

# Cities of Commerce, Cities of Constraints

*International Trade, Government Institutions and the Law of Commerce in Later Medieval Bruges and the Burgundian State*

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## Abstract

This article argues that, to do justice to the institutional context of international trade in the later medieval Low Countries, a legal-historical study is necessary. Instead of considering commercial exchange from the perspective of mono-causal explanatory frameworks that assume the primacy of either the state or the city, all institutions that had an impact on the transaction costs of merchants' activities should be studied in their own right. The pattern that thus emerges for the Low Countries between 1250 and 1500 is one in which arrangements concerning international trade were characterized by a strong complementarity of the central and the local level, rather than an antithesis between benevolent cities and predatory states.

## 1 Introduction

In New Institutional Economics (hereafter NIE), the emergence of open access institutions, arrangements that protected all merchants, is considered as paramount for the growth of European trade during the pre-industrial period. Scholars such as Douglass North, Barry Weingast and Daron Acemoglu attributed this institutional change to the development of territorial states, as these had the military means and the legal power to solve the fundamental problems of violence and opportunism that threatened commercial exchange. Others, including Avner Greif, emphasised the role of so-called 'private order solutions', such as peer pressure, the prospect of

repeat transactions and the formation of guilds in the expansion of trade.<sup>1</sup> Both approaches provide important explanatory elements, but at the same time have empirical weaknesses and fail to take into account the contribution of alternative institutional levels to the organisation of international commerce in politically more fragmented societies. From this perspective, Oscar Gelderblom's *Cities of Commerce* is a welcome contribution to the debate. The author takes an original and audacious stand: he claims that it was, in fact, the competition between urban centres that tried to attract trade which prompted cities to continuously adapt their legal, commercial and financial institutions to the needs of international merchants. Concentrating on the Low Countries between 1250 and 1650, he fully acknowledges the crucial municipal involvement in key issues such as the creation and maintenance of basic commercial infrastructure and market space, the reduction of bargaining and information costs, price regulation, the standardisation of weights and measures and quality control. The question arises, however, whether, by righting one wrong, he has not created another. Gelderblom still shares with the authors inspired by NIE a strongly mono-causal point of view. Determined to replace the state or private order solutions by the city as the prime mover of institutional change, he credits urban authorities with nearly all beneficial influences on international trade and he reduces the role of the central government to an exclusively negative one. This, we shall argue, does just as little justice to the institutional framework of commercial exchange in the later medieval Low Countries as the theories he aims to reconsider. To demonstrate this, we will focus on the first part of the book which deals with the commercial metropolis of Bruges between the thirteenth and fifteenth centuries.

## 2 Commercial litigation before urban and central courts

Already in 1986, the renowned legal historian Baker wrote that it was 'a major misapprehension' of historians that international merchants in

<sup>1</sup> Among other references: D.C. North and R.P. Thomas, *The rise of the western world. A new economic history*, (Cambridge 1973); D. Acemoglu, S. Johnson and J. Robinson, 'The rise of Europe. Atlantic trade, institutional change, and economic growth', *The American Economic Review* 95 (2005) 546-579; A. Greif, *Institutions and the path to the modern economy. Lessons from medieval trade* (Cambridge 2006). D.C. North, J.J. Wallis and B.R. Weingast, *Violence and social orders. A conceptual framework for interpreting recorded human history* (Cambridge 2009).

medieval Europe exclusively sought justice in their urban tribunals and did not go to central courts.<sup>2</sup> Gelderblom, on the other hand, discards these central legal institutions: 'The legal exploits of the new rulers did not help much either because the judges of their central court never managed to settle business disputes quickly and according to mercantile customs' (p. 198) and 'the creation of central courts, first by the Burgundian and Habsburg rulers and then by the United Provinces, seems to have played no role whatsoever in the governance of international trade' (p. 126). Even though the Flemish counts systematically legislated matters of international trade since the very beginning of Bruges' rise as a North-Sea metropolis, the comital courts of Flanders were not strongly developed yet during the thirteenth and fourteenth centuries. Since the end of the fourteenth century, however, the political position of the prince grew stronger and litigation touching upon international commerce was increasingly dealt with by the central courts. The Council of Flanders treated complaints by merchants on the abuse of power by receivers and judicial officers such as bailiffs, who were *ratione personae* under its competence, as well as criminal cases against street robbers who had attacked merchants on the roads. Since the end of the fourteenth century, but for the bigger cities increasingly so since the 1450s and 1460s, appeals (*reformaciën*) were lodged with the comital *Audientie* and its successor, the Council of Flanders, against verdicts of Flemish urban aldermen. In fact, according to the brilliant medieval Flemish jurist Philip Wielant, the procedure of reformation had been introduced 'in favour of justice and commerce'.<sup>3</sup> However, the Council of Flanders could also use *renvoi* (reference) when a legal dispute was about a personal claim. This was in fact often the case: the central court would send commercial cases back to the aldermen of Bruges.<sup>4</sup> This seems to support Gelderblom's point about the latter's specialization in commercial affairs but at the same time shows that merchants not only sought justice before urban tribunals. Other central courts must be taken into account as well: the *Chambre des Comptes* in Lille possessed jurisdiction when princely rights concerning offices, matters of demesne, money and ducal taxes or aides were at stake.<sup>5</sup> The Burgundian Great Council was

2 J.H. Baker, 'The law merchant and the Common Law before 1700', in: Id., *The legal profession and the Common Law. Historical Essays* (London 1986) 341-368.

3 E.E. Strubbe (ed.), *Philips Wielant. Practijke Civiele* (Amsterdam 1968).

4 J. Dumolyn, *De Raad van Vlaanderen en de Rekenkamer van Rijsel. Gewestelijke overheidsinstellingen als instrument van de centralisatie (1419-1477)* (Brussels 2002).

5 J.-B. Santamaria, *La chambre des comptes de Lille de 1386 à 1419. Essor, organisation et fonctionnement d'une institution princière* (Turnhout 2012).

competent *ratione materiae* for disputes concerning princely charters, including the privileges for the nations of foreign merchants. It also oversaw conflicts concerning comital toll rights, *lettres de marque* for privateering and matters of coinage. The Great Council could equally evoke cases *omisso medio* (in other words: skipping the level of the Council of Flanders) directly from the aldermen of Bruges if a party requested this.<sup>6</sup>

Whereas Gelderblom's conclusions about the role of central courts in sixteenth and seventeenth-century Amsterdam are based on a thorough analysis of primary material (pp. 130-131), his assertions about the later medieval Low Countries draw on rather ill-chosen samples borrowed from other studies, such as Marie-Charlotte Le Bailly's study of a limited number of years of litigation before the fifteenth-century Council of Holland, which, obviously, is irrelevant to cases from Bruges. He also makes quantifications of the number of cases before the Burgundian Great Council/Council of Malines, using only one, published, type of source to find out what exactly was at stake, which procedures were used and in what ways this would have given rise to precedents.<sup>7</sup> The Council of Flanders is very briefly mentioned (p. 127) and then neglected throughout the rest of the part on Bruges. This whereas both central institutions have left a wealth of primary material waiting to be studied,<sup>8</sup> numerous cases before the Bruges aldermen bear traces of intervention by these higher courts<sup>9</sup> and registers dealing specifically with civil litigation from Bruges in appeal before the Council of Flanders have been preserved.<sup>10</sup> Among them are many instances of arbitration, settlements reached midway procedure or cases referred back to other courts, which were not systematically registered in the series used by Gelderblom. In the massive amount of sources left by the *Chambre des Comptes* of Lille, not discussed in *Cities of Commerce*, foreign merchants appear on many occasions in disputes concerning, for instance,

6 J. Van Rompaey, *De Grote Raad van de hertogen van Boergondië en het parlement van Mechelen* (Brussels 1973) 277-288, 324-327; J. Monballyu, 'Van appellatiën ende reformatiën. De ontwikkeling van het hoger beroep bij de Audiëntie, de Camere van den Rade en de Raad van Vlaanderen', *Tijdschrift voor Rechtsgeschiedenis* 61 (1993) 237-276.

7 R. Van Answaarden (ed.), *Les portugais devant le Grand Conseil des Pays-Bas (1460-1580)* (Paris 1991).

8 J. Buntinx, *Inventaris van het archief van de Raad van Vlaanderen* (Brussels 1964-1979); D. Leyder, *Les archives du Grand conseil des Pays-Bas à Malines (vers 1445-1797)* (Brussels 2010).

9 L. Gilliodts-Van Severen (ed.), *Cartulaire de l'ancienne estaple de Bruges* (Bruges 1904-1906), vol. II, 45-48, 88-90, 187, 188, 217, 244, 248-249, 301-302. This has also been the subject of older studies. See, for instance, E.E. Strubbe, 'De receptive in de Vlaamse rechtbanken van midden veertiende tot einde vijftiende eeuw', in: Id., *De luister van ons oude recht* (Brussels 1973) 612-614.

10 Stadsarchief Brugge (SAB), Snaggaertsvonnissen (1461-1520).

toll rights and as creditors to the prince or his officers. To give but one typical example, in 1421, the Bruges aldermen referred the case concerning the debts of the Lucchese businessman Bartolomeo Bettini to a Burgundian receiver to the *Chambre des Comptes* because, they argued, 'the competence belongs to you'.<sup>11</sup> In the county of Flanders, foreign merchants often used the authority of the French *Parlement de Paris* as the highest court of appeal to obtain redress of a decision before the urban or central courts. The *Parlement's* sentences following Flemish appeals have been calendared for the whole later medieval period and include many verdicts on international trade in Bruges.<sup>12</sup>

It can, of course, not be denied that the Bruges urban courts did play an essential role in the organisation of international trade as contract-enforcing institutions. Already since the thirteenth century, the local bench of aldermen developed a complex and solid legal framework tuned to the needs of the international merchant community. Determined not to kill the goose that laid the golden eggs, the municipal authorities displayed a remarkable flexibility in the resolution of commercial conflicts, delegating decision-making authority to the foreign communities, and accepted the laws and customs of merchants' hometowns, at least within the course of the nations' consular jurisdiction.<sup>13</sup> This flexibility was only maintained, however, as long as it fitted in with the governing classes' own economic and other interests. In cases involving the staple rights, which made buying and selling of all but some of the goods in the city obligatory, the Bruges courts never showed any leniency. If necessary, the magistrates were not afraid of unmistakable power politics and rent-seeking either. Appeal cases brought before the higher courts contain multiple references to urban attempts at intimidating one of the parties and in one instance, the city simply closed one of the Italian nation houses until it got its way.<sup>14</sup>

According to Gelderblom, governments of 'cities of commerce' such as Bruges provided merchants with a speedier and more reliable administra-

11 Archives Départementales du Nord Lille, B 17634, nr. 1040513.

12 S. Dauchy (ed.), *Les appels flamands au Parlement de Paris. Regestes des dossiers de procès reconstitués d'après les registres du Parlement et les sources conservées dans les dépôts d'archives de Belgique et du Nord de la France* (Brussels 1998) 383; R.C. Van Caenegem (ed.), *Les arrêts et jugés du parlement de Paris sur appels flamands conservés dans les registres du parlement* (Brussels 1966-2002), vol. I, 472, 550; vol. II, 364, 578, 612-620.

13 P. Stabel, 'De gewenste vreemdeling. Italiaanse kooplieden en stedelijke maatschappij in het laat-middeleeuwse Brugge', *Jaarboek voor Middeleeuwse Geschiedenis* 4 (2001) 189-221.

14 B. Lambert, *De Genuese aanwezigheid in laatmiddeleeuws Brugge (1435-1495). Een laboratorium voor de studie van instellingen en hun rol in de economische geschiedenis* (PhD dissertation Ghent University 2011) 150-157.

tion of justice than central institutions because they were 'so good at adapting their legal systems to the changing needs of foreign traders' (p. 126). In his account, the relationship between law and commerce is, thus, a very straightforward one: commercial litigation before urban courts follows economic change, as it were, in quite an unproblematic way. However, legal scholars such as Dave De Ruyscher have always emphasized the autonomy, or at least the partial autonomy, of the development of law: even if economic change influences legal developments, it is jurists and courts, and not merchants, who develop and elaborate on legal rules, and they do not simply adapt these to current economic necessities but ground them within a logic proper to law itself.<sup>15</sup> One would expect a bold claim as the one Gelderblom makes for Bruges to be based on a thorough empirical analysis of the available sources. Instead, the author only considers an increase in cases during the 1330s which, in reality, is an increase in cases of criminal and not civil law<sup>16</sup> and asserts that 'it is difficult to establish what kind of disputes the aldermen's bench settled' (p. 109), before jumping immediately to sixteenth-century ordinances and then to seventeenth-century Antwerp law. In other words, the interplay between institutional arrangements and the requirements of international trade in later medieval Bruges remains to be revealed.

We believe that Oscar Gelderblom has missed an opportunity to be innovative here. The sources on civil cases in thirteenth- and fourteenth-century Bruges are scarce, but for the fifteenth century, the period the author is most interested in, they are, in fact, more abundantly available. Notably the *civiele sententiën* pronounced by the bench of aldermen (conserved for several intervals during the fifteenth century) offer possibilities for quantification and provide vital clues to reconstruct procedures. In 1469, a Castilian merchant quoted almost literally from the general reformation procedures prescribed by 'the laws and customs of Flanders' in order to prevent a case from being reopened. In many more instances it is specified that commercial litigation before the bench needed to follow local laws.<sup>17</sup> Town cartularies in the Bruges city archives with a specific

15 D. De Ruyscher, *Handel en recht in de Antwerpse rechtbank (16de-17de eeuw)*. 'Naer het Romeinse recht alsmede den stiel mercantiel' (Kortrijk 2009); Id., 'From usages of merchants to default rules. Practices of trade, Ius Commune and urban law in early modern Antwerp', *The Journal of Legal History* 33 (2012) 3-29.

16 This is a misreading of L. Gilliodts-Van Severen (ed.), *Coutume de la ville de Bruges* (Brussels 1874), vol. I, 398, n. 1.

17 SAB, *Civiele Sententiën Vierschaar*, Register 1447-1453, ff. 92 v.-93 r.; Register 1453-1460, ff. 29 v., 49 v.-50 r.

focus on trade include earlier verdicts of the Bruges aldermen, as well as relevant urban and princely legislation and sentences from central and foreign courts. Many of these texts have already been collected and published (Louis Gilliodts-Van Severen's diligently composed *Cartulaire de l'ancienne estaple* contains hundreds of relevant documents)<sup>18</sup> but still await systematic study. Legal treatises such as Wielant's *Practijcke Civile* (which Gelderblom mentions in passing) and Joos de Damhouder's *Praxis Rerum Civilium* provide learned comments on the 'style' of both the central and urban courts.<sup>19</sup> Studied in an integrated fashion, these sources would allow scholars to establish how adaptive to the needs of international traders in later medieval Bruges each institutional level really was.



*Illustration 1. Pieter Claeissens, Septem Admiraciones Civitatis Brugensis, circa 1560, private collection*

Photo: Hugo Maertens, Brugge

<sup>18</sup> SAB, Cartularies, Groenenboek and Groenenboek Ongecotteerd. Gilliodts-Van Severen, *Cartulaire de l'ancienne estaple*.

<sup>19</sup> Strubbe, *Philips Wielant. Practijcke Civile; Joos de Damhouder. Practycke in civile saecken* (Ghent 1999).

### 3 The city and the state: the political context of international trade

*Cities of Commerce* does not only dismiss the potential impact of the state when it comes to commercial litigation and the competences of particular courts. In other, often crucial, passages of the book the author also glosses over the specific political context in which international trade in the later medieval Low Countries was organised. On several occasions (pp. 109-110, 171, 196), Gelderblom states that it was the city that accorded or confirmed the privileges which provided the fundamental framework that set out the confines of commercial exchange to the foreign merchant communities. However, resting on the princely prerogative of safe-conducts for merchants already dating from the early Middle Ages, privileges in the later medieval Low Countries were granted at the discretion of the count and, after the Burgundian accession in 1384, of the duke. Cities could lobby with the central authorities to have their desiderata represented but, in the end, the content and the circumstances of the grant, including the fact whether or not the recipients would enjoy consular jurisdiction, depended on the interests of the prince and his relationship with the foreign merchant communities or, more frequently, their home government. This variable was often responsible for the time-lag which the author observed between the presence of foreign groups in the city and the moment when specific rights were bestowed on them. In 1414, for instance, the Genoese merchants in Bruges were able to take advantage of the precarious position of Duke John the Fearless, caught up in the battle for control over the French monarchy, and obtained very liberal privileges in exchange for a handsome loan. Seven years later John's successor Philip the Good confirmed the grant but, in the context of recovering Burgundian power and complaints about the concessions to the Genoese, did not have them registered with the *Chambre des Comptes*. This made the privileges void and plunged the Genoese merchants in Bruges in a legal vacuum, exposed to arbitrary arrests and confiscations of their property. Philip the Good had them hanging on for a few more years and only in 1434, with the Genoese authorities on their knees, granted new rights. These were considerably more restricted than the original ones and implied the payment of a tax on all Genoese imports. The role of the city in this twenty-year episode was, in fact, non-existent.<sup>20</sup>

20 J. Braekevelt, 'Entre profit et dommage. Présence et privilèges de la nation génoise à Bruges sous les ducs de Bourgogne (1384-1477)', *Publications du Centre Européen d'Etudes Bourguignonnes (XIVe-XVIIe s.)* 49 (2009) 117-129.

The difference in bargaining power between the prince and the city is all too clear in the way in which commercial boycotts by the foreign merchants were dealt with. Between 1280 and the end of the fifteenth century, the Hanseatic League left Bruges six times in order to push forward a more favourable treatment of its traders, campaigns which are discussed at length in Gelderblom's book (pp. 170-180). The response to these 'collective actions' by the city, however, was limited to arrangements for financial and other material compensations and commitments to respect the Hanseatic rights, but never brought about substantial adaptations of their legal, commercial and financial institutions. Only when the Flemish count or, after 1384, the Burgundian duke was involved, did the Hanseatic boycotts result in a confirmation or extension of their privileges. This dependency on the prince and the expansion of the territories under his jurisdiction in the Burgundian period, soon covering nearly all of the Low Countries, explain the difficulties of the Hansards and other foreign merchant communities to fully exploit urban competition. Referring to successful collective actions of foreign merchants in the sixteenth and seventeenth centuries, Gelderblom counters this argument, advocated by, among others, Blockmans, Prevenier and Dollinger,<sup>21</sup> by claiming that the effects of political unification are limited as long as cities are sufficiently autonomous to negotiate with traders (p. 179). It must be clear that, apart from some rare moments when comital power was at its weakest at the beginning of the thirteenth century or during the period of James of Artevelde (1338-1345), later medieval Bruges simply was not.

In the Low Countries between 1250 and 1500, urban authorities provided market infrastructure, took care of transport networks and oversaw weights and measures, but the general climate of investment in industry and trade, including military, political, legal, fiscal and monetary security, fell under the authority of the prince. Flemish towns were no Italian city states or even Hanseatic towns: their autonomy remained limited and they always had to negotiate with princely power. Especially under the rule of the Valois Dukes, their political position vis à vis the prince was further weakened. It was, for example, Duke Philip the Good who, between 1433 and 1473, guaranteed a period of forty years of monetary stability that was particularly beneficial to the development of trade. The Burgundian and later the Habsburg state could enforce the law and provide physical and legal security to merchants at a much more extensive geographical level

21 W. Prevenier and W.P. Blockmans, *The Burgundian Netherlands* (Cambridge 1986) 98; P. Dollinger, *La Hanse (XIIIe-XVIIe siècles)* (Paris 1964) 349.

than the cities could, an advantage that only increased as territorial unification went on. This role of the sovereign was also acknowledged as such by contemporaries. Between 1435 and 1495, the Genoese authorities, in charge of one of Bruges' most important trading partners, only addressed the city council when the interests of one of their subjects before the urban courts were at stake. Letters concerning all other matters, including the violation of privileges, were directed towards the Burgundian duke.<sup>22</sup> When, during the political troubles of 1488, the representative body of Bruges burghers and craft guilds presented a list of demands it wanted to be met, it expected the prince to shape the right conditions for commerce, not their own urban government.<sup>23</sup>

If the urban authorities were not capable of substantially altering the institutional framework of international trade when confronted with the departure of the Hanseatic League, one of the most indispensable commercial powers, to another city, then when were they? From at least the 1430s onwards, Bruges was aware that Antwerp, an urban competitor within the Low Countries, attracted an increasing part of its commercial activity: during the periods in which the fairs in the Brabantine city took place, trade in the Zwin town came to a standstill. The authorities did not react by improving institutions for merchants within their own walls, but launched a protectionist campaign and sent out envoys along Flemish roads who had to catch and fine Bruges burghers on their way to and from Antwerp. Only during the last quarter of the fifteenth century can we discern a consistent urban policy that had the intention of lowering transaction costs for traders in the city. Copying an earlier Antwerp measure, Bruges paid an annual sum to the ducal treasury to exempt all of its foreign visitors from princely tolls in the Zwin estuary and the port of Sluys from 1479 onwards. Two years later, it bought the right to collect the Great Toll in the Bruges harbour from the noble van Luxemburg family.<sup>24</sup> It is exactly this period, however, which most strikingly illustrates the limitations of the urban authorities in meeting the needs of international traders. Confronted with a prince who now explicitly targeted the city's merchant communities to serve his political interests and with the changing eco-

22 C. Desimoni and L.T. Begrano (eds.), 'Documenti ed estratti inediti o poco noti riguardanti la storia del commercio e della navigazione ligure. I. Brabante, Fiandre e Borgogna', *Atti della Società Ligure di Storia Patria* 5:3 (1877) 357-548.

23 J. Dumolyn, 'Our land is only founded on trade and industry. Economic discourses in fifteenth-century Bruges', *Journal of Medieval History* 36 (2010) 388-389.

24 J. Haemers, *For the common good. State power and urban revolts in the reign of Mary of Burgundy (1477-1482)* (Turnhout 2009) 210-216.

conomic geography, the measures had little effect. In 1499, when the toll contract came to an end, all but some of the foreign groups had left Bruges for Antwerp.<sup>25</sup>

Remarkably enough, Gelderblom largely neglects the role of exactly those channels through which the city did have a voice in the prince's policy: that of the representative institutions. The thirteenth-century *Scabini Flandriae* were not, as he claims, a judicial body or 'jury' (p. 181) but a consultative organ consisting of the five major Flemish towns that discussed the course of events in the county with the prince.<sup>26</sup> They, thus, illustrate the opposite of what the author wants to prove: rather than urban autonomy, they bear witness to the century-old Flemish tradition of complementarity and consultation between the central and urban authorities when it came to resolving commercial issues. As a representative institution, the *Scabini* were the precursors to the Four Members of Flanders, the assembly involving the cities of Bruges, Ghent, Ypres and the rural district around Bruges, which, throughout the whole Burgundian period, discussed matters of state with the duke. It was there that economic policies including relations with foreign merchants were discussed and where the urban elites and the princely administration could negotiate on how to deal with these problems in the mutual interest of both parties. Also debated were commercial disputes that were deemed too sensitive to be judged by the urban courts and were taken away from the course of urban jurisdiction. After deliberations of the Members of Flanders, a judgment would then be confirmed by the duke.<sup>27</sup>

We should ask ourselves whether it is opportune to make such rigid distinctions between urban and central institutions in the first place. Throughout his book, Gelderblom seems to consider 'urban governments' as undifferentiated monoliths with homogenous interests. Depending on the specific constellation of power, medieval city councils were made up of factions with their own, particular motivations. The brokers and hostellers,

25 J. Maréchal, 'Le départ de Bruges des marchands étrangers (XVe-XVIe siècles)', *Handelingen van het Genootschap voor Geschiedenis* 88 (1951) 26-74.

26 J. Dhondt, *Estates or Powers. Essays in the Parliamentary History of the Southern Netherlands from the XIIIth to the XVIIIth century Century* (Kortrijk 1977) 74-78.

27 See, for example, the issue of reprisals for the privateering of a Holland ship by Scottish merchants in 1403, usually a matter for the Bruges aldermen. W. Prevenier (ed.), *Handelingen van de Leden en van de Staten van Vlaanderen (1384-1405). Excerpten uit de rekeningen der steden, kasselrijen en vorstelijke ambtenaren* (Brussels 1959) 248-249; see also W.P. Blockmans, *De volksvertegenwoordiging in Vlaanderen in de overgang van middeleeuwen naar nieuwe tijden (1384-1506)* (Brussels 1978).

whose fundamental role in Bruges' commerce was demonstrated by Jim Murray,<sup>28</sup> often fostered interests that ran parallel with those of foreign merchants, but the producing classes, which included not only artisans but also rich drapers, had others. They, too, were represented in the urban institutions of Bruges. At the same time, some members of these Bruges commercial elites had interests in Antwerp, the city's most energetic urban competitor for most of the fifteenth century.<sup>29</sup> The author equally underestimates the degree, certainly during the Burgundian period, to which the Bruges political elites of hostellers and merchants were intertwined with the state apparatus, as is shown by extensive prosopographical research.<sup>30</sup> The aldermen passing the sentences in the urban courts that play such a crucial part in Gelderblom's account needed to be appointed and approved by ducal commissioners each year and only during limited periods in the fourteenth century did the Bruges elites have a degree of autonomy in appointing the aldermen independently from the count. Even then, initiative lay with the guild masters, rather than the commercial elites of hostellers, brokers and merchants, who usually sided with comital power and did not demand more urban autonomy. Since 1384, the Burgundian state, from the beginning strongly supported by the commercial class in the Flemish towns, fully realised the value of the expertise on international trade and banking present in Bruges and made extensive use of it.<sup>31</sup> Many of its central ad hoc commissions that dealt with international commerce involved financial specialists that had served in local courts. If we take into account the enormous overlap in the networks of agents behind the institutions in Bruges and those on a higher level, it seems fair to say that the majority of those making up Gelderblom's 'urban governments' had other interests than to provide for the ideal institutional framework for international trade in one city.

28 Last in J.M. Murray, *Bruges, cradle of capitalism, 1280-1390* (Cambridge 2005) 178-215.

29 G. Asaert, 'Gasten uit Brugge. Nieuwe gegevens over Bruggelingen op de Antwerpse markt in de vijftiende eeuw', in: G. Hansotte and H. Coppejans (eds.), *Album Carlos Wijffels. Aangeboden door zijn wetenschappelijke medewerkers* (Brussels 1987) 23-41.

30 J. Dumolyn, *Staatsvorming en vorstelijke ambtenaren in het graafschap Vlaanderen (1419-1477)* (Leuven 2003) prosopographical records on Cd-rom.

31 See, for example, B. Lambert, *The city, the duke and their banker. The Rapondi family and the formation of the Burgundian state* (Turnhout 2006).

## 4 Conclusions

Revaluating the role played by urban institutions in the reduction of transaction costs during the pre-modern period was highly necessary. Peter Stabel had already suggested that the institutional framework of international trade in the Low Countries during the Burgundian-Habsburg period was one characterised by subsidiarity of the central and local levels, complemented by private-order solutions, rather than one dominated by an all-imposing state.<sup>32</sup> From this point of view, *Cities of Commerce* certainly is a step forward, stressing the importance of urban courts in reducing transaction costs for international merchants. We believe, however, that, motivated by a tendency to take up an original position in the current historiographical debate which is still dominated by the orthodoxy of North and Thomas' *Rise of the Western World*, the way in which the author has approached this problem is as teleological as most of the contributions he opposes. He assumes ever improving market conditions and replaces the causal primacy of the state by that of the city. These assumptions have made him seriously overestimate the autonomy of Bruges' judicial and political institutions and neglect the positive impact of many arrangements made by the central Burgundian administration. The only way forward in the debate, we argue, is an empirical one. Rather than considering legal institutions as a mere function of market development, the law of commerce and the strategies developed by foreign merchants must be studied from a legal-historical point of view, taking into account all the types of courts available for conflict resolution, as well as their alternatives.<sup>33</sup> Oscar Gelderblom's book is not convincing when he deals with the first 'city of commerce', later medieval Bruges, but he has certainly had the merit of starting an interesting debate.

### About the authors

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32 P. Stabel, 'Economic development, urbanisation and political organisation in the late medieval southern Low Countries', in: P. Bernholz, M.E. Streit and R. Vaubel (eds.), *Political competition, innovation and growth. A historical analysis* (Berlin 1998) 204.

33 See the similar plea by A. Cordes, 'The search for a medieval *lex mercatoria*', in: V. Piergiovanni (ed.), *From lex mercatoria to commercial law* (Berlin 2005) 52-67.

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