

**What was ‘Free Trade’?  
Commercial Treaties and the ‘Law of Nations’ in Europe, c.1650-1860**

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*The Paper*

The paper asks how ‘free trade’ became virtually synonymous with inter-state commercial agreements from the mid-nineteenth century. It reconstructs the origins of the modern world trading system by tracing a series of seventeenth, eighteenth and nineteenth-century engagements with the ‘commercial treaty’ as a component of international economic order. It argues that what occurred in the nineteenth century was not the ‘rise of free trade’, but the institution of a particular *kind* of free trade, that needs to be understood in relation to the long history of European thinking concerning ways of legally organising commerce and communication between sovereign states.

The paper explores both the juridical identity of ‘free’ trade in successive iterations of the ‘law of nations’, and the junction between contemporary interpretations of treaty practice and the emergence of ‘political economy’ as an authoritative form of knowledge. It tells a story of how a ‘natural’ or cosmopolitan liberty of trade alluded to—but at the same time heavily limited by—Grotius, Pufendorf and Vattel was gradually broken down and reconstituted. In the eighteenth-century, commercial treaties were the solution to both the perennial insecurity of inter-state communication, and to the vagaries of the eighteenth-century European ‘balance of power’. After the Napoleonic Wars, they were rejected by political economists who believed that international politics could regulate itself without a legal superstructure, once correct principles of national economic interest were understood. The ‘modern’ commercial treaties of the 1860s were designed to overcome problems of collective action that this vision left unsolved, creating a set of powerful incentives for participation in a network of commercial treaties, and enshrining free trade in what was coming to be known as ‘international law’.