

# The Rights of Neutral Trade and its Forgotten History

Koen Stapelbroek

## Trade and war

The topic of this volume is the relation between war and trade in the eighteenth and early nineteenth century: more specifically, the political, legal and intellectual trajectories through which Grotius's statement that neutrals should "sit still" while belligerents fight wars in the name of justice developed into a full-blown legal-political debate about the rights of neutral trade.<sup>1</sup> From the early eighteenth to the early nineteenth century, this debate not only generated rival outlooks on the generally perceived global challenge to somehow define the rights of states at war vis-à-vis neutrals – typically smaller states – *and vice versa*, but in its turn was understood as a possible key to the reform of the interstate system.<sup>2</sup>

It was a great commonplace in the eighteenth century that trade between individuals as well as states raised culture, arts and living standards, satisfied needs and desires, created ties between people through divisions of labour and softened manners. In sum, the growth of trade as a natural effect of production innovation, specialisation and comparative advantages amounted to a divine providential plan to perfect human nature and its political organisations. History showed that small free states like Venice and the Dutch Republic, miserably situated in infertile marshes and lagoons, could create wealth by transporting and

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1 Hugo Grotius, *The Rights of War and Peace*, ed. Richard Tuck (Indianapolis: Liberty Fund, 2005), vol. 3, p. 1525. See the article by Tara Helfman in this volume.

2 The notion of neutral trade rights, generally forms of "active" neutrality – see below, as having an effects on interstate relations distinguishes the eighteenth-century debate about neutrality from the general notion of neutrality as abstention from war. The idea of neutrality itself, of course, was no eighteenth-century invention, see Robert A. Bauslaugh, *The concept of neutrality in classical Greece* (Berkeley: University of California Press, 1991). A recent publication on cases mainly within the sixteenth and seventeenth century seems to come from a different world: Jean-François Chanut and Christian Windler, *Les ressources des faibles, Neutralités, sauvegardes, accommodements en temps de guerre (xvie–xviii siècles)* (Rennes: Presses Universitaires de Rennes, 2009).

exchanging goods produced by more fortunate territorial monarchies. Interstate commercial relationships arose in consequence.

However, it was also widely understood that trade had become heavily politicised. Between the late seventeenth and mid-eighteenth century aspiring hegemonic monarchies turned to trade as a source of political power and reformed themselves into commercial Empires that were locked into a competition that culminated, in 1756, in the Seven Years' War, the first in a series of global wars until 1815.<sup>3</sup>

Trade could equally be an agent of peace and prosperity as an instrument of war, and in the reality of eighteenth-century Europe the latter manifestation prevailed. When David Hume noted that in contrast to the epoch of Renaissance Reason of State thinking, in the modern world trade had become “an affair of state”, and that states looked “on the progress of their neighbours with a suspicious eye”, he pointed to an underlying crisis that was military, economic and social at the same time.<sup>4</sup> That crisis was addressed across Europe in a great number of local political and highly diverse intellectual debates.

One of the great consequences of the politicisation of foreign trade, and of the reciprocal logic of commerce at large, was that small states were no longer masters of their own destiny. In refusing to give up their precarious liberty they had, as Adam Ferguson wrote, become “neither masters nor slaves”.<sup>5</sup> Precisely because their predicament mirrored the general crisis of European politics, statesmen, pamphleteers and political writers across Europe analysed the future prospects of smaller states (“Dutch decline” in that way became a hotly debated topic<sup>6</sup>). Devising strategies for the economic development of any state simultaneously required forming ideas about the possible dissolution of what was known as “Jealousy of Trade”.

What were the options for neutralising “Jealousy of Trade” and how had it appeared? The issue called for a reconsideration of the historical, legal and moral philosophical foundations of modern commercial society, from which new political theories arose: the core of both Montesquieu's *Esprit des lois* – nowadays considered the beginning of modern constitutionalism – and Adam Smith's *Wealth of nations* – known now as the start of modern economics – was the analysis of the genesis of modern government from feudal social-economic history and law. Increasingly, Enlightenment political thinkers agreed that the collapse of the

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3 Next to specialised studies on Anglo-French commercial competition, the concepts behind this rivalry are reconstructed in Istvan Hont, *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Cambridge Ma.: Harvard University Press, 2005) and Michael Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton: Princeton University Press, 2007).

4 David Hume “Of Civil Liberty”, *Political Essays*, ed. Knud Haakonssen (Cambridge: Cambridge University Press, 1989), pp. 51–7. See Hont, *Jealousy of Trade*, pp. 1–17.

5 Richard Whatmore, “‘Neither masters nor slaves’. Small states and Empire in the Long Eighteenth Century”, *Proceedings of the British Academy*, “Lineages of Empire. The Historical Roots of British Imperial Thought”, ed. D. Kelly (2009), pp. 53–81 and (to be read in conjunction with) Richard Whatmore, “Vattel, Britain and Peace in Europe”, *Grotiana* 31 (2010), pp. 1–23.

6 See the contributions to the special issue of *History of European Ideas* on “Dutch Decline in Eighteenth-Century Europe” (volume 36/2, 2010, ed. Koen Stapelbroek).

Roman Empire, the rise of Christianity, feudalism and the destruction of Europe's agriculture by "barbaric" tribes eventually put early-modern states on a path that inspired the use of trade for hegemonic purposes and embark on self-deceptive economic strategies that triggered inequality, lack of circulation, high wages, inflation and food shortages.<sup>7</sup>

To establish the separation of trade and war a major strand of writers envisaged great territorial reforms, supra-state regimes of coercive arbitration or the creation of a Universal Monarchy as the only route back to the path of natural progress of humankind. Others argued that the existing Balance of Power and the rise of commerce had grown up together and that the only viable kind of regulation of interstate trade relations would derive from states voluntarily realising a commercial and constitutional self-reform, which would have salutary effects in the international realm, where these reforms would be mirrored in the codified form of treaties.<sup>8</sup>

Interestingly, in these discussions a range of economic solutions (single currencies, devaluations, foreign debt investments by states and individuals) were suggested to have political balancing potential. Likewise, the establishment of agricultural patriotic academies and debates about single taxes, free ports and trade companies took place inspired by rival visions of a future reformed international order. By means of investing in particular fiscal, trade or social reforms, nation-states reconceptualised their sovereignty and identity as based on a choice between competitive emulation among open cosmopolitan societies or peaceful co-existence among closed commercial societies. To closely understand eighteenth-century arguments about neutrality the topic must be brought within the same frame.

## The eighteenth-century history of neutrality

The problem of neutral trade was a direct manifestation of the underlying crisis in eighteenth-century interstate politics. Between the outbreak of the Seven Years' War (1756) and the end of the Napoleonic Wars (1815), the right of neutral states to engage in trade with each other and with belligerents was among the most

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7 For different narratives of Enlightened history, see J.G.A. Pocock, *Barbarism and Religion: Narratives of Civil Government* (Cambridge, : Cambridge University Press, 1999). See my article on Ferdinando Galiani's *Dei doveri* for a typical example of a thinker whose entire oeuvre was derived from his historical understanding of the progress of human kind since the fall of Rome.

8 See the article by Isaac Nakhimovsky in this volume as well as his *The Closed Commercial State: Perpetual Peace and Commercial Society from Rousseau to Fichte* (forthcoming in 2011 with Princeton University Press). See also Michael Sonenscher, *Sans-culottes: an eighteenth-century emblem in the French Revolution* (Princeton: Princeton University Press, 2008), and Istvan Hont, "The early Enlightenment debate on commerce and luxury", *The Cambridge History of Eighteenth-Century Political Thought*, eds. Mark Goldie and Robert Wokler (Cambridge: Cambridge University Press, 2006), pp. 379–418. Remarkably perhaps in the light of this opposition is Isaac de Pinto's *support* of the second view (against reconstitution of the European state system), which led to the conclusion that a European union was required to preserve that continent's economic flourishing, see my article below on Dutch neutrality.

hotly debated political issues across and beyond Europe.<sup>9</sup> Rather than a problem pertaining straightforwardly to the discipline of international law (where it has been studied most), the issue presented a challenge to political writers of the time to reconsider the historical, legal and moral philosophical foundations of modern commercial society and the ways in which state sovereignty could be reconciled with universal economic development.

Although now largely forgotten, the eighteenth-century debate about neutral trade lay at the centre of the main political challenge of the Enlightenment to realign international trade and military competition and had many contributors, notably some of the more famous writers of the time. The central texts of the core debate itself form a neatly circumscribed body of texts that by the second half of the eighteenth century constituted its own canon: from Bynkershoek via Wolff, Vattel, Hübner and Justi to Galiani, Lampredi, Azuni, Martens, von Gentz, Hauterive, Schlegel and Ward (to give something of an [incomplete] chronology). The contributors to this volume trace the transformation of ideas about neutrality and trade from the remarks by Hugo Grotius in *De Jure Belli ac Pacis*, book III, chapter 17, that “neutrals should sit still”, to the redefinition of the idea of trade by Cornelis van Bynkershoek – whose ideas were adopted by the British Admiralty in the course of the Seven Years’ War. Similar views, in many respects, particularly with regards to the British take on neutral rights, were incorporated in Emer de Vattel’s outlook on the commercial side of the Balance of Power, which was inspired by the events of the War of the Austrian Succession (notably the Dutch quandary about its rights and duties towards Britain<sup>10</sup>). Vattel’s basic foundation for dealing with interstate conflict and neutrality was sharply criticised by the Dane Martin Hübner, who explicitly identified his own proto-internationalist proposals for the resolution of neutral trade conflicts with the aim to restore the “natural condition of peace and good understanding” between states.<sup>11</sup>

A particularly puzzling episode within the history of neutral rights, and that has been conspicuously overlooked by historians of political thought, remains the First League of Armed Neutrality. In 1780, at the height of the war of the American Independence, the Russian Empress Catherine II declared five principles of Armed Neutrality and launched the formation of a league of neutral states. Between 1780 and 1783 all principal European powers, apart from England, announced their adherence to the League. Although given in by Russia’s interest as a rising commercial power to access the Baltic and the Mediterranean and often suspected to be an anti-British ploy or an attempt by Catherine to manipulate the existing

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9 See Richard Pares, *Colonial Blockade and Neutral Rights (1739–1763)* (Oxford: Oxford University Press, 1938), who rightfully charts the entire debate back to the War of the Austrian Succession.

10 The cover image of this volume stems from this period.

11 Martin Hübner, *De la saisie des batimens neutres, ou Du Droit qu’ont les Nations Belligérantes d’arrêter les Navires des Peuples Amis Dedicé a son excellence Monseigneur le baron de Bernstorff* (2 vols. The Hague, 1759).

Balance of Power, the League of Armed neutrality was also regarded across Europe as an alternative peace plan.<sup>12</sup>

To justify Catherine's League of Armed Neutrality as saving the world from the violent remnants of Roman warlike passions in eighteenth-century international relations, the Neapolitan Ferdinando Galiani, in 1782, provided a highly ambitious reconstruction of the shadowy origins both of modern natural law discourse and of international law. What defined the League of Armed Neutrality, from this perspective, was its spectacular attempt to realign trade and war by universalising the commercial treaty system and civilising naval warfare.<sup>13</sup>

The uncoupling of trade and war by Catherine was used by founding father Alexander Hamilton in the process of American state building,<sup>14</sup> while European upheavals following the French Revolution saw the republications of pamphlets from earlier wars and triggered a major debate between French and British ideologues of inter-state order.<sup>15</sup> Parallel to these events, in the wake of the Napoleonic wars legal disputes between France and Britain over reprisals and third parties accompanied the high political debate over the future of international trade and politics.<sup>16</sup>

## Forms of neutrality

Amidst international disputes about depredations of neutral ships, writers like Vattel and Hübner did not restrict their perspective on neutrality to the task of fixing the boundary between rightfully neutral trade and contraband. Although directly concerned with the containment of existing conflict, these thinkers considered the

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12 Isabel de Madariaga, *Britain, Russia and the Armed Neutrality of 1780*. (London: Hollis and Carter, 1962), pp. 439–58. Catherine's League of Armed Neutrality and its revival by Paul I in 1800 are now generally regarded as unsuccessful because they failed to protect the neutrality of its members. It remains an interesting challenge to reconstruct the various ways in which the Armed neutrality was perceived at the time.

13 See my article on Galiani, who was tremendously critical of Vattel in particular. Yet, for all his insistence on his natural law principle of beneficence and his views on universal sociability his political views and ideas on the institutional accommodation of international relations were still much closer to those of Bynkershoek and Vattel than to their opponents'. In the part of Martens's *Précis* dedicated to neutrality the most cited text was Galiani's *Dei doveri*.

14 See the article by Mark Somos in this volume. Hamilton's ideas on the functioning of the American Constitution came into play in an exchange between James Stephen, *War in disguise, or, The frauds of the neutral flags* (London, 1805), Gouverneur Morris, *An answer to War in disguise, or, Remarks upon the new doctrine of England, concerning neutral trade* (New York, 1806), Gouverneur Morris, *An answer to War in disguise, or, Remarks upon the new doctrine of England, concerning neutral trade* (New York, 1806) and James Madison, *Examination of the British doctrine, which subjects to capture a neutral trade, open in time of peace* (s.l., 1806), Anonymous, *Belligerent rights asserted and vindicated against neutral encroachments: being an answer to An examination of the British doctrine which subjects to capture a neutral trade not open in time of peace* (London, 1806) and Anonymous, *War without disguise; or, The frauds of neutral commerce; a justification of belligerent captures; with on the Answer to War in disguise, and Mr. Madison's examination* (s.l., 1807). See Stephen Neff, "James Stephen's *War in Disguise*: The Story of a Book", *Irish Jurist* 38, pp. 331–51.

15 See the article by Isaac Nakhimovsky.

16 See the article by Stephen Neff in this volume. For comparison see G.F.A. Best, "Britain and Blockade, 1780–1940", *Britain and the Netherlands, volume VI, War and Society*, eds. A.C. Duke and C.A. Tamse (The Hague: Martinus Nijhoff, 1977). pp. 141–67.

problem of neutrality in relation to the ultimate causes of war. They devised their theories of natural law to correspond to a long-term political and economic civilising process of the existing international order, in which tensions between trade and the Balance of Power were ironed out.<sup>17</sup>

Precisely the relation between the rights of neutrals and belligerents and the Balance of Power always separated rival parties in the debate. This was so from the first half of the eighteenth century onwards, since the War of the Austrian Succession. During the 1740s the issue developed whether neutral trade in wartime should itself serve as a corrective to the Balance of Power. On a political and diplomatic level, French writers typically urged the Dutch (the main neutral shipping nation) to stand by their rights included in treaties with England. In that way the Dutch could set straight the historical record of English attempts in their quest for global supremacy to defraud the Dutch of their interest. On their part, British writers, political officials and judges referred to Bynkershoek and, realising that the exploitation of neutral trade did not contain but prolong and extend war, devised alternative outlooks on the regulation of neutral trade. These outlooks were not primarily treaty based, but derived from a natural law theory of trade. These British regulations, notably the doctrines put into effect during the Seven Years' War, justified interference with forms of neutral trade that cynically profited from war. The cover image of this volume, a British publication from the time of the War of the Austrian Succession depicts a Dutch farmer milking the ongoing struggle for hegemony while rival territorial powers attempt to lead on the cow ("Power").<sup>18</sup> From this point onwards the idea took hold that Great Britain manipulated the rights of neutral trade for the sake of political aggrandisement and the protection of its maritime commercial empire. Simultaneously, the notions emerged that Dutch merchants were interested in a form of abusive neutrality and tempted by French promises to renew an advantageous commercial treaty, while the French themselves hoped that with the aid of neutral trade an overhaul of the Balance of Power could be effected. In the opinions of many writers and pamphleteers such an overhaul brought within reach a more fundamental reform of international relations and might restore the natural condition of nations being equal members

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17 On the longer history of natural law thought on war and peace see Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999). On the relation between political economy and the law of nations see the preface of Emer de Vattel, *The Law of Nations*, eds. Bela Kapossy and Richard Whatmore (Indianapolis; Liberty Fund, 2008). On Hubner, Vattel and Galiani, see Koen Stapelbroek, "Universal Society, Commerce and the Rights of Neutral Trade: Martin Hübner, Emer de Vattel and Ferdinando Galiani", *COLLeGIUM: Studies Across Disciplines in the Humanities and Social Sciences* 3 (2008), pp. 63–89.

18 The cover image is reproduced courtesy of the American Antiquarian Society. Entitled "The Benefit of Neutrality" the engraving was published 26 December 1745 according to Act of Parliament by C. Goodwin.



in a universal society of humankind, rather than aggressive rivals for wealth and power.<sup>19</sup>

Problems within the British approach to regulating neutrality generally could be associated with the fluidity of the contemporary notion of “active neutrality” (as opposed to the concept of “passive”, or “perfect” neutrality: the complete abstention from immersion in conflict, including through commercial exchange, in order to help a quick resolution<sup>20</sup>). If it was permitted to continue trade in wartime according to certain precepts about the proper nature of trade, those precepts tended not to be specific enough to fix the boundary between proper trade and what ought to be contraband? This was a major complaint of Robert Plumer Ward about Bynkershoek’s take on neutrality and presumably a reason why writers like him and Georg Friedrich von Martens analysed the existing system of European treaties to explore the possibilities of that the existing interstate order itself could be the platform for the further perfection of the practice of neutral trade.<sup>21</sup>

Interestingly, a number of Dutch authors bought into the British lines of argument and argued that these views compared with the French line of argument provided much brighter prospects for the future of Dutch economic development.<sup>22</sup> The British outlook on neutrality, they argued, derived from an idea of international politics that had an inherent lawfulness to it and would in the long run do justice to the “intrinsic power” of the Dutch state and its trade-based capacity for economic development. Britain had not behaved like a commercial empire imposing its law onto the world, as radical Dutch patriots and Batavians cried out. Instead, in matters of neutral trade Britain’s moderation towards the Dutch had been clear.<sup>23</sup>

Another attempt to discipline the problem of neutral trade was put forward by the French thinker Forbonnais, whose project for a regulated competition among neutral states to carry French goods (and get rid of the Dutch as a privileged

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19 Hübner, discussed above, whose aim was to recreate a natural harmony among states did not envisage an overhaul of the Balance of Power. Yet, the combination of this element in his position and the fact that an extremely aggressive anti-British treatise written by Maubert de Gouvest was published in his name in 1756 in Copenhagen created problems for his reputation during his stay as a government official in London.

20 “Passive neutrality” was also associated with the idea of unchanged behaviour vis-à-vis states at war on both parties.

21 Robert Plumer Ward, *A treatise of the relative rights and duties of belligerent and neutral powers in maritime affairs: in which the principles of armed neutralities, and the opinions of Hubner and Schlegel are fully discussed* (London, 1801), Georg Friedrich Martens, *Précis du droit des gens modernes de l’Europe* (Göttingen, 1821 [3<sup>rd</sup> ed.]). See Isaac Nakhimovsky, “Carl Schmitt’s Vattel and the *Law of Nations*: between Enlightenment and Revolution”, *Grotiana* 31 (2010), pp. 141–64 and his “Vattel’s theory of the international order: Commerce and the balance of power in the *Law of Nations*”, *History of European Ideas* 33, pp. 157–73 for the relation between Wolff’s idea of the *civitas maxima*, Vattel’s idea that treaties and the existing Balance of Power could be taken as a code or approximation of Wolff’s idea, and Ward’s positive appraisal of Vattel.

22 Adriaan Kluit corresponded with Martens on these matters and Hogendorp took Ward as his guide to understanding the problems of neutrality as well as the logic behind the 1786 Eden Treaty. See Paul Chr. H. Overmeer, *De economische denkbeelden van Gijsbert Karel van Hogendorp (1762–1834)* (Tilburg, 1982), pp. 151–2.

23 Isaac de Pinto and a few other pamphleteers (a minority in the Dutch debate) argued this. See my article on Dutch neutrality.

carrier) led to the conclusion of commercial treaties with Denmark and Sweden in the 1740s.<sup>24</sup> Both in this last case and in the case of French-Dutch relations the importance of the ratification of commercial treaties in the development of small states' attitudes towards neutral trade in wartime was great and has been if not mostly overlooked at least never been specifically studied.<sup>25</sup>

More detailed historical study of the national contexts in which different notions of "active" neutrality were discussed as part of rival outlooks on the foreign trade policy and international relations may lead to a more complete picture of the interrelation between theories of trade, treaty politics and shifting practices concerning neutral trade. At this stage the best works on the law of neutrality, in fact virtually the only works dedicated to the subject have been published in the field of the history of international law, where different categorisations have been put forward compared with the forms of neutrality just discussed.<sup>26</sup>

Scholars of international law have also witnessed and participated in the processes by which the law of neutrality as a major part within classical international law demised in the wake of the First World War, when analysis of the British recourse to and management of its blockade policy led to the conclusion that the existing idea of neutrality was bankrupt.<sup>27</sup> Neutrality, in the form in which it came down from history, itself was thus deemed a *cause* of escalating military conflict and

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24 See the articles by Antonella Alimento on Forbonnais and Leos Müller on Sweden. Ere Nokkala's article in this volume discusses Justi's reflections on the predicament of Prussia and minor German states in relation to the model of neutral politics provided by Denmark. On the specific development of the legislation of neutral trade rights from the French point of view see the article by Eric Schnakenbourg. On Nordic neutral trade, see H.S.K. Kent, *War and Trade in Northern Seas: Anglo-Scandinavian economic relations in the mid eighteenth century* (Cambridge: Cambridge University Press, 1973).

25 Articles by Antonella Alimento and myself in the forthcoming publication from the research project "*Guerra, commercio e neutralità nell'Europa d'Antico regime (1648–1789)*", directed by Antonella Alimento, will focus on the significance of commercial treaties in French and Dutch foreign trade policy. To understand these cases including the British case (notably the 1713 Tory Bill and the 1786 Eden Treaty) is crucial, see Richard Whatmore "Shelburne and Perpetual Peace: Small States, Commerce and International Relations within the Bowood Circle", *An Enlightenment Statesman in Whig Britain: Lord Shelburne (1737–1805) in Context*, eds. N. Aston and C. Campbell Orr (London: Boydell & Brewer), forthcoming in 2011.

26 Stephen Neff, *The Rights and Duties of Neutrals: A General History* (Manchester, Manchester University Press, 2000) distinguishes between three schools of thought. See esp. pp. 28–43. See the bibliography of this work – the most recent full overview – for references to the huge literature that exists on the history of the law of neutrality.

27 Among the flood of publications in World War I concerning the rights of neutrals some of the more interesting are James Bryce, *Essays and addresses in war time* (London, 1918) and James Brown Scott, *The armed neutralities of 1780 and 1800: a collection of official documents preceded by the views of representative publicists* (New York: Oxford University Press/ Carnegie Endowment for International Peace, 1918). An intriguing historical outlook on the representation of British blockade policy from the Napoleonic wars to World War I is in Best, "Britain and Blockade, 1780–1940". Influential critiques of the principles of the old law of neutrality are Nicolas Politis, *La neutralité et la paix* (Paris: Hachette, 1935) and Quincy Wright, *The future of neutrality* (Worcester, Ma.: Carnegie Endowment for International Peace, 1928) and his "The Present Status of Neutrality", *American Journal of International Law* 34 (1940), pp. 391–415. The downfall of neutrality was analysed (and judged differently) by Philip C. Jessup *et al.* *Neutrality, its history, economics and law* (4 vols., New York: Columbia University Press, 1935), F. Bottié, *Essai sur la genèse et l'évolution de la notion de neutralité* (Paris: Les Editions Internationales, 1937), Nils Orvik, *The Decline of Neutrality, 1914–1941* (Oslo: J. Grundt Tanum, 1953) and John W. Coogan, *The end of Neutrality* (Ithaca: Cornell University Press, 1981).



subsequently faded from the legal horizons, which gave a rise to a redevelopment of the law of neutrality after 1920.<sup>28</sup> Quite apart from the circumstances of the early twentieth century, it is remarkable (though perhaps not surprising) that this conclusion has led to a subsequent retrospective reduction of the importance of the history of the law of neutrality in the eighteenth and nineteenth century: if neutrality was seen by many or most as a dead-end by 1919, this was not yet the case during the eighteenth or nineteenth century.<sup>29</sup>

The purpose of this volume is definitely not to rehabilitate a classical idea of neutrality, nor to provide a full-blown history of the law of neutrality or aim at any complete historical overview. The history of neutrality from the perspective of political thought remains still to be written.<sup>30</sup> Instead, the aim of this collaborative volume is to help understand the late eighteenth- and early nineteenth- century debate on neutral trade in a more informative fashion and recapture some of its legal, political and philosophical dimensions. Its history as a debate has for a large part been forgotten, its significance and authentic character tend to be overlooked. Yet, its recovery, to which this issue contributes, is likely to shed new light on the fundamental processes and intellectual constructions that shaped modern states and the structural relations between politics and international markets that arguably exist until this day. It is hoped that the present publication can contribute to the growing body of revisionist legal and political studies of eighteenth- and nineteenth-century state-building processes.

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28 See for example Erik Castrén, *The present law of war and neutrality* (Helsinki: SKS, 1954) for the separation of legal neutrality from the political idea of non-belligerency after 1920. An influential publication in the construction of modern international law has been Cornelis van Vollenhoven, *De drie treden van het volkenrecht* (The Hague: Martinus Nijhoff, 1918 [English edn. 1919 *The Three stages of International Law*]). Van Vollenhoven's wider programme – beyond attacking the classical law of neutrality – was to restore the Dutch Republican glory of Grotius by making The Hague the centre of the new international law (see his *De Eendracht van het Land* (The Hague, Martinus Nijhoff, 1913)), a project that has a certain irony to it in the light of recent Grotius scholarship, and that also turned the table completely on the perspective of Pinto, Hogendorp and others.

29 From a critical or a liberal internationalist perspective early international law and the law of neutrality coming down from the eighteenth century indeed could never be properly “law”, and was seen as a form of economics, governed by interests and advantages rather than given in by the “international (moral) community”. See Martti Koskenniemi, “The advantage of Treaties: International Law in the Enlightenment”, *Edinburgh Law Review* 13 (2009), pp. 27–67 (p. 30). The international movement, including its reinvention of the Grotian tradition (on pp. 406–11) has been masterfully reconstructed by Martti Koskenniemi, *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001). In opposition to the idea that classical neutrality had to be discarded see Elizabeth Chadwick, *Traditional Neutrality Revisited. Law, Theory and Case Studies* (Leiden: Brill, 2002).

30 Such a history would both include the countless number of late eighteenth- and early nineteenth-century pamphlets concerning the Leagues of Armed Neutrality and the Continental System and British Blockade policy in the Napoleonic wars, and the not very well known mid nineteenth-century French, British and American politically interested accounts of the previous period from which conclusions are drawn about the relation between national state identity (in the form of “permanent neutrality”) and neutral rights and duties.

## Acknowledgements and prospective development

This project has had a long and often interrupted gestation period from 2004 to the present and research on the topic is by no means finished. The results published here, I believe, reflect the current state-of-the-art of research on eighteenth-century neutrality politics within the (sub-)disciplines of international law, legal history, political thought and intellectual history, economic history, political science and (history of) international relations. The contributors to the volume are scholars working in these various disciplines and their articles might be read on one level as specialised and highly focused contributions to discipline-specific debates. On another level, the arguments developed and sources used by the contributors grab into each other creating connections between them.

The dual aim of this multidisciplinary approach, that was opted for at the beginning of the project, was to bring out the original political and intellectual dimensions of the subject of neutrality in the eighteenth and early nineteenth century, in order to better grasp its historical nature and to open up the subject for future development. It is for the reader to judge whether the combination of historical multi-disciplinarity and geographical variety (with studies focusing on a range of contexts, from Britain and France, to Italy, Sweden and the United Provinces, and ranging to Russia and newly independent America) has merely led to fragmentation, or somehow resulted in a sustained focus on the same recurring and intertwined issues.

This publication is based on a conference organised in August 2007 at the Helsinki Collegium for Advanced Studies<sup>31</sup> in collaboration with the Erik Castrén Institute of International Law and Human Rights. Next to a number of fully revised conference presentations it contains some additionally commissioned articles. Organising this conference and the publication project would not have been possible without having been invited to the Helsinki Collegium for Advanced Studies as a visiting fellow in 2006, 2007 and 2008 by its then director Juha Sihvola, who expressed his strong interest in this topic. Juha's unrelenting support to the project and advice throughout have been fantastic. Almost from the beginning Martti Koskenniemi added a dimension to the enterprise, both by agreeing to act as a co-organiser and generously offering the support of the Castrén Institute, and by lending his critical perspective on the history of international law as an input to the project. The remarkable disciplinary open-mindedness of the Castrén Institute and the Helsinki Collegium, with its wonderfully helpful staff, created the preconditions for holding this conference during three days in the most perfect setting any conference organiser could wish for. This was made possible also with the additional financial support of the Academy of Finland (*Suomen Akatemia*) and the Finnish Cultural Foundation (*Suomen Kulttuurirahasto*).

I would like to express my gratitude to the editors of COLLeGIUM for agreeing to publish this volume in their series. The Open Access format of the COLLeGIUM

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31 [www.helsinki.fi/eci/Events/neutrality\\_programme.pdf](http://www.helsinki.fi/eci/Events/neutrality_programme.pdf)

e-series is expected to provide a platform for the further development of research on the subject of this volume: 1.) by making publicly available the current results of the project to colleagues in academia across a range of disciplines in the humanities and social sciences as well as to students in university courses in a range of (sub-) disciplines, and thereby 2.) pave the way for the future development of the started enterprise, possibly into a more coherent narrative history on the subject.

Finally, but of great importance, I would like to thank, also on behalf of the contributors to this volume, the numerous anonymous referees and other helpful colleagues who have commented on the articles published here over the last years. Their careful reading and constructive criticisms have considerably improved the contributions.