

FRANCE AND THE ST.

NETHERLANDS IN MARTIN

■ **Neville C. York**

Head of Culture Department Government of St. Maarten, Dutch Caribbean

Historical perspective

March 23, 2013 marked the 365th anniversary of the signing of the Treaty of Concordia. The principal term of the agreement was for the island to be divided between the French Kingdom and the Dutch Republic and that the peoples of Saint- Martin/St. Maarten shall coexist in a cooperative manner.

Relevance

What relevance does this treaty have for a small land space of 37 square miles such as that of the dual nation of St. Maarten – St. Martin? The treaty is testament of a culture that has evolved and reinvented itself over three and a half centuries with the corner stone of its development being that of peace and bilateral understanding of two nations far away from the European main land. The off springs of the inhabitants who were brought to the island some by force and others of their own free will have seen the treaty repeatedly violated between 1672 and 1801 during many period of instability. Daniella Geoffrey a local cultural historian and researcher describes and reemphasizes that the “people are the permanent binding factor that has made St. Martin what it is today: two nations but one people, one culture, one language, one history”.

New Constitutional status

After 365 years St. Martin on October 10, 2010 became an autonomous country within the Kingdom of the Netherlands. St. Maarten has its own government and is no longer a dependency of the Netherlands. The Netherlands will, however, continue to assist St. Martin during the transitional period as it set up its new national organisations. Plans drawn up for its government institutions, which were not yet fully operational on 10 October 2010. The plans will remain in effect for a maximum period of two years. In 2011, St. Martin's overriding concern was to implement these plans with limited financial and human resources.

Role of the Netherlands

Within framework of the expansion of the Kingdom, the Netherlands has an obligation to promote the wellbeing of its former colonies, as laid down by the United Nations. That means that the Netherlands is responsible for the wellbeing of all subjects of the Kingdom. Greater wellbeing is the result of good



governance, a healthy economy, and properly functioning law enforcement and education systems.

The Netherlands is also responsible for the courts and for combatting crime and drugs trafficking within the Kingdom, for example by maintaining a well-trained and organised police force and an efficient and effective public prosecutions service. Although St. Martin is now an independent country, these responsibilities go beyond the capacity of the island. St. Maarten lacks an adequate number of properly trained employees and suitable material and equipment to undertake such tasks on its own.

The Netherlands' role in the new constitutional order

By supporting the new constitutional order, the Netherlands will:

- support St. Martin in its wish to become autonomous countries within the Kingdom;
- ensure good governance that is free of corruption;
- will supervise, on a provisional basis, the budgetary policy and public finances of St. Martin;
- continue to cooperate with local administrators to fight crime and drugs trafficking between Aruba, Curaçao, St. Martin, and Bonaire, St Eustatius and Saba.

IN ORDER TO ANSWER THE QUESTION OF THE COOPERATION MECHANISMS BETWEEN FRANCE AND THE NETHERLANDS IN THE FIGHT AGAINST THE ILLICIT TRAFFICKING OF CULTURAL PROPERTY IN ST. MAARTEN/ST. MARTIN BOTH PARTS OF THE ISLAND'S POLITICAL ADMINISTRATIONS SHOULD BE BRIEFLY ELUCIDATED ON, FROM A HISTORICAL PERSPECTIVE, OF THE ISLAND'S CONTINUOUS SOCIO - CULTURAL DEVELOPMENT.

After 359 years the French Parliament passed a bill granting COM status to both jurisdictions of St. Martin and St. Barthélemy which both populations have voted for in 2003 to secede from Guadeloupe to become separate overseas collectivities. February 22, 2007 was the date when the law was published in the official journal. St. Martin and St. Barthélemy under the Treaty of Lisbon remain part of the European Union.

The reason for taking a peep into the past is to illustrate how both halves of the island have developed over the years. One side having more flexibility than the other therefore it has taken on the role of a big brother to solve problems that are of bi-national interest.

Considering that the Southern half of the island (St. Maarten) has an international airport and a mega cruise facility it lends itself automatically to more commercial activity and is prone to the vulnerability of the Illicit Trafficking of Cultural Property more so than the Northern half of the island.

There were two cases recently that illustrated how the Dutch Kingdom and its Caribbean counterparts (countries) can work

together in combatting crime that infringe on Cultural Heritage in the form of movable property. The same is true for the Republic of France that shares the one International Princess Juliana Airport.

In conclusion I invite you to read the following examples as small and insignificant that they may appear are excellent in that they illustrate the informal bilateral cooperation of countries in Europe with their partner countries in the Caribbean where rapid and efficient cooperation between the local/insular and European heritage, environment experts, law enforcement authorities, property owners and commercial service sector staff members proved to be detrimental in combatting the illicit trafficking of Cultural Property. Even more so it is a wakeup call to implement formal treaties of bilateral cooperation among friendly and neighboring countries that have been working together for centuries under good faith. The ultimate goal is to protect, preserve the country's fragile and precious heritage simultaneously prosecuting anyone who tries to violate the treaty of Illicit Trafficking of Cultural Property which in essence preserves and thereby strengthens the identity of a people. [\[3\]](#)

■ The Department of Culture was contacted by a permit officer of the CITES department of the Netherlands regarding the application of the CITES MA and SA of St. Martin regarding the application of a passenger that entered the Netherlands with questionable artefacts. The passenger in question recently migrated from St. Martin to the Netherlands. In his personal belongings he had 19 pieces of ivory carvings with him. These carvings according to him have been in his family since at least 1946. His parents bought these pieces in another Dutch Caribbean Island somewhere between 1937-1955. The pictures below are proof of such.

Barring that the passenger was unaware of the CITES regulation and obligation for permits when he moved his belongings, he did not apply for any permits and the customs in the Netherlands stopped the import.

According to the legislation, the passenger could request a retrospective import permit, because the pieces are antiques and of personal belongings. The passenger had no intention for any commercial use, but to make sure, the custom officer restricted the permit with a sanction that no commercial activity was allowed within the next 6 months.

But, before they could issue a retrospective import permit, they needed a retrospective export permit from St. Martin. The island consequently was asked if it was possible to issue a retrospective export permit for the antique pieces. And if so, how the passenger could apply for such a permit.



Fort Amsterdam
Canon-Ball

■ Heritage conservationists and judicial authorities managed to foil an attempt by a tourist to ship off an historical eighteenth century cannonball on Thursday.

A tip was given from a courier mail service to an environmental activist that a historical cannonball was poised for export to the United States. The environmental activist contacted St. Martin Archaeological Center, who took immediate action to stop the export. The Director of the archeologist center contacted the, Head of the Interpol Office, who called the Prosecutor's Office. Both persons then went to the mail service office, where they met two custom officers from the police substation who ensured that the artefact was held by the mail service. The 18th century historical cannonball was confiscated. Interviews were conducted to find the person who attempted to export the artefact via the mail service office. Apparently a guest vacationing at a well-known resort from the United States told the mail service clerk that he/she had found the cannonball at an historical site and was shipping it home.

With the confiscated cannonball in their possession, the director of the archeological center and the custom officer went to the Resort, where the managers were co-operative to provide the necessary information about the guest in question. The guest was not in at the time, so follow-up was to be carried out by the police.

Based on the international Valetta Treaty, ratified by the St. Maarten Government, the export of historical and archaeological artefacts without authorized permission is strictly forbidden, with a punishment, related directly to prior St. Martin statutes, of up to one year imprisonment and up to a Naf. 5,000 equivalent to US \$ 2,777.78 fine.

The Director of the archeological center and the Resort representative strongly advise the public that removal of artefacts from any heritage site is strictly forbidden. The public was further advised to take notice that the export of historical artefacts without proper authorization is also strictly forbidden and can be prosecuted.

OPPORTUNITIES AND CHALLENGES IN THE CARIBBEAN

■ Laleta Davis Mattis

University Counsel and Head of the Legal Unit University of the West Indies

Introduction

Cultural heritage is at the core of any people. Efforts at development must recognize and incorporate cultural practices and norms. Tangible cultural heritage presents a basis for connection, a defined link with the past and a bridge to the future. In the words of Marcus Mosiah Garvey¹ 'A people without the knowledge of their past history, origin and culture is like a tree without roots'² A country's cultural property forms part of that root system, and the retention of cultural property in the country of origin is one element of national and self definition. The Caribbean is rich in cultural heritage and enjoys similarity in cultures, through the various manifestations of ethnic retentions reflected in both tangible and intangible cultural heritage. So endemic is the role of culture in national and regional sustainable development that paragraph 1 of the Preamble to the Barbados Programme of Action in recognizing the role of culture in sustainable development affirms that the survival of small- Island developing States is firmly rooted in their human resources and cultural heritage, which are their most significant assets. The affirmation further states that these assets are under severe stress and all efforts must be taken to ensure the central position of people in the process of sustainable development.³

A Memorandum of Understanding between the Caribbean Community (CARICOM) and The United Nations Educational, Scientific And Cultural Organisation (UNESCO), 5 May 2003, Georgetown, Guyana in addressing CARICOM's commitment to the preservation and protection of Caribbean culture affirms that in the field of Culture, CARICOM and UNESCO will cooperate in safeguarding the tangible and intangible cultural heritage of the Caribbean through ratification and implementation of Conventions on World Heritage and Underwater Cultural Heritage, in support of intercultural heritage and cultural diversity...⁴ To say that the Caribbean as a community has recognized the protection of cultural heritage is an understatement.

Protecting cultural heritage within national and global spheres is facilitated through the work of the United Nations Educational Scientific and Cultural Organization (UNESCO) through a number of complementary international agreements.

This paper will focus on The UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). Property by its very definition denotes ownership and the convention focuses on the ownership of cultural property and their protection, by stemming the illicit