolved into a structural alliance and a dangerous functional integration; where smuggling represents the logistical and financial lifeline on which organised crime networks rely to consolidate their influence and expand their transnational empires.

The study has demonstrated that this criminal convergence has taken smuggling beyond its traditional, narrow scope—which was confined to simple customs evasion—and integrated it into a complex criminal system that directly undermines the very essence of national sovereignty, drains the economic and institutional capacities of states, and casts a shadow over the social and security fabric. At the conclusion of this study, a set of findings and recommendations were drawn, which can be summarised as follows:

**First: Findings**

1. Smuggling has evolved from a mere individual customs breach or minor financial offence into an organised operational and logistical arm, enabling transnational criminal organisations to transport drugs and weapons, engage in human trafficking, and facilitate terrorist activities.
2. Traditional doctrinal and legislative definitions of smuggling and organised crime are inadequate; they are predominantly narrow in scope and overlook the concept of a 'structural alliance', thereby creating a gap between the legal characterisation of criminal acts and their complex reality on the ground.



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3- The reluctance of some legislations, such as Algerian legislation, to establish a comprehensive definition of organised crime, and the reliance on traditional concepts such as the 'association of evildoers', which fail to capture the essential elements of organised crime, such as structural organisation, permanence and cross-border reach.

4- It has been established that the profits derived from smuggling constitute the primary source of funding for money laundering offences; furthermore, money laundering techniques recycle these proceeds to confer legitimacy upon them and reinvest them to expand the smuggling activity itself.

5. This criminal alliance is characterised by a flexible ability to adapt and to exploit modern technologies and border loopholes, which has led to an increase in its danger and enabled it to outstrip the individual security and legal capabilities of states, however advanced they may be.

6. The analysis has shown that the consequences of this interconnection are not isolated but operate in a vicious circle; the economic impact weakens the state's capabilities, creating security loopholes that facilitate infiltration and border breaches, ultimately leading to the disintegration of the social fabric and the spread of crime.

**Second: Recommendations and Proposals**

Based on the findings, and with a view to formulating a proactive criminal justice and security policy capable of addressing this cross-border threat, the study recommends the following:

1. The need to introduce fundamental amendments to the penal, customs and anti-smuggling laws, ensuring that smuggling offences linked to organised crime are reclassified as extremely serious offences affecting national security, and expanding the scope of criminalisation to include forms of possession and logistical coordination.

2. Relying on modern technologies (such as artificial intelligence, electronic surveillance and advanced radar systems) to monitor and manage the border zone, whilst integrating security, customs and judicial agencies within 'unified operations and intelligence centres'.

3- Activating mechanisms for the extradition of criminals, mutual legal assistance, and the real-time exchange of information and intelligence with neighbouring states and international organisations (such as Interpol and the Arab Monetary Fund's Anti-Money Laundering Unit), in accordance with the United Nations Convention against Transnational Organised Crime.

4- Focusing on the ground on tracking illicit financial flows (money-laundering activities) associated with smuggling operations, and tightening oversight of banks and parallel financial institutions to cut off the financial lifelines that sustain these organisations.

5. Formulating comprehensive development policies for border regions to provide legitimate economic alternatives for the local population, in order to bridge the social and developmental gaps exploited by smuggling networks to recruit individuals and secure popular support for their activities.

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