Between the Treaty of Utrecht (1713) and the War of the Austrian Succession (1740/1742), Europe knew a stable and peaceful period. French and British diplomatic correspondence shows us how the main powers envisaged the upholding of the European Balance through negotiation and the amendment of the Peace Treaties. A system of horizontal rules, or a “Société des Princes” was in place between Europe’s sovereigns. The workings of this “Anarchical Society” reveal legal concepts used in international relations.

The doctrine of international law abhorred of political solutions, since they were not as rigorous as the systemized rules of natural law required (E.g. SAMUEL PUFENDORF, De iure naturae et gentium, CHRISTIAN WOLFF, lus gentium method scientifica pertractatum). Nevertheless, the society of European states rejected the moral idea of Spanish or French “Monarchia Universalis”. No single power could dictate its “law” to the others. Consequently, the subjects of international law had a prominent role in elaborating and applying norms, as recognized by authors such as HUGO GROTIUS (1583-1645) and RICHARD ZUÇHE (1590-1661). Doctrine could not ignore this. EMER DE VATTEL (1714-1767) integrated both traditions in his Droit des Gens (1758), written in the context of the operation of the European Balance.

Prominent diplomats kept the European fabric together: Cardinal GUILLAUME DUBOIS (1656-1723) and Cardinal ANDRÉ-MERCURE DE FLEURY (1653-1742) on the French, JAMES STANNHOF (1673-1721) and HORACE WALSPOLE (1678-1757) on the British side, supported by their own bureaucracy and legal counsels. We examine their correspondence, conserved at the National Archives (Kew, UK), the British Library (London, UK) and the Archives Diplomatiques (La Courneuve, France).

This reasoning is a legal one. It reaffirms the positivist bases of international doctrine. Several authors try to theorize the role of the state in the new institutional environment of the United Nations (e.g. HANS MORGENTHAU (1904-1980), GEORG SCHWARZENBERGER (1908-1991), CARL SCHMITT (1888-1985). However, the same is true for interdependentist theories: the legitimacy of norms and international organization derives from the polycentric character of decisions in international law, which is opposed to the unilateral imposition of a point of view.

Diplomatic correspondence has been edited for most nations (Foreign Relations of the United States, Documents Diplomatiques français, Akten zur Auswärtigen Politik der Bundesrepublik Deutschland), but has mainly been analyzed by political historians or political scientists. With an even enhanced bureaucratization, every foreign ministry having its own legal advisory department, we aim to (1) decipher the legal translation of European leaders’ political aspirations, to (2) put them in relation to contemporary theory and to (3) compare them to their predecessors’ strategies.

The Second World War (1939-1945) removed European Powers from the first rank at a global level. In the bipolar order, the United States, benevolent hegemon in a Western power bloc, obliged the nation states of Europe to stick together. However, European economic recovery in the “Trentes Glorieuses” through economic integration (1957), led to contestation of US leadership. CHARLES DE GAULLE (1890-1970) advocated a “European” foreign policy. Allies should be partners, not subordinates. Institutions (NATO/GATT) and legal rules had to be adapted to this.