Imperfect strangers: Frenchmen, foreigners and illegality in 18th-century Guadeloupe

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IMPERFECT STRANGERS

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Introduction

On 1 February 1727, Guadeloupe Governor Alexandre Vaultier de Moyencourt sat down to compose an update on the island to Versailles.[1] He was, literally and figuratively, not in a happy place. The letter seeps utter exhaustion. Guadeloupe is ailing. Its inhabitants are starving and dying – those with some vivacity left are either emigrating or revolting. Currency is becoming a rarity. However, there might just be a lifeline. Foreign ships, freighted to the brim with basic necessities, have appeared on the horizon and have gently nudged Guadeloupe's ports: would its population perhaps be interested in purchasing or trading some of their wares on offer? However interested the population might have been, de Moyencourt would not have it. He proudly announces his staunch refusal to give permission to these foreign ships to trade in Guadeloupe – all of them, no exceptions. To provide some extra reassurance to the metropole, he vouches for the following: if even a single barrel of foreign merchandise should be found on Guadeloupe, he would voluntarily commit himself to the Bastille for life.

De Moyencourt's decision to refuse foreigners to introduce their wares onto the island despite the desperate necessity for these same wares seems paradoxical. However, the economic governance of the French Empire goes a long way – though not all the way – in explaining this decision. From the late seventeenth century onward, the French Empire was subjected to increasingly protectionist policies aimed at eliminating foreign stakeholders and keeping the empire's gains within the French sphere. This (and especially its long-awaited 'official' codification in Letters Patent of October 1727) came to be known as the *Exclusif colonial*.[2] For the French West Indies, this concretely meant that foreign trade and provisioning was prohibited, and all supply circuits had to run between the metropole and the French colonies, on

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French vessels, operationalized by French *armateurs*. However, putting these ideals into practice resulted in a fundamental commercial imbalance within the French Empire, and particularly in smaller colonies such as Guadeloupe: metropolitan *armateurs* consistently neglected to supply it, and thus French provisioning would but rarely meet the inhabitants' needs. The structural lack of it would (in case of non-intervention) result in incessant famine and shortages of industrial supplies. This, in turn, threatened the entire social and economic cohesion of the colonial society in question.

Foreign merchandise, brought on foreign ships and sent by foreign entrepreneurs, could significantly alleviate these shortages. Indeed, a myriad of foreign merchants had identified this as an opportunity for economic gain, as basic necessities would beget premium prices. However, the *Exclusif* was the institutional barrier that had to be overcome. Thus, (senior) administrators in Guadeloupe such as de Moyencourt found themselves in an impossible position. There was a clear discrepancy between the law of *l'état* and the law of necessity[3] – between metropolitan ideology and colonial reality. In the day-to-day governance of Guadeloupe, they were to carefully assess and tread this balance. Regulating foreigners, and specifically their attempts at trade, was at the heart of this. For Guadeloupe, even more neglected than more impressive colonies such as Martinique and St. Domingue, and geographically positioned at a crossroads with foreign-held colonies crawling with opportunist vultures waiting to sell their wares, this regulatory task was at its most challenging.[4]

The challenging nature of regulating foreign activity on Guadeloupe was not solely due to the delicate realities on the island. The very letter of the law, too complicated this decision-making process. The *Exclusif* of 1727[5] and the ordonnances, edicts and regulations that pedigreed it were as staunch in their insistence on the respective privileges of 'Frenchmen' over 'foreigners', as they were utterly vague in what those categories actually *entailed*. Extensive historiographical discussions on the conceptualization of subjecthood in the early modern have above all else revealed that it was not easily defined.[6] What exactly determined who was to be considered 'French' and who was 'foreign', especially in the context of the West Indies, where individuals amalgamated in the mishmash of ever-shifting imperial spheres, and (attempts at) metropolitan categorizations were at best awkwardly applicable to colonial societies, which were much more diverse to begin with? Subsequently – if a 'foreign' element could be indisputably identified – *what* specifically was 'illegal' about it in the context of the *Exclusif*? Was it tied to the individual's 'foreign' identity, to the 'foreign' production of his merchandise on offer, to the 'foreign' location of the port of provenance? Historiographical analyses of the *Exclusif* but rarely seek to pinpoint the exact source of illegality on foreign trade, and instead generalize it as an illegal activity at large. However, as we will see, this can be (and was) subjected to considerable nuance.

This chapter investigates the understanding of the notions of 'foreignness' and 'illegality' in eighteenth-century Guadeloupe in the context of the *Exclusif colonial*, wherein they were closely interrelated. It takes as its principal source the series of

correspondence from its governors and other senior administrators, and seeks to contrast this with the integral texts of the Letters Patent, ordonnances and edicts whose application they describe in this correspondence. As senior administrators (such as the governors) were tasked with the execution and supervision of the *Exclusif*, it was *their* understanding and interpretation of these notions that resulted in concrete impact on the daily realities in the colonies, because they pertained to the obtainment of basic necessities. This chapter argues that these everyday decisions (and, as time progresses, the precedent/repertoire) on regulating foreigners and their possibly illegal activity on Guadeloupe provide a much more grounded understanding of early modern colonial subjecthood than legalistic sources.[7] This case study, furthermore, is found in a context wherein a specific subjecthood could create substantial (economic) privileges; therefore, it also contributes to a better understanding of how early modern individuals were able to access or create opportunities in the realm of business, judicial support, and privileges in general, as the gray areas of subjecthood could be exploited in the face of institutional barriers.

The French Empire and Guadeloupe: historical background and exclusionary policies

The French colonization of the Americas began in the sixteenth century, in tandem with similar activities by several other European states. Most early efforts focused on Canada; however, by the mid-1630s, the French also took possession of several islands in the West Indies that would later play a crucial role in the (political) economy of the French Empire by means of its cash crop output – most famously, sugar. Guadeloupe was among them, and in the decades that followed its settlements were increasingly expanded and operationalized. After formal ownership had passed through the hands of several up-and-coming monopoly companies, in 1674 the colony was formally transferred to the French state. As slavery was increasingly institutionalized, the sugar plantation complex developed to maturity in the late seventeenth century, and cash crop output generally flourished throughout the eighteenth century.[8]

From the earliest stages of the systematic colonization of Guadeloupe, the colony sparked the interest of foreign and especially Dutch entrepreneurs, who sought to obtain a share of the potential profits in different sectors of exploitation.[9] For example, as early as 1650, freight contracts to dispatch ships from Amsterdam to trade in Guadeloupe (and neighboring Martinique) are steadily found,[10] as are accounts of Dutchmen physically traveling to the island to 'make their fortunes' as merchants or craftsmen,[11] or powers of attorney to claims due on the island, evidencing the early incorporation of Guadeloupe into transimperial credit networks.[12] These activities are generally representative of the prominent share that of foreign stakeholders occupied in the first few decades of French colonization in the West Indies at large. In the West Indies themselves, the Portuguese *reconquista* of 'Dutch' Brazil in 1654 triggered a diaspora of Dutch (sugar) planters seeking to apply their skills elsewhere,

settling among others on the French isles and aiding in the setup of what would later become its ruthlessly efficient sugar plantation complex.[13] In Europe, as evidenced by Jonathan Webster's study on colonial entrepreneurship in Bordeaux in the seventeenth century, communities of foreign merchants and *armateurs* in metropolitan ports were often more willing to take on the risks of colonial trade than their French counterparts, as they had (in case of the Portuguese and the Dutch) observed and participated in the booming colonial trade conducted in and by their respective home states, and were financially and infrastructurally (ships) better equipped to expedite these enterprises.[14]

From the mid-seventeenth century onward, institutional anxieties about foreign stakeholdership of one's 'own' empire started to emerge. As mercantilist thought matured, as English trade was subjected to protectionist Navigation Acts, and as Jean-Baptiste Colbert acceded as the leading minister in France, increasingly exclusionary policies were implemented in the political, social and economic governance of the French Empire.[15] For example, an ordinance of June 1670 issued a general prohibition for foreign vessels to dock or come within one league of French colonial coasts. In addition, coming into contact with foreign merchandise (introducing it into the colonies or trading it on) also became a punishable offense. Another significant addition to the legal corpus prohibiting foreign trade was the *règlement* of August 1698, meant to re-install the protectionist measures after they were temporarily eased due to the Nine Years' War (1688–1697). Again, this stipulated the general prohibition for foreign vessels to dock in a colonial port, as well as trading in or being in possession of foreign merchandise, or to lend one's name to act as a front for foreign businessmen and *armateurs*. The Letters Patent of April 1717, too, proscribed these mechanisms.[16] Whether these 1717 Letters Patent can be viewed as the establishment of 'the' *Exclusif*, as some literature presents it, is debatable.[17] Equally rigorous and content-wise comparable regulations were already in place before 1717. In addition, in documentation post-1727, it is the Letters Patent of October 1727 that are consistently synonymized/identified with the *Exclusif*. In referring to anti-foreign, protectionist measures, senior administrators nearly always cite the *Lettres Patentes d'Octobre 1727*,[18] even after significant modifications or newer regulations were issued, suggesting that these Letters Patent were considered the unequivocal standard or basis of the *Exclusif*, and that 1727 was not merely an addition to 1717. On a more methodological level, this also justifies the selection of the Letters Patent of 1727 as the central legal framework in this chapter to investigate notions of foreignness and illegality.

To some extent, the *Exclusif* did what it ought to do. The concentrated (though, as we will see, not watertight) transfer of colonial cash crops to the metropole caused tumultuous economic growth in France. The quick saturation of its domestic markets (around 1730) triggered the large-scale and profitable re-export of French colonial resources abroad, creating a large trade surplus, one of the principal aims of mercantilist economies.[19] However, the flow of merchandise from the metropole to the colonies was not as impressive, and was one of the causes of the aforementioned

structural imbalance: Guadeloupe, for example, was chronically undersupplied and could barely sustain its population and industry without additional foreign resources.[20] At several points in the eighteenth century, these problems were exacerbated when France and Britain went to war: massive losses to British privateering rendered French shipping all but impossible, which crippled the already meager supply of necessities to the French West Indies. Under these circumstances, the *Exclusif* would be formally or informally suspended, and 'neutral' foreigners in possession of passports would be openly welcomed to trade in the colonial ports.

The devastation caused by the Seven Years' War (1756–1763) in particular left an impression.[21] Guadeloupe had been invaded and occupied by the British, but was returned to France in exchange for Canada with the Treaty of Paris in 1763. The lessons learned on the fragility of the *Exclusif*, the commercial networks and innovations introduced by the British occupiers, and by then, proven benefits of (some types of) foreign trade to remedy supply deficits did not leave policy makers unmoved. Several ordinances, edicts and regulations liberalizing certain aspects of the *Exclusif* were implemented from the late 1760s onward – for example, certain free ports were established (in case of Guadeloupe, the island of St. Lucia) and trading certain types of products was allowed there. The number of these ports and products increased steadily, and in the late 1770s, free trade (within limitations) was established in Guadeloupe.[22] Foreigners were finally granted significant leeway, and their close association with illegality started to unravel.

Defining illegality

The central tenet of the *Exclusif colonial*, or the Letters Patent of 1727, was its general prohibition of *commerce étranger*. All individual articles of the document were instructions on how to enforce this: which activities were illegal, what punishments would those nevertheless partaking in these activities meet, and under which very specific circumstances would normally illegal activities be sanctioned?

Curiously, for a document so vehemently interdicting 'foreign trade', it is difficult to pinpoint *which* element of it made it unacceptable. 'Trade' by definition at minimum involves more than one actor and a product. In the context of colonial trade in Guadeloupe, it generally involved multiple *actors*, *things* and *geographies*. Any of these elements could be 'foreign', and thus be 'the' source of illegality. A typical transaction could also involve non-foreign elements: crudely put, French actors, things and geographies. Did French involvement in a transaction have a permeable impact on the degree of illegality?

Before delving into the specifics of the illegal nature of foreign *trade*, it is important to acknowledge that not *all* foreign presence or activity in the French West Indies was outlawed. The Letters Patent outline one important sector where foreigners could in fact exist: basic settlement. Foreigners were allowed to own property (real estate and land) and reside in the French West Indies, and thus in Guadeloupe. No comments are made regarding the professions they could exercise or the ways

they could earn their keep, aside from the repeated assertion that they could *not* involve themselves in any kind of merchantry, brokerage or trade, the exception being the sale of crops that they would grow on their own land. Any foreigner that was involved in merchantry at the time of the issuing of the Letters Patent was to cease operations within three months.[23]

As it comes to foreign trade, close reading of the Letters Patent allows the distillation of four potential 'bases' of illegality. Simply, four ingredients had the potential to make trade 'foreign' in the context of the *Exclusif*. One of these ingredients was sufficient, but a combination of them could only further incriminate the transaction. Even then, with every single ingredient, one can subsequently wonder what made this particular ingredient foreign in the first place.

Firstly, the foreignness of the *ship* that entered the French West Indian port was arguably the most important factor. Numerous articles contain references to 'vaisseaux & autres batimens de mer estrangers' or 'navires estrangers'. Their very presence within one league of the colony's coast was prohibited; entering the port was equally condemnable.[24] The only exceptions were foreign ships in distress, seeking entry to get essential repairs. However, they would be subjected to considerable paperwork and surveillance.[25] Complications immediately arise with a ship-based assessment of foreignness. The Letters Patent at no place define what makes a ship foreign, and instead seems to assume this as an essentialized characteristic. However, it is (and was) not as straightforward an exercise as it seems to determine a ship's 'nationality' in the early modern era. The flag was in many cases the prime indicator, but what determined the flag? The subjecthood of the captain? That of the owner? The location of the shipyard? The harbor of provenance? It appears that this was to some extent not legally standardized; it was also vulnerable to opportunistic fraud – many incidents of flag-swapping are recorded, including in Guadeloupe.[26]

Secondly, the foreignness of the *merchandise* that is destined for trade was considered. It was not permitted to introduce 'Negres, effets, denrées & marchandises' from a foreign source in the colonial ports. By extension, it was also forbidden to have it in one's possession in the colony in general, either with the purpose of concealing/storing it, or to trade it on.[27] Again, what exactly made merchandise foreign is not consistently explained in the *Exclusif*. Was it the location of its production (and then, which stage in the commodity chain?)? The last port that it was trafficked through? The owner or seller of the merchandise? The bottom it was transported on? With merchandise, an added difficulty was that more often than not, its origin was not clearly identifiable – try and distinguish, at first glance, British flour from French flour. This was a widely recognized problem, judging from the contemporary reflections of Émilien Petit, a creole lawyer and judge from St. Domingue[28]: he recommended paying extra attention to small merchant's markers on the packaging, or, in case of enslaved people, analyzing the language(s) they speak. However, he admits that after some time passes or the merchandise changes hands a few times, these subtle clues would soon fade, and it would be impossible to establish any (foreign) origin.[29]

Thirdly, the foreignness of the *location* that was involved in the transaction mattered. The Letters Patent certainly seem to take the fact whether a transaction or activity in trade was conducted in 'pays estrangers' or 'colonies estrangers' into account when assessing its legality. For example, several articles explicitly forbid sending merchandise to these foreign places or importing merchandise from these places to the French colony ('nosdites isles & colonies').[30] Out of all four 'foreign' ingredients in trade, location is arguably the least ambiguous when it comes to *what* exactly made it foreign in the first place. Territorial sovereignty was relatively well-established and well-defined in peacetime, and aside from the occasional shift or dispute in wartime, it would be clear which locations and ports could be considered 'foreign'.

Lastly, the foreignness of the *actor(s)* conducting the trade seems to be taken into account. Several types of actors reoccur/are explicitly mentioned in the Letters Patent' discussion of illegal activity: among others, the operations of captains, crews, merchants, factors and commissioners are subjected to its regulations. There are surprisingly few articles that, in discussing these actors, identify them as 'foreigners' ('estrangers')[31]; in other words, there are not many instances where the *foreigners* themselves are identified as the core of what made trade foreign. However, it seems unlikely that this factored so little in the assessment. What is more probable is that, particularly as it pertained to the labeling of ships or merchandise as foreign, the actors themselves were a base condition: the involvement of a foreign freighter, buyer, seller, commissioner, captain, crew and so forth went a long way in subsequently identifying these other ingredients as foreign. This might have been so self-evident, that it escaped any explicit clarification in the literal text of the Letters Patent. Nevertheless, the 'classic' problem remained – *who* was a foreigner, and who was not? What determined this?

What emerges from these discussions is that, while any of these ingredients was independently sufficient to make an attempt at trade 'foreign' in the eyes of the *Exclusif*, they were highly interrelated, and rarely occurred in isolation. In most articles (and in historical practice), the illegality of a stint of foreign trade was composed of multiple foreign ingredients. The appearance of foreign ships carrying foreign merchandise, sent from a foreign port by a foreign entrepreneur, was a daily occurrence in the French West Indies, and attempting to define the intricacies of foreignness in these cases was a superfluous exercise – even the admittedly vague terminology of the *Exclusif* was clear enough to condemn these instances.

One important question arises however when it comes to the 'composition' of trade. Again, with a typical (foreign) trade transaction in the French West Indies consisting of more than one *actor, thing* and *geography*, what happens when foreign elements mix with French ones? The Letters Patent extensively take this mixing into account, and a variety of different scenarios and combinations are sketched out and appropriately interdicted: French merchants exporting French merchandise to foreign localities,[32] foreign merchants corresponding with French commissioners[33] and so forth. Analyzing this 'mixed' trade further affirms the central assertion of

this section, namely that any detectable foreign element (a ship, merchandise, location or actor) was enough to incriminate the procedure – French involvement was not enough to 'whitewash' the transaction. In fact, it was the contrary: implicated Frenchmen were equally as condemnable and punished even more severely than foreigners that were caught in the act. In this particular regard, the *Exclusif* was more rigorous than comparable systems of British commercial legislation of the time. Whereas the British maintained similar restrictions on foreign trade with(in) its West Indian territories, British law only sought to penalize the foreign elements, rather than any British subjects that were found to be complicit.[34]

Defining foreignness

It is more than evident that the supposed illegality of trade in the French West Indies was inextricably tied to the involvement of foreigners. Equally as evident is the lack of somewhat comprehensive definitions on *what* exactly is foreign, or a foreigner, in this context. In the Letters Patent, there is but one characteristic that sets apart Frenchmen from foreigners – subjecthood. Frenchmen are consistently identified as 'nos(dits) Sujets', or, in some minor instances, as the adjective 'François' (e.g. *négocians François*). Foreigners are 'estrangers'.

Thus, in the eyes of the law, Frenchmen were French subjects, and foreigners were not. Subjecthood was what divided them, in the metropole and in the colonies alike, in law and in practice. In the early modern age, subjecthood determined whose sovereignty an individual fell under. A certain subjecthood came with a set of institutions to utilize, obligations to fulfill and privileges to claim. A typical site where all of these things manifest is the judicial system (physical courts, but also legislation): one's subjecthood to a large extent determined which system was available or chosen to channel personal or property-related injustices, and which would administer justice when one was caught trespassing the law.[35] The institutions and obligations, but especially the privileges, were not only dependent on domestic affairs. Developments in international relations could exercise a significant influence on the privileges of a particular subjecthood beyond 'its' territorial borders. For example, a commercial treaty between two countries could attribute collective privileges to each other's merchants on each other's markets: from slightly lower tariffs, to entire monopolies on the exploitation of valuable resources. The opposite could also be true: trade embargoes, a staple of early modern and modern history alike, are a mechanism to exterminate the privileges of another's subjecthood.[36] What follows is that in the context of early modern mercantilist political economies and empires, these subjecthood-related discussions are extremely relevant. The *Exclusif* was a system that privileged or restricted actors based on subjecthood, and stakeholdership in the French Empire was nominally reserved for French *sujets*, as evidenced by the terminology of the Letters Patent.

What were the legal bases of French subjecthood in the early modern age? French subjecthood could be sourced from either *jus soli* (being born on French territories,

including the colonies) or *jus sanguinis* (being born wherever, but to French parents).[37] *Jus soli* is also referred to in the Letters Patent, in the only instance wherein 'sujet' is slightly elaborated upon: 'tous nos Sujets *nez dans nostre Royaume & dans les Colonies soûmises à notre obéïssance*'.[38] For those not meeting these requirements, a third avenue toward French subjecthood was available, namely naturalization. However, this was a rare occurrence at approximately 45 cases per year between 1660 and 1789, and generally, the only applicants were elites.[39] Additionally, as we will see, naturalization was all but invalid in colonial contexts.

Those non-subjects that remained were foreigners. While dwelling on French territory, they encountered barriers in their professional as well as personal environment – for example, they could not hold royal office. The most important general restriction was their subjection to the *droit d'aubaine* – the inability to pass assets on to any heirs, and instead have those assets automatically transferred to the state upon their passing while on French soil.[40] This was a significant hindrance for foreign entrepreneurs to establish their business in France: the *droit d'aubaine* was a sword of Damocles to 'foreign' business organizations, because the risk of seizure of assets if (unexpectedly) deceased while in France limited the sustainability of more long-term accumulation of assets.[41]

As Silvia Marzagalli rightly points out, these general principles were the subject of numerous exceptions.[42] Droves of individuals treaded the margins of French subjecthood in the metropole and in the colonies alike, and had to make their case as to why in fact they would qualify for subjecthood and its adjacent privileges. The Huguenot diaspora loomed at the core of many of these cases, especially in the eighteenth century as second or third generation of descendants emerged. Anti-Huguenot legislation of the mid-to-late seventeenth century generally contained terms that competed with the (mostly Renaissance period) principles of French subjecthood, and there were plenty of Huguenots (and their descendants) who still wished to make a claim to the privileges of French subjecthood while on French soil.

Diplomatic documentation is rife with these cases, and excellently illustrates the chaotic situations that could arise from stringent, but non-comprehensive laws, especially when large sums of money and assets were on the line.[43] For example, in 1724, a dispute arose between the Dutch States General and the French state after a petition by Pierre Testas Jr. He was a prominent merchant born in Amsterdam to a Huguenot father, and a prominent 'Dutch'/'foreign' interloper in the French West Indies. Testas Jr. desired to claim his grandfather's inheritance in France, but this was rejected. The French authorities cited regulations dating to 1669 and 1698 that offered Huguenots (such as Testas Jr.'s father) the opportunity, after renouncing their heresy, to repatriate to France and have their property rights fully restored 'on an equal basis to natural subjects', once again evidencing the close connection between property rights and subjecthood, but keeping the subject status of Huguenots vague.[44] This is further complicated when the authorities add a subtly threatening reminder that all those Huguenot 'subjects' who had not made the decision to

repatriate under these olive-branched conditions, had caused great offense to the French King, implying that they were *still* considered to be accountable to the King's sovereign power. The Dutch ambassador writing on this case specifically states that he and all others involved found the matter highly confusing: he was personally unable to deduce whether the French authorities ultimately considered the foreign-born offspring of a Huguenot as legitimate foreigners, or just disobedient/estranged subjects.[45] With many similar or even more complicated situations detailed in diplomatic and stately documentation, it is evident that while the legal dimension of French subjecthood readily distinguished between Frenchmen and foreigners, this difference was not always clear in practice.

Turning back to the colonial sphere, these matters were subject to even more exceptions and complications. It has been thoroughly established that European, metropolitan classifications of subjecthood – but also social classifications in general – were not applicable to colonial societies, which were inherently more diverse. For example, the presence of large, enslaved or free(d) colored populations could provoke endless debates on the subjecthood status of these people, and what the political, legal, social and moral consequences of this would be.[46] When it comes to the rights of non-subjects, or foreigners, the *Exclusif* and the Letters Patent are also inherently symptomatic of the different legal situation in the metropole versus the colonies: it ensured that non-subjects had substantially more economic and commercial rights in metropolitan France, compared to the West Indies.

A very concrete difference that can be established between the legal bases of French subjecthood in the metropolitan versus the colonial sphere is the nonrecognition of naturalization. Whereas in France itself, a foreigner could attain French subjecthood and all its attached privileges through naturalization, this was not the case in the French West Indies. On two separate occasions, the Letters Patent explicitly invalidate naturalization as a mechanism to circumvent the barriers imposed on foreigners:

> Les estrangers establis dans nos Colonies, *même ceux naturalisez*, *ou qui pourroient l'estre à l'avenir*, ne pourront y estre Marchands, Courtiers & Agens d'Affaires de Commerce, en quelque sorte & maniere que ce soit.[47]
>
> Faisons deffenses à tous Marchands & Négocians establis dans nosdites Colonies, d'avoir aucuns Commis, Facteurs, Teneurs de Livres, ou atres personnes qui se mestent de leur commerce, qui soient Estrangers, *encore qu'ils soient naturalisez*.[48]

These articles seem to go as far as to consider those naturalized still 'foreigners' after all, unable to get rid of this essence with a piece of paperwork.

Some remarks remain on the regulations regarding religion in the French West Indies, and the role it played in attempts to distinguish foreigners from Frenchmen. As previously discussed, Huguenots and their descendants very much complicated the notion of French subjecthood. At the core of this was, of course, religion: Catholicism was an integral part of French monarchical identity and sovereign

power, and protestant/Huguenot subjects fit but awkwardly into this constellation, and their possibly divided loyalties were a liability.[49] Whereas Catholicism was not an absolute prerequisite to French subjecthood, it was very closely associated with it.[50] In the West Indies, and particularly on Guadeloupe, the association between 'Frenchman/Catholic' and 'foreigner/Protestant' was especially strong, because (as we will see) the two major groups of foreigners interacting with Guadeloupe were the Dutch and the British, both of them famously protestant. What followed from all this is that the anxiety surrounding foreign presence in the colonies was not exclusively economically motivated – socially, too, foreigners could negatively impact French colonial society through their adverse religious beliefs. To negate these potential liabilities, non-Catholics had limited rights in France and the French West Indies alike. For example, whereas non-Catholic religious beliefs were not prohibited as such, only the Catholic religion could be exercised in public.[51] These policies stand in stark difference with the British or the Dutch Americas, where religious diversity was not as much regarded as an issue, and freedom of religion was more widely guaranteed.[52]

Attempting to define foreignness in France and the French West Indies is, all in all, a challenging endeavor. As with illegality, the legal terminology is strict and concise: subjecthood is what sets apart a Frenchman from a foreigner, and privileges access to (the resources of) the French West Indies to one, but not to the other. However, subsequently attempting to define the next step – subjecthood – is much more convoluted, and it is evident that metropolitan legal frameworks did not necessarily provide for the diversity of backgrounds and identities on the ground, certainly not with regard to religion, and especially not in colonial settings.

Putting ideas into practice: foreign trade on Guadeloupe

The vast majority of physical foreign presence and the regulation of it in the French West Indies is found in the context of trade; differently put, most direct foreign engagement with a colony such as Guadeloupe was commercial in nature. The legal texts constituting the *Exclusif*, such as the Letters Patent, do/did not provide a comprehensive enough definition of illegality and foreignness to account for all subtle varieties and shades of 'foreign trade', opening plenty of windows for opportunity for Frenchmen and foreigners alike. French administrators could exploit loopholes to justify urgently needed foreign provisioning, and foreign merchants could reason their way out of perceived illegality. Close analysis of this rhetoric and behavior will grant more nuanced and grounded insights into notions of illegality and foreignness in the French West Indies. Patterns of decision making by the governors, and the justification thereof, when confronted with 'illegal' foreign activity, is especially revealing. In order to administer justice, a governor had to take the abstract law, actively interpret and mold it, and could only then apply it – sprinkling personal and professional prejudices throughout this process was an option.[53] Arguably, the collective of these judgments is a more accurate and dynamic indicator of notions

of illegality and foreignness in the French West Indies and the historical *Systeme de l'Exclusif* than any legal text.

Before moving onto a couple of specific instances, it is important to provide an outline of foreign activity (primarily trade) in Guadeloupe. It has been widely recognized, both in contemporary sources as well as in historiography, that foreign trade in the French West Indies was widespread in spite of the *Exclusif*.[54] As we have seen, foreign stakeholdership in the French West Indies and in Guadeloupe had been present from the beginning, and increased exclusionary legislation as time progressed did not succeed in exterminating this phenomenon – it perhaps pushed it to more covert corners and coves, but even that is somewhat debatable when reading the daily reports of happenings on Guadeloupe. The presence of foreign vessels, ranging from large frigates to small canoes, in and around its ports and coast was structural, especially in times of great dearth, typically the result of wars, natural disasters or imbalances in the *Exclusif* itself (no supplies from France). Foreign entrepreneurs and companies steadily identified Guadeloupe's general lack of resources as an opportunity to attempt to sell wares at premium prices; these premium prices, in turn, further increased Guadeloupe's foreign ties, because many of its inhabitants were subsequently burdened by significant debts to foreign parties. This included the Dutch West India Company, who at several points sent a dedicated debt collector to the island. Nearly all recorded instances of foreign activity in Guadeloupe concern either British or Dutch actors; generally, the British feature most frequently, but depending on developments in the generally volatile Anglo-French relations, the Dutch could take the upper hand.

The British generally had their basis (vessels, commissioners) on Dominica, the Dutch on St. Eustatius. Dominica in particular was excellently positioned for both legal trade and smuggling to Guadeloupe: the stretch of water in between the islands was crossable in small, inconspicuous barks and in a relatively short time, as Guadeloupe's governors wearily complained.[55] Foreign trade was conducted both openly and covertly. Plenty of times, the foreigner would present himself and his wares in the port, and seek permission to openly trade – the bare continued existence of this phenomenon evidences that there was a realistic chance of success for getting permission to openly trade on Guadeloupe despite the Letters Patent prohibiting it. However, the majority of trade was covert – smuggling – and absolutely endemic throughout the West Indies.[56] The governors' correspondence evidences that most of the time the infrastructure and motivation to combat it was lacking, and that as a result, foreign smuggling found continuation despite the authorities being well aware of its existence.[57] Overall, the ambitious *Exclusif* seems to have been but tepidly enforced. A mid-eighteenth-century Dutch treatise on Dutch trade in the French West Indies even seems to consider it so inconsequential in fact, that the fundamental illegality of it is not even touched upon once – it happily outlines the large volume of trade, and announces that the French coast guard in the West Indies are known to never stop Dutch ships.[58]

This does not necessarily match the governors' own reflections on their dealings with foreigners – of course, the fundamental difference is explained by the respective source audience. The governors' correspondence was addressed to the relevant ministers in Versailles, and primarily served to advance their own personal and professional standing. Generally, the governors express their zeal to combat all foreign activity on Guadeloupe in line with the King's law. They detail the confiscation of ships suspected of foreign trade, or the arrest of foreign merchandise or individuals. In instances where they do not succeed in preventing foreign trade, they sketch it as force majeure, blame it on fellow administrators, or – most interestingly – point to the dysfunctionality of the law that they were handed ('forcing' them to permit to foreign trade to prevent a worse disaster), and openly criticize the metropole's policies.[59] Their accounts of the (non-)punishments dealt to those involved in foreign activity, are revealing when it comes to investigating illegality and foreignness on Guadeloupe. The respective decisions and the rhetoric to justify it unravel the understanding of these notions in French colonial contexts.

Intercepting foreigners and their trade on Guadeloupe was – according to the Letters Patent – the prerogative of any French subject, not just the authorities.[60] Any seaworthy Frenchman was allowed to chase vessels engaged in illegal activity, and Frenchmen snitching on foreigners were to be rewarded with (half of) the fine money that the foreigner would be forced to pay.[61] However, these incentives did little to encourage the population and even the administration to do their part in combating foreign activity in Guadeloupe. The personal benefits to letting foreign provisions onto the island were just too great – avoiding starvation was but one of these many benefits. To the stated frustration of the governors, there appears to have been a broad mutual understanding among Guadeloupe's society that reporting foreign activity to the authorities was not desirable.[62] Mutually assured destruction also factored into this: as significant chunks of society were actively or passively involved in foreign trade, not reporting one's foreign-buying neighbor or corrupt colleague was often an act of self-preservation. This significantly hindered the authorities' ability to catch foreigners in the act. Catching them in the act, however, was almost an essentiality to be able to administer justice, because establishing proof of illegal activity in retrospect was exceedingly more difficult.[63] The difficulty (and rarity) of constructing an actual case is evidenced in the correspondence. Only in 1731, decades after the introduction of anti-foreign legislation and years after the implementation of the Letters Patent, an administrator writes about a judicial first on Guadeloupe: for the first time, three men suspected of foreign (slave) trade had been prosecuted to the very end, and had now received sentencing – Rousseau (from Guadeloupe), Ruotte (from Martinique) and Billard (their skipper) were the unlucky convicted in this legal triumph.[64]

Most of the time, the patrols, inspections and arrests were performed by vessels and officers of the French West Indian tax farm, the *ferme d'Occident*. The *ferme* was the bureaucratic agency responsible for overseeing and collecting tax – critically, customs revenue – in New France and the French West Indies, including Guadeloupe.

However, they too had insufficient means to establish a watertight surveillance of the coasts and ports of the *ferme's* jurisdiction, and frequently, governors had to write to France to beg to provide the *ferme* with more (navy) ships.[65] If a successful arrest was made, however, the next step was to administer the appropriate amount of justice. The administration of justice is very closely tied to subjecthood. Did a sovereign entity, in this case, the French state, have (or claim) the prerogative to submit non-subjects to its own laws, and dole out the punishment accordingly? In the Letters Patent, we can already distill that there is a clear difference in the measure of justice that one could administer to subjects versus non-subjects caught in foreign trade. Four types of penalties are prescribed: a monetary fine, confiscation of assets (mainly vessels/merchandise), imprisonment, or the galleys. The particular mix and intensity of each penalty varied per specific infraction. Foreigners could expect to receive any of the first three punishments; the galleys, however, are exclusively added to the arsenal for punishing French subjects in breach of the *Exclusif*. As the galleys were generally regarded as a particularly brutal (non-capital) punishment,[66] it is a testament to the limited jurisdictional power that the French state claimed over foreigners in breach of its law, compared to natural subjects, in colonial settings.

Accepting the premise that the full extent of the law could only be unleashed onto subjects, analyzing the judicial treatment of some individual cases will reveal the nuances of the subject versus non-subject distinction in the French West Indies. Aside from the *measure* of punishment, the bare fact that the case was judged to be illegal in the first place is also an important indicator. Upon assessing the corpus of 'foreign incidents' mentioned in the governor's correspondence, three themes/cases emerge as particularly elucidating.

Firstly, the hunt for *St. Eustatius slave traders*. The Dutch colony of St. Eustatius was a hotbed for illegal slave trade, due to its location at a crossroads of imperial spheres, its neutrality, and (from the mid-eighteenth century onward) its status as a free port.[67] Governor's complaints about the presence of illegally introduced enslaved people in Guadeloupe nearly always concern those brought in from St. Eustatius. Two slave traders were particularly prolific in this scheme and taunted the Guadeloupe administration by brazenly conducting an open illicit slave trade for years on end. The first, who was mostly active during the 1730s, is identified as 'Coms', 'Come' or 'Combes' by the governors.[68] This likely refers to John/Jan Combes, a merchant and slave trader based on St. Eustatius, attested to in Amsterdam powers of attorney around the same date. The French authorities had difficulty in establishing whose subject Combes was, but eventually designated him as Dutch.[69] All four 'ingredients' of Combes' trade were illegal: he is attested to have used British ships, carrying British-grown crops (in his non-slaving endeavors), operated from Dutch soil, and was a foreign entrepreneur. It is therefore easy to identify his activities as illegal, per the Letters Patent. At several points, Combes' enterprises were intercepted and penalized, mostly through confiscation. His status as a repeat offender eventually turned the authorities to targeting his person, as opposed to his assets, and sought his arrest. In early 1730, something resembling an international arrest warrant was issued on Guadeloupe: public orders to arrest Combes, and announcing

a punishment for all those found to conceal him, were nailed on the doors of every church on Grand Terre. Evidentially, the French authorities were not deterred from taking drastic action against a foreigner; however, as a non-resident of Guadeloupe (or the French West Indies at large), Combes was safe and sound in the Dutch West Indies, and the governor begrudgingly admits that the warrant had produced no results whatsoever.[70]

The second culprit for illegal slave trade from St. Eustatius, around the mid-1750s, similarly sought refuge in the Dutch West Indies – however, this time the fugitive was a French subject. Estienne Ricord seems to have been somewhat more mobile than John Combes, and is mentioned to have frequently traveled between Guadeloupe and St. Eustatius in person to arrange the illegal shipments of enslaved persons.[71] The perceived illegal nature of his trade seems to have been firmly based on location, as both Ricord and his accomplices were Frenchmen, but they sourced their 'freight' from a foreign colony. Ricord was arrested by a local officer in March of 1755, and his assets were seized and sold. However – as the local officer in question details in a complaint to the Minister – rampant corruption and nepotism in the government of Guadeloupe (up to governor Mirabeau) ensured that Ricord got all opportunity to conceal himself, 'escape', and flee back to St. Eustatius.[72] This case evidences an oft-mentioned complication with the penalization of subjects versus non-subjects: pre-established relationships, especially in relatively small-scale societies such as that (among whites) in Guadeloupe, could drastically corrupt the administration of justice. This could swing both ways. The harsh sentencing of an upstanding, wealthy or well-connected member of the community (as merchants could very well be) was always awkward, evidenced by the general lack of galley sentences.[73] On the other hand, the numerous individual rivalries attested to in the administrators' correspondence – the local officer calls governor Mirabeau 'his worst enemy' – ensured that many were very much willing to eliminate and incriminate their kin.[74] This dynamic featured overall less in cases concerning foreigners, who were bound to be (relative) strangers. In all, the cases of foreigner Combes and Frenchman Ricord evidence that similar illegal activities could count on similar penalties (confiscation of assets, and arrest of the person); however, the difficulties encountered when attempting to execute the penalties could differ with subjects versus non-subjects.

Secondly, the *reactive nature* of judgments on cases of foreign activity in Guadeloupe. In many instances, the administrator explicitly states to have taken into account the possible reaction of the sovereign power to which the foreigner belongs; for example, would the sentencing of a British subject anger Great Britain? Could France and French subjects expect retaliation? As a general rule, many decisions were made on the basis of perceived bilaterality. Harsh French sentencing of a foreigner would mean that the foreigner's sovereign would likely retaliate by harshly sentencing Frenchmen in its custody, caught for similar crimes; consequently, warmer relations would ensure smooth prisoner exchanges in respectful recognition of each other's sovereign power to judge their own. Guadeloupe's authorities generally swung between these

provocative or complacent modi. This had concrete consequences for the decision making on foreign activity and its perceived illegality. A case of deliberate provocation is found in May of 1731, after seven Irish soldiers presented themselves in Guadeloupe. They had deserted from the British army whilst stationed in Antigua and were now requesting asylum in the French colony. Writing on the case, a certain administrator called de la Chapelle states that, although the Letters Patent forbid foreigners to settle in Guadeloupe (an interesting misinterpretation, as this was in fact very much allowed[75]), he and governor du Poyet still granted the Irishmen the asylum they requested. De la Chapelle states that his main motivation for this was the staunch British refusal to extradite French deserters – in that case, they would certainly not return the favor.[76] Evidentially, it was even worth 'breaking' *French* laws on foreign presence in the colonies for this. In an attempt to win the authorities for his controversial decision, he adds that the soldiers were very well-behaved, had never pillaged or stolen anything, were not armed, and were even to be pitied, because they only deserted due to the brutal treatment they received from British army officers. One Irishman among them had even more virtues than just good character – he might just be a compatriot:

> Il s'en est trouvé un qui quoyqu'irlandois d'origine, est natif de Rouen, ou il a esté elevé, il a demandé a servir dans les trouppes, M. Dupoyet la engagé pour 6 ans.

Though described as Irish in origin, the man in question was a 'native' of Rouen and was brought up there. Although serving in the French forces was not exclusively beholden to French subjects in this era,[77] this particular man's request to serve among the French troops serves to further strengthen his perceived 'French' identity. The granting of asylum to the Irish soldiers is not the only 'foreign incident' in which a decision was justified to the French authorities using the (potential) British reaction as its main reason. In 1728, governor du Poyet's anxiety was heightened by the appearance in the port of a British vessel claiming distress.[78] He first pondered for a long time whether to permit the British ship access for repairs, eventually deciding in favor because the King, in his goodness, would surely want them to help all those in distress. However, after a thorough inspection by the *ferme*'s officials, it was concluded that the boat would still need to be arrested. This caused further hesitation with du Poyet, who realized that the arrest would set a precedent for foreign authorities to be similarly hostile to French ships in distress. Moved by his 'zeal to combat foreign trade' he eventually sanctioned the arrest but did ask for further guidelines/introductions on these situations to be sent over in order to avoid provoking conflicts in the future.

Four years later in 1732, the aforementioned de la Chapelle similarly details his hesitation to arrest British vessels, this time those blown near Guadeloupe's coast in a storm, technically violating the prohibition of coming within one league of the island's shore – he feared that petty arrests such as these would surely spur the

British to retaliate against French ships in similar, non-purposeful navigational difficulties.[79] Navigational difficulties were also the cause of a serious conflict in 1767 when a British slave ship – sailing from Dominica to Montserrat, according to its crew and owner – docked in Guadeloupe for repairs, possibly after having been attacked by a French ship.[80] The ship and (human) cargo were subsequently arrested and confiscated by the *ferme*, not only for coming into Guadeloupe's waters, but also for fraudulent flagging – it was at first flying a French flag, then a white one, and was eventually exposed as a British vessel. Its owner filed a complaint with the British governor of Dominica, who transmitted to the Guadeloupe authorities that the arrest was an insult to British subjects, and demanded that a full restitution would take place. However, this time Governor Pierre Gédéon de Nolivos and his subordinate de Moissac stood their ground. They argued that while their actions undoubtedly damaged the Franco-British relationship, if they refrained from seizing ships such as these, they could simply not combat foreign trade. There was even a slight benefit to be had – Nolivos promised to claim the 'six most beautiful' among the 98 enslaved persons for the King.[81]

Lastly, a closer look at the administered justice in some cases of specifically stated *collaborations between foreigners and Frenchmen* will provide some insight into how these were viewed and handled. In a 1728 recapitulation of his common dealings with foreigner-related incidents, councilor Mesnier recounts that he usually settles on confiscation, but recounts a recent incident wherein a Spanish corsair – a rare instance of non-British/Dutch infractions – was arrested, and its captain, a French 'mulatto', was sentenced to life on the galleys, with an interesting added remark that the death penalty was not uncommon in cases such as these.[82] Evidently, the French subjecthood of the captain did not determine Mesnier's estimation of the ship's (foreign) nature; on the contrary, his French subjecthood did not cancel out the ship's foreignness and thus illegality. Mesnier's references to the death penalty seem tied to the French captain's race, as he goes on to describe the executions of specifically black people caught in similar situations, adding complex, but well-known dimensions to the varied measure of administered justice 'within' subjecthoods, hinging on other characteristics such as race or sex.

That the involvement of French parties was not enough to whitewash certain types of foreign-associated trade of its illegality is further evidenced in a case from 1744, as described by governor Gabriel-Mathieu Francois D'ceus de Clieu.[83] It equally evidences the influence of wider political and military considerations that could override all of these factors. De Clieu was confronted with a vessel he deemed Dutch, due to it having been freighted in Curacao; however, its freighters were French merchants on Martinique. The ship claimed to dock to stock up on drinking water. However, the (Austrian Succession) wartime situation made him suspicious, and de Clieu guessed it was actually a spy mission to gauge whether some other ships close by were British privateers. The abnormal circumstances due to the war caused him in the end to not perform an arrest or a routine confiscation, but instead order the ship to stay and sell its merchandise (flour, ropes and gunpowder) on

Guadeloupe, to alleviate existing shortages and to prevent the provisions from falling into the hands of the British. This is also symptomatic of the general dilution of the *Exclusif* during wartime, in response to intensified provisioning issues.

The final case to be discussed must also be viewed in this context. During the Austrian Succession War, Dutch ships were expedited and permitted on a regular basis to trade in Guadeloupe – despite the Dutch Republic and France being on opposing sides of the war. One of these, *De Dageraat* (1746, from Amsterdam), had a mixed Anglo/French/Dutch crew and had first attempted to dock in Martinique, where they were denied entry (even after faking damage to the ship) and where some of the French crew deserted. In Guadeloupe, however, they were able to covertly trade a bit. The remaining Dutch crew was very uncomfortable with their complicity in trade deemed illegal by the local authorities, and conducted an 'unfree port'. Their demands for increased wages were met with the skipper's wrath, who sent them ashore, causing them to be arrested and imprisoned by the French authorities.[84] It is heavily implied in the crew's testimony that skipper Lieve Lolkes van Nes collaborated with the French administrators to conduct the scheme of their arrest, signaling further traces of institutional corruption as it pertained to matters of foreign trade, and the enforcement of the *Exclusif*. The showy arrest was mutually beneficial – for the officers to keep up appearances of anti-foreign zeal, and for the skipper to terrorize his crew into obedience, as both enjoyed the fruits of foreign trade on Guadeloupe.

Conclusion

The French Empire, and particularly its commerce, was regulated by a legal framework that included or excluded individuals based on their status as respectively a French subject or a foreigner. While these categorizations were seemingly very clear, and historiography has often employed them as a given, a close comparison of the foundational legal texts and precedents found in historical reality (administrators' decision making) demonstrates that metropolitan legal categorizations were not readily applicable to complex, colonial realities. This was a regular cause for confusion, opening up a gray area that was promptly exploitable by Frenchmen and foreigners alike. Ultimately, each case required an individual assessment regarding the privilege that was to be distributed, or the punishment to be administered.

By studying these cases, and the decision-making process of those central to them, we can come to a more nuanced understanding of how rigid laws pertaining to diversity (in this case, foreigners versus subjects) were applied in practice. It can even be argued that practice and precedent (instead of the law) offer a more grounded and dynamic view of how early modern subjecthood was understood and therefore regulated. Many more individual cases still await discussion, but all aid our understanding of how (non-) subjecthood was defined, operationalized, and exploited in the French colonial sphere.

Notes

1 ANOM (Archives Nationales d'Outre Mer), COL C7A (Correspondance à l'arrivée de la Guadeloupe (1649–1815)), 10, f.75.
2 See, among others, J. Tarrade, *Le commerce colonial de la France à la fin de l'Ancien Régime: l'évolution du régime de l'exclusif de 1763 à 1789* (Paris: Presses Universitaires de France, 1972), 2 vols; P. Røge, *Economistes and the Reinvention of Empire. France in the Americas and Africa, c.1750–1802* (Cambridge: Cambridge University Press, 2019); P. Butel, *Européens et espaces maritimes (vers 1690-vers 1790)* (Talence: Presses Universitaires de Bordeaux, 1997).
3 ANOM, COL C7A, 34, f.5.
4 Tarrade, *Le commerce colonial de la France*, vol. 1, 100–1, 111; Røge, *Economists and the reinvention of Empire,* 24, 29, 39.
5 *Lettres Patentes du Roy, en forme d'edit, Concernant le Commerce estranger aux Isles & Colonies de l'Amerique. Données à Fontainebleau au mois d'Octobre 1727*. See BnF Gallica, accessed June 30, 2022, https://gallica.bnf.fr/ark:/12148/btv1b8624879g.image (hereafter *Lettres Patentes*).
6 For an extensive overview, see Muller's bibliography and introduction on the topic: H. W. Muller, "Subjecthood in the Atlantic World," *Oxford Bibliographies* (Oxford 2017). See *Oxford Bibliographies*, accessed June 30, 2022, https://www.oxfordbibliographies.com/display/document/obo-9780199730414/obo-9780199730414-0143.xml.
7 Following similar arguments and approaches by Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America* (New Haven: Yale University Press, 2003), on the importance of studying social practices over legal texts.
8 W. Reinhard, *Empires and Encounters, 1350–1750* (Cambridge, MA and London: The Belknap Press of Harvard University Press), 914–38; M. Morineau, "La balance du commerce Franco-Néerlandais et le resserrement économique des Provinces-Unies au XVIIIème siècle," *Economisch-Historisch Jaarboek. Bijdragen tot de Economische Geschiedenis van Nederland* 30 (1965): 170–235, 172–78; Butel, *Européens et espaces maritimes,* 64; S. Marzagalli, "The French Atlantic World in the Seventeenth and Eighteenth Centuries," in *The Oxford Handbook of the Atlantic World: 1450–1850*, eds. N. Canny and P. Morgan (Oxford: Oxford University Press, 2011), 235–51; S. Marzagalli, "The French Atlantic and the Dutch, late Seventeenth-late Eighteenth Century," in *Dutch Atlantic Connections, 1680–1800. Linking Empires, Bridging Borders*, eds. G. Oostindie and J. V. Roitman (Leiden: Brill, 2014), 101–18.
9 J. Webster, *The merchants of Bordeaux in the trade to the French West Indies, 1664–1717* (Minneapolis: University of Minnesota, 1972), 33–37; Butel, *Européens et espaces maritimes,* 64–66; Røge, *Economists and the reinvention of Empire,* 62.
10 See, for example, NL-SAA (Stadsarchief Amsterdam; Amsterdam City Archives), 5075 (Notarissen ter Standplaats Amsterdam), inv.nr. 2111, f. 353 or inv.nr. 2112, f. 254.
11 NL-SAA, 5075, inv.nr. 2281, f. 230.
12 NL-SAA, 5075, inv.nr. 1115, f. 29.
13 J. I. Israel, *Dutch Primacy in World Trade, 1585–1740* (Oxford: Clarendon Press), 206; Webster, *The Merchants of Bordeaux,* 33; J. de Vries and A. van der Woude, *The First Modern Economy: Success, failure and Perseverance of the Dutch Economy, 1500–1815* (Cambridge: Cambridge University Press, 1997), 401–2; S. Lachenicht, "Refugee 'Nations' and Empire-Building in the Early Modern Period," *Journal of Early Modern Christianity* 6, no. 1 (2019): 99–109, 104; A. Ben-Ur, Jewish Autonomy in a Slave Society. Suriname in the Atlantic World, 1651–1825 (Philadelphia: University of Pennsylvania Press) 32–39.
14 Webster, *The merchants of Bordeaux*. See also P. Butel, *Vivre à Bordeaux sous l'Ancien Régime* (Paris: Libraire Académique Perrin, 1999), 142–55; Butel, *Européens et Espaces Maritimes,* 62–64; J. S. Pritchard, *In Search of Empire: The French in the Americas, 1670–1730*

(Cambridge: Cambridge University Press, 2004), 209–11; Banks, *Chasing Empire across the Sea,* 18–21.

15 S. Marzagalli, "The French Atlantic World," 243; Webster, *The Merchants of Bordeaux,* 31; Pritchard, *In Search of Empire,* 191; Banks, *Chasing Empire Across the Sea,* 24; Marzagalli, "The French Atlantic and the Dutch," 105–6; Røge, *Economistes and the Reinvention of Empire,* 26.

16 E. Petit, *Droit Public ou Gouvernement des Colonies Françoises d'après les loix faites pour les pays, 1771. Publié avec introduction et table analytique par Arthur Girault* (Paris: Libraire Paul Geuther, 1911), 438–40.

17 See, for example, Butel, *Européens et espaces maritimes,* 66; Webster, *The merchants of Bordeaux,* 22, 376–77, 431.

18 ANOM, COL C7A, 11, f.162, f.177; 12, f.48; 16, f.97, f.152; 31, f.140; 33, f.219; 34, f.199.

19 Pritchard, *In Search of Empire,* 213–15; Banks, *Chasing Empire Across the Sea,* 32–33; Tarrade, *Le commerce colonial de la France,* 143–44; G. Daudin, "Profitability of Slave and Long-Distance Trading in Context: The Case of Eighteenth-Century France," *The Journal of Economic History* 61, no. 1 (2004): 144–71, 144; Marzagalli, "The French Atlantic and the Dutch,"; F. Crouzet, "The Second Hundred Years' War: Some Reflections," *French History* 10, no. 4 (1996): 432–50, 437–38; P. Butel, "France, the Antilles, and Europe in the Seventeenth and Eighteenth Centuries: Renewals of Foreign Trade," in *The Rise of Merchant Empires. Long-Distance Trade in the Early Modern World, 1350–1750*, ed. J. D. Tracy (Cambridge: Cambridge University Press, 1990), 153–73; P. Brandon and U. Bosma, "De betekenis van de Atlantische slavernij voor de Nederlandse Economie in de Tweede Helft Van de Achttiende Eeuw," *Tijdschrift voor Sociale en Economische Geschiedenis* 16, no. 2 (2019): 5–46, 21.

20 Pritchard, *In Search of Empire,* 208, 215; a prominent reoccurring theme in ANOM COL C7A.

21 Marzagalli, "The French Atlantic World," 238–39; Marzagalli, "The French Atlantic and the Dutch," 113–16; Butel, *Européens et espaces maritimes,* 13–14, 122–24; E. Kiser and A. Linton, "Determinants of the Growth of the State: War and Taxation in Early Modern France and England," *Social Forces* 80, no. 2 (2001): 411–48, 418–19; Crouzet, "The Second Hundred Years' War," 432–50; S. Marzagalli, "Was Warfare Necessary for the Functioning of Eighteenth-Century Colonial Systems? Some Reflections on the Necessity of Cross-Imperial and Foreign Trade in the French Case," in *Beyond Empires: Global, Self-Organizing, Cross-Imperial Networks, 1500–1800*, eds. C. A. P. Antunes and A. Polónia (Leiden: Brill), 253–77, 253–54, 259; Banks, *Chasing Empire Across the Sea,* 176–77, 202; Pritchard, *In Search of Empire,* 203; A. C. Carter, *Getting, Spending and Investing in Early Modern Times. Essays on Dutch, English and Huguenot Economic History* (Assen: Van Gorcum & Comp. B.V, 1975), 145–47; Butel, *Vivre à Bordeaux,* 154; A. Alimento, "From Privilege to Equality: Commercial Treaties and the French Solutions to International Competition (1736–1770)," in *The Politics of Commercial Treaties in the Eighteenth Century. Balance of Power, Balance of Trade*, eds. A. Alimento and K. Stapelbroek (London: Palgrave MacMillan, 2017), 243–66, 257; E. Schnakenbourg, "The Conditions of Trade in Wartime: Treaties of Commerce and Maritime Law in the Eighteenth Century," in *The Politics of Commercial Treaties in the Eighteenth Century. Balance of Power, Balance of Trade*, eds. A. Alimento and K. Stapelbroek (London 2017), 217–42, 223.

22 Tarrade, *Le commerce colonial de la France,* 166, 177–78; L. Charles and G. Daudin, "La collecte du chiffre au XVIIIe siècle: le Bureau de la balance du commerce et la production des données sur le commerce éxterieur de la France," *Revue d'histoire moderne & contemporaine* 58, no. 1 (2011): 128–55, 148; Røge, *Economistes and the Reinvention of Empire,* 121.

23 *Lettres Patentes* titre VI, articles I-II.

24 For 'foreign ships', see *Lettres Patentes* titre I, article III, IV, V, XI, XIII, XV, XVI; titre II, article II; titre III, article II, II; titre IV, article I, IV, V; titre V, article I, II, V.

25 *Lettres Patentes,* titre I, article XIII, XIV, XV.

26 See, among others, ANOM, COL C7A, 28, f.125; NL-SAA 5075, inv.nr. 16370, deed 356.
27 For 'foreign merchandise', see *Lettres Patentes,* titre V, article VI.
28 J. D. Garrigus, "Saint-Domingue's Free People of Color and the Tools of Revolution," in *The World of the Haitian Revolution*, ed. D. P. Geggus (Bloomington: University of Indiana Press), 49–64, 52.
29 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 450.
30 For 'foreign location', see *Lettres Patentes,* titre I, article I, II; titre V, article VI.
31 One of the major exceptions is article III of the first part: "Les *estrangers* ne pourront aborder avec leurs Vaisseaux ou autres bastimens dans les Ports, Ances & Rades de nos Isles & Colonies . . . ni naviguer à une lieuë autour d'icelles Isles & Colonies"; on the restricted form of allowed settlement mentioning 'estrangers', see *Lettres Patentes,* titre VI, article I, II.
32 *Lettres Patentes,* titre I, article II.
33 *Lettres Patentes,* titre VI, article III.
34 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 448; Butel, *Européens et espaces maritimes,* 66.
35 For a comparative analysis of early modern sovereignty and subjecthood in imperial settings, see L. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge: Cambridge University Press, 2010). For a bibliographical overview, see Bates and MacMillan's associated bibliography and introduction on the topic: Z. Bates and K. MacMillan, "Sovereignty and the Law," https://www.oxfordbibliographies.com/display/document/obo-9780199730414/obo-9780199730414-0054.xml?q=%E2%80%9CSovereignty+and+the+Law%2C%E2%80%9D+.
36 A. Alimento and K. Stapelbroek, eds., *From Privilege to Equality: The Politics of Commercial Treaties in the Eighteenth Century. Balance of Power, Balance of Trade* (London: Palgrave Macmillan, 2017), 243–66.
37 S. Marzagalli, "L'évolution de la politique française vis-à-vis des étrangers à l'époque moderne: Conditions, discours, pratiques," in *Les étrangers dans les villes-ports atlantiques (XVe-XIXe siècle). Expériences allemandes et françaises*, eds. M. Augeron and P. Even (Paris: Les Indes Savantes, 2010), 45–62, n.p.
38 *Lettres Patentes,* titre I, article I.
39 Marzagalli, "L'évolution de la politique française vis-à-vis des étrangers," n.p.
40 Ibid.; J. Horn, *Economic Development in Early Modern France: The Privilege of Liberty, 1650–1820* (Cambridge: Cambridge University Press, 2015), 197.
41 J. F. Dubost and P. Sahlins, *Et si on faisait payer les étrangers ? Louis XIV, les immigrés et quelques autres* (Paris: Flamarion, 1999), 58; R. Menkis, *The Gradis Family of Eighteenth Century Bordeaux: A Social and Economic Study* (Ann Arbor: Brandeis University, 1988), 172.
42 Marzagalli, "L'évolution de la politique française vis-à-vis des étrangers," n.p.
43 See, among others, NL-HaNA (Nationaal Archief; Dutch National Archives), 1.01.02 (Staten-Generaal), 6865, 21–4–1721; NL-SAA, 5027 (Archief van de Burgemeesters: diplomatieke missiven van ambassadeurs, gezanten en residenten in het buitenland aan burgemeesters), 91, 8–5–1724, 21–8–1724 (incorrectly dated 1722).
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45 NL-SAA, 5075, inv.nr. 91, 19–10–1724.
46 See, among others. B. N. Newman, "Contesting 'Black' Liberty and Subjecthood in the Anglophone Caribbean, 1730s-1780s," *Slavery & Abolition* 32, no. 2 (2011): 169–83; S. Belmessous, "Être française en Nouvelle-France: Identité française et identité coloniale aux dix-septième et dix-huitième siècles," *French Historical Studies* 27, no. 2 (2004):

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47 *Lettres Patentes,* titre VI, article I.

48 *Lettres Patentes,* titre VI, article III.

49 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 459–61; J. F. Bosher, "Huguenot Merchants and the Protestant International in the Seventeenth Century," *The William and Mary Quarterly* 52, no. 1 (1995): 77–102.

50 P. Sahlins, "Fictions of a Catholic France: The Naturalization of Foreigners, 1685–1787," *Representations* 47 (1994): 85–110.

51 Marzagalli, "Was Warfare Necessary?" 257; Archives Nationales (AN), MAR G (Marine), 51 (Faits et Décisions de l'Administration des Colonies), f.151.

52 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 459. See also A. Ben-Ur, *Jewish Autonomy in a Slave Society. Suriname in the Atlantic World, 1651–1825* (Philadelphia: University of Pennsylvania Press, 2020); J. Israel and S. B. Schwartz, *The Expansion of Tolerance: Religion in Dutch Brazil (1624–1654)* (Amsterdam: Amsterdam University Press, 2007); M. Häberlein, *The Practice of Pluralism: Congregational Life and Religious Diversity in Lancaster, Pennsylvania, 1730–1820* (University Park: Pennsylvania State University Press, 2009).

53 In a typical example, found in ANOM, COL C7A, 15, f.72, Governor de Clieu admits that the financial returns of permitting a ship from St. Eustatius to trade on Guadeloupe have helped him "settle what is due to his children".

54 Tarrade, *Le commerce colonial de la France,* 95–111; Pritchard, *In search of empire,* 197–211; Marzagalli, "Was Warfare Necessary?"; C. Vidal, *Caribbean New Orleans: Empire, Race, and the Making of a Slave Society* (Chapel Hill: University of North Carolina Press, 2020), 70; ANOM, COL C7A, 30, f.54; 31, f.11.

55 Tarrade, *Le commerce colonial de la France,* 101; ANOM, COL C7A, 28, f.125; 35, f.27.

56 For an extensive historiographical overview, see Hanna's bibliography and introduction on the topic: M. G. Hanna, "Smuggling," *Oxford Bibliographies* (Oxford 2017). See *Oxford Bibliographies*, accessed July 1, 2022, www.oxfordbibliographies.com/view/document/obo-9780199730414/obo-9780199730414-0197.xml.

57 See, among others, ANOM, COL C7A, 11, f.1, f.135; 13, f.121; 15, f.16; 16, f.152.

58 *Het Regt der Ingezetenen van deezen Staat om op de Fransche West-Indien te Handelen, Onderzogt en beweezen door een Koopman van Sint Eustatius. Uit het Engelsch vertaald* (Amsterdam: Marc Michel Rey, 1758), 8–9. See Dutch Pamphlets Online, accessed June 30, 2022, http://primarysources.brillonline.com/browse/dutch-pamphlets-online.

59 ANOM, COL C7A, 10, f.168; 12, f.48; 31, f.140.

60 *Lettres Patentes,* titre I, article V.

61 *Lettres Patentes,* titre II, articles I, II; titre VI, articles I, II, III.

62 Tarrade, *Le commerce colonial de la France,* 107–9, 227; Røge, *Economistes and the Reinvention of Empire,* 39; ANOM, COL C7A, 9, f.85; 11, f.110; 15, f.19; 17, f.59, f.63.

63 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 450.

64 ANOM, COL C7A, 11, f.162.

65 ANOM, COL C7A, 9, f.103; 10, f.24; 16, f.152.

66 Røge, *Economistes and the Reinvention of Empire,* 39.

67 Israel, *Dutch Primacy in World Trade,* 326; R. Hurst, *The Golden Rock: An Episode of the American War of Independence, 1775–1783* (Annapolis: Naval Institute Press, 1996); W. Klooster, *Illicit Riches. Dutch Trade in the Caribbean, 1648–1795* (Leiden: KITLV Press, 1998), 89–94.

68 ANOM, COL C7A, 11, f.15; 12, f.48.

69 NL-SAA, 5075, inv.nr. 9749, deed 80; inv.nr. 9104, deed 754; L. W. Balai, *Het slavenschip Leusden: over de slaventochten en de ondergang van de Leusden, de leefomstandigheden aan boord van de slavenschepen en het einde van het slavenhandelsmonopolie van de WIC, 1720–1738* (Amsterdam: University of Amsterdam, 2011), 158; ANOM COL C8A (Correspondance à l'arrivée de la Martinique (1635–1815)), 40, f.364.
70 ANOM, COL C7A, 11, f.50.
71 ANOM, COL C7A, 17, f.84, f.139, f.142.
72 ANOM, COL C7A, 17, f.139, f.142.
73 Petit, *Droit Public ou Gouvernement des Colonies Françoises,* 450; J. Cromwell, *The Smugglers' World. Illicit Trade and Atlantic Communities in Eighteenth-Century Venezuela* (Williamsburg: The Omohundro Institute of Early American History and Culture, 2018), 179–86; W. Klooster, "Inter-Imperial Smuggling in the Americas, 1600–1800," in *Soundings in Atlantic History. Latent Structures and Intellectual Currents, 1500–1830*, eds. B. Bailyn and P. L. Denault (Cambridge, MA: Harvard University Press, 2011), 141–80, 141–48.
74 ANOM, COL C7A, 10, f.10, f.83. f.157; 17, f.139, f.142; Klooster, "Inter-Imperial Smuggling," 148.
75 *Lettres Patentes,* titre VI, article I.
76 ANOM, COL C7A, 11, f.177.
77 J. Abel, ed., *Guibert's General Essay on Tactics* (Leiden: Brill, 2022), 279.
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80 ANOM, COL C7A, 28, f.125.
81 Ibid.
82 ANOM, COL C7A, 10, f.171.
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84 NL-SAA, 5075, inv.nr. 10236, deed 473.

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