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On October 25th 2007 the *Wall Street Journal* published a blistering attack on Europe entitled "Regulatory Imperialism". The editorial took issue with Europe's intent to force its norms on the rest of the world by taking advantage of the dynamism of its internal market both affluent and attractive and in addition highly organized. Examples cited included the Microsoft Affair, the ban on the importation of chlorine-rinsed poultry, the Reach legislation on chemical products, as well as the plan to tax airline companies as part of the battle against climate change.

While extreme, the text pointed up three important facts: the first is that Europe, which Europeans often look on as a weak actor with few means, is in reality perceived as an influential player on the world scene, less on account of its military power than on account of the force of its norms. The second is that Europe, seen from the inside as a region in the process of overall deregulation so as allow market forces full leeway, is often - in the rest of the world - seen as a hyper-regulatory actor intent on exporting its norms. Finally, the piece had the merit of emphasizing that when one weighs Europe's political influence, it is not enough to refer to its military weakness leaving aside the influence derived from its single market. We must take another approach and explore whether Europe is not above all a "normative Empire". A Empire, in that its claim to enforce its norms beyond its own frontiers, whereas up to now norm application has been essentially endogenous . An Empire also in that the spread of these standards is increasingly based on a balance of power rather than genuinely mutual consent, even if Europe does attempt to avoid the traditional trap into which many hegemon fell: assuring stability while avoiding that stability turn into domination over the rest of the world (James). And finally a normative hegemon in that by means of regulations that are both fixed and coercive Europe, in

an increasing number of domains, has demonstrated its strength in an epoch of globalization. This strength is however exerted rather than claimed.

*Why does Europe favour norms as its mode of influence?

*Why has its normative influence become global?

*What are the main areas for externalizing European norms?

These are three questions that this paper will attempt to answer.

But first let us clarify the concept of norm. It refers to a freely accepted process of harmonization of actors' preferences in order to advance common interests by strictly adhering to a certain number of rules. A normative power is therefore- at least in theory- a power of which the identity and strategy is grounded on a preference for overarching rules of behavior applicable – largely but not exclusively – to states and which has three essential characteristics: to have been negotiated and not imposed; to have been legitimated equally by international bodies; and to be enforceable on all actors of the international system notwithstanding their rank within it. Normative power thus seeks the integration of a world order based on the legitimacy of rules, the predictability of behavior and the enforceability of accepted principles. On the European level, the Monetary Stability Pact is a good example of a normative approach and on the global level, the Kyoto Protocol. On the other hand, the doctrine of preemptive war developed by the Bush administration to justify the invasion of Iraq cannot be considered a norm in our sense of the term since it has not been recognized internationally, and would appear by its very nature as very unlikely ever to be so.

The “normative world” is limitless. On the global level we can begin by the forty agreements that form the basis of world governance, from human rights to the

environment, including labour norms, the campaign against criminality, terrorism, and ocean rights. But these are not the only accords. Accounting norms, banking guidelines, and marketing standards figure prominently in globalization regulation. One should also distinguish between *hard norms*, which are embodied in texts having force of law and *soft norm*, which refer to court rulings or operating procedures.

1. Why does Europe have a marked preference for norms?

Basically the explication stems from the very nature of the European undertaking since 1957. Europe attempted to go beyond traditional conflicts between nations by recourse to the principle of a shared sovereignty, without however entirely abandoning national sovereignties. The sole means of permanently linking the fortunes of states that were determined to remain sovereign while simultaneously abdicating part of their sovereignty was to have them adhere to common norms, all the more restrictive in that they were to be negotiated.

These normative provisions were first applied to the EU's hard core, that is to say the domains entirely within European jurisdiction: the internal market, commerce, and monetary policy. But they did not stop there; far from it. A domain such as the environment, where responsibility is shared, is one in which the Union's normative activism has been the most forceful or at least the most influential on the world level. In addition it is via the decisions of European courts that the norms have been spread, providing a framework for the European area as indicated by the decision of the Court of First Instance of the European Communities concerning Microsoft. This preference for norms does obviously raise numerous difficulties within Europe itself, particularly because of the increasing differences between national options in certain

domains subjected to community control such as commercial policy. A case in point is the variety of approaches adopted by member states when it came to commercial sanctions against China. Norms also encounter obstacles in that they always appear less legitimate than national political decisions. A norm is always more fragile than a sovereign act.

With the end of the Cold War the European Union thought it would be living in a world in which traditional conflicts between states were on the wane, giving way to a logic of interdependence that would call for governance by norms (Làidi and Lamy). On the basis of its own experience, the EU anticipated that added rules would provide added stability, that increasing interdependence would entail an increasing demand for global norms. Hence the EU's acceptance of the rhetoric of "world governance" that is not, as one might think, a step toward world government, but a regulatory system operating on several levels so as to preserve global public goods (environment, criminal justice, sustainable development).

The call for governance by norms resembles a call to go beyond – as was the case in Europe – traditional cooperation between states. Global governance seen from Europe appears as a practical halfway platform between traditional intergovernmentalism and world federalism. Europe, which is not a state, has a vested interest in seeing that international relations are governed by norms. Preference for norms expresses a repugnance for *realpolitik*, even if Europe increasingly attempts to combine the two approaches to further its interests (Làidi). For Europe knows that it is only by norms and not by force that it can make its voice heard. It knows as well that the fact that it is not a nation is a political handicap in particular when up against other leading countries for which the determining power is exercised by the state. Which explains the EU's increasingly common habit of saying

to its partners in the course of strategic alliances or bilateral agreements: “Do take us seriously even we are not a nation.” The EU’s preference for norms does not mean it is the only actor to defend them. It means rather that the EU, given the lack of alternative, has the greatest interest in defending them. Which does not hold true for the major powers who favour norms when it suits them or when they have proposed them, but who let the matter drop when the norms run counter to their interests. Europe does not have such a option, unless it grant its member states a free hand. Given the context, one can well understand British interest in a Europe which, because it would not be a state, could only exercise power by fixing standards for the rest of the world on the basis of its domestic market. It is this theory that was defended in November of 2007 in Bruges by Britain’s current Foreign Secretary (David Miliband). In his eyes, Europe should be a model and not a superpower. This conception has the advantage for the British of leaving intact the traditional sovereign attributes of states such as diplomacy and defence. Admittedly, most European states, who see no better alternative, also endorse this approach. The odds are that it will constitute the organizing principle for years, even decades, to come given the reluctance of the immense majority of European states to establish a common instrument for their diplomatic strategy.

Yet the nature and the scope of Europe’s normative strength should not be underestimated. Even if, as well shall see, many of these European norms intended to be global are transposed from the single market, they should not be considered as simply market norms. In a world in which the influence of the market is considerable, market norms tangibly affect the lives of European citizens. It is the existence of the market that has given rise to norms for the protection of the environment and the consumer. Perhaps we should abandon too marked a distinction between “market

norms” and “political norms” since the interpenetration of the two is increasingly the case; it is in this “in-between” that we should situate European strength, leaving aside the perpetual distinction between hard power and soft power. Europe’s normative strength is largely derived from the power of its market (Drezner), but its impact goes well beyond the market itself.

2. Why do European norms now affect the rest of the world?

There are three reasons:

a) In an increasingly open global market, national or regional preferences, such as Europe’s, interact to an increasing degree with the preferences of others. It is then up to each party to justify its own preferences so as to deter challenges by others. Over a long period the protectionist nature of the EU’s Common Agricultural Policy was not an issue. But once the liberalization of agricultural exchange was on the agenda, the CAP had to conform to the relevant decisions of the World Trade Organization. And this is not the only example. All European public policies were concerned by this new reality. In a globalized world, each party has an interest in seeing that the norms that are recognized on the international scale are as close as possible to its own interests and perspectives, for it is becoming difficult to ensure protection by traditional means. Hence the crucial importance of norms in regulating world affairs.

b) In a globalized world the frontiers between the European market and the world market have of necessity become increasingly blurred (European Commission, 2007) for a variety of reasons. The first stems from the fact that the European market –

since it is unified, sizable and attractive – is inevitably in a position to fix the rules for those intending to gain access to it.

The other factor that favours the externalisation of European market rules is the significant tightening of standards concerning environment and consumer protection. Once European norms turned out to be the strictest in the world (as is the case for the Reach legislation on chemical products) all the economic actors were obliged to tighten their standards and comply with European standards if they wanted to enter the market. This is a relatively new development. For environmental issues and for food and health protection it dates back to the late 1980s. Up to then, it was the United States that set the norms since theirs were the strictest. Since then the roles have been reversed.

The strength of the European market and the substantial tightening of its norms constitute in fact the major source of Europe's normative power. And it seems that Europe is ready to assume this political purpose. The stringent norms reflect Europeans' marked dislike for risk, whether it be the environment or food protection. On the *Eurobarometer* risk scale, these issues rate well above criminality or terrorism. One senses moreover that the legitimacy of the single market is increasingly based on the market's non-commercial aspects. And it is evident that the European Commission encourages this development so as to establish its own legitimacy and its own control over member states.

The increasing permeability between the internal market and the world market should not lead to the conclusion that the question is settled and that non-European nations will adhere to European norms, considered as the strictest. Rigorous norms are an obstacle for those eager to penetrate the European market, but also for Europeans seeking non-EU markets. For if we sell China expensive products

conforming to tough environmental standards and if our competitors, the Brazilians for example, are not held to these standards, we are at a comparative disadvantage. Hence the necessity of persuading the Chinese and the Brazilians to also tighten their norms and thus contribute to the creation of a competitive arena that does not penalize high-standard countries. Even within Europe the issue is not settled. The fear of exporting pollution and importing unemployment has led to certain industries being exempted from costly participation in the next European Trading System (*Financial Times*, 28 November 2007).

c) The intermediary areas between the internal market and the world market have now greatly increased in number. Up to now, there was on one hand the European internal market and on the other the world market. At most there existed between these two entities a decompression chamber constituted by the countries seeking admission to the Union. Today the scene is far more complex. Europe is surrounded by a wide area that is both problematic and unstable. Before choosing which countries from this area will be admitted to the Union, Europe has – prior to integration – to stabilize them. That is the gist of Europe's proximity policy and of the ambiguous message that underlies it's "sharing everything with the Union except for its institutions". In return for the easing of access to the European market, those on the periphery are in reality asked to assimilate the *acquis communautaire* which are supposed to be an advantage for them, but which also profit European economic agents that are thereby less disoriented (Gstöhl).

A policy based on norms that are accepted since they have been negotiated here comes up against its limits.

On one hand because, contrary to what might suppose, Europe hardly ever negotiates the contents of its norms with its partners. Basically, it's a case of "take it or leave it". And on the other hand because the extent of acceptance of European norms obviously depends more on the balance of power than on free choice. Moreover it is not certain that Europe's partners have much to gain from a policy that can appear generous ("everything except for the institutions"), but which in reality amounts to accepting European norms without taking part in their elaboration.

The linking of norms to the political balance of power should keep us from a starry-eyed vision in which normative strength is "an idealistic power", gentle, peaceful, and placid. But it should also lead us to take norms seriously and not reduce them to the interplay of inconsequential rules, without importance since they only concern market regulation

3. What are Europe's normative boundaries?

There are today three domains in which Europe's normative influence seeks permanent status so as to satisfy both the demands of its citizens and the interests of its economic agents as well as those of its member nations.

a) Environment: It is in this domain that Europe's political influence is by far the strongest and has the greatest effect on the organization of international relations. This influence can be explained by a decided preference for environmental issues that stems both from the high density of the European population and from the environmental externalities that are always present when a region, cramped for space, is heavily industrialized and thus polluted. (European greenhouse gases

[GHG] account for 15% of the world's emissions, whereas the European population is under 8% of world population.) A preference that stems as well from the food and hygiene crises that Europe confronted in the late 1980s. This commitment was facilitated by the shared character of environmental benefits and by compatibility between the interests of member states and those of the Commission, not to mention the interest of leading nations in supporting these demands whenever, for a variety of reasons, it did not cost them much.

The Kyoto Protocol proved to be, in this perspective, a perfect vehicle for normative influence, precisely because meeting the specific targets set by community consultation has become the basis of Europe's engagement. In the beginning the political ends to which Kyoto would be put by Europe were not anticipated. On one hand, because the subject of climate change had not yet become popular. On the other, because Europe was but one actor among many. The United States was fully committed to the process and it can even be said that the Kyoto Protocol relied to a great extent on the United States, in particular concerning emission trading. But once the Americans began to withdraw and to campaign politically against the Protocol to prevent its application, Europe, fully supported by public opinion, began identifying with the Protocol that appeared as a symbol of their distinct political identity. For it was Europe that succeeded in convincing Russia to sign the Kyoto Protocol, making way for its official implementation in 2005. In return Europe supported Russia's entry into the WTO.

Since then Europe has tried to exploit its advantage by issuing proposals for an After-Kyoto in which GHG emissions would be further reduced and emerging countries persuaded to accept the provisions from which they have so far been exempted in

the name of differential treatment, a principle which Europeans champion, even if it is but a means to have their own policies appear more credible.

Europe thus committed itself in April of 2007 to reduce by 20% its emissions of greenhouse gases by 2020 (and even by 30% if a reduction of the kind was accepted by the other states), then a 50% reduction before 2050 keeping 1990 as the reference year. In the Kyoto agreement the reduction of GHG for Europe was fixed at 8% between 2008 and 2012. By being the first geopolitical region to commit itself to After-Kyoto targets, the European Union effectively fixed the norm that was to be central in the international negotiations held in Bali in December of 2007. But Europe must meet two challenges. The first is to be exemplary in environmental matters, not simply in rhetoric but in practice. Yet on this score the results are not yet in.

In 2010, according to the EU Commission's own estimates, GHG emissions in Europe of the 15 will only have been reduced by 0.6% below the 1990 level, whereas Kyoto stipulated an 8% reduction by 2012 (European Commission, 2006b). For Europe of the 25, the outlook is more encouraging, but not necessarily significant; the former Eastern bloc states are closing out the polluting factories left over from the Soviet era. In 2004 the GHG emission levels for Europe's 25 were at their highest since the adoption of the Kyoto Protocol in 1997. The black spot for Europe remains road and air traffic. In addition, the proportion of European exports with high carbon intensity is superior to that of the United States or China, which renders attempts to tax importations of polluting countries hardly credible (Delgado).

For Europe to set an example is a crucial issue, but the outcome remains uncertain. A political strategy is needed capable of inciting the emerging countries to share this approach, not to speak of the fact that the United States might be reluctant to see these countries absolved from taking meaningful steps before 2020 as

proposed in the latest UN development report. It will be most difficult. Yet it is only by such criteria that European nations can continue priding themselves on being “a green power”. The other major environmental chapter over which Europe has considerable influence on the world level concerns three questions that can appear technical: the Reach directives (Regulation, Evaluation and Authorization of Chemicals), the WEE (Waste Electric and Electronic Equipment) and the ROHS (Restrictions of Hazardous Substances).

Of the three, Reach is the most important since it requires registering 30,000 chemical substances which industrialists are obliged to prove do not present any environmental or health risk. Moreover these provisions, applied not only to European companies but to all those intending to enter the European market, are quite costly (Selm and de Veer). Which explains the strong resistance put up by the Americans (Ackerman, Stanton, Massey). Even in the domain of GMOs where Europe, in the WTO, backed down when faced by the Americans, U.S. farmers are more than reluctant to plant the new strains of GMO until they are certain that the European market will not be closed to them.

b) Regulating global competition

Strictly speaking competition policy refers to the rules that are designed to prevent market players from forming cartels. In a broader sense it in fact refers, for a given market, to provisions intended to distinguish between economic agents by means of innumerable regulatory obstacles. Respect for competitive rules is thus an issue in Europe’s internal market as well as for its trade policy.

The stakes are high since Europe is not only the largest solvent market in the world and the leading economic power, but the first in world investments.

A genuine risk of cartelization does exist because most global investing is done through mergers and acquisitions, thereby automatically increasing the likelihood of market concentration. Faced with this risk, Europe has considerable means at its disposal; their import was evident on two different occasions involving two different issues: when in 2001 a European court, on the basis of extraterritorial powers, effectively prohibited the merger of two American companies (General Motors and Honeywell Bull); and in 2007 when this same court condemned Microsoft for having eliminated its competitors from the operating systems market by denying them access to technical information on Windows. What stands out in this affair is both the fact that Microsoft was condemned in Europe whereas it had not been in the United States. And also that it was an American company that brought charges against Microsoft in Europe as if it considered it would be easier to do so in Europe than in the United States (Vannini).

The condemnation of Microsoft is evidence of a European conception of competition that is today different from that of the U.S.. In Europe's eyes, competition must not only provide an advantage for the consumer but ensure as well the continued existence of market competitors. In other words, there can be no genuine competition in the absence of genuine competitors; whereas for Americans the competitive structure of the market itself is of less importance than the advantages to be derived by the consumer (Bertrand and Ivaldi). Microsoft's quasi-monopoly would, in the latter perspective, have been acceptable if the consumer were to benefit from a steady price reduction.

The other aspect of competition has to do with the rules guaranteeing fair competition between economic actors. For Europe this aspect – at a moment when its trading patterns have been changing radically and rapidly – has become

increasingly important. As long as Europe remained an introverted economic area, the rules of competition concerned only countries with strict norms. Conforming to rules governing intellectual property, for instance, had never been a major issue for Europe as long as it traded within its borders or with the United States and Japan. Today the situation is entirely different since trade has been expanding with emerging countries whose norms are looser. Europe thus has an impressive roster of normative cases to settle, closely linked to its commercial policy (Maur).

In fact, until the mid-2000s Europe tried to put through its normative agenda via a multilateral channel known as the “Singapore issues” (investment protection, competition, transparency, and trade facilitation). But after the 2004 failure in Cancun and the deadlock in the WTO multilateral negotiations, Europe – without admitting as much – decided to explore bilateral ways to advance its normative agenda (Woolcock). And it’s obvious why. When 80% of imitations intercepted in Europe are of Chinese origin, it would appear legitimate to address China directly, rather than waiting for a multilateral solution. All the more so in that the issue in this case was less the drawing up of new rules than their effective application. Europe willingly admits that, when it comes to issues other than tariffs, it has more success in bilateral than in multilateral negotiations. Moreover Europe is in the process of tightening provisions concerning intellectual property in its bilateral agreements, coming closer to the United States that has always considered that, in such matters, bilateralism was more effective than multilateralism (Pugatch).

Since 2006 Europe’s trade policy has taken a bilateral turn so as to take root in emerging countries, particularly China that is its leading commercial partner.

Faced with public scepticism as to the advantages of globalization, Europe knows that it can prove its effectiveness and its legitimacy only by demonstrating that

the opening of new markets will result in the creation of jobs – and not only the loss (European Commission, 2006a).

Today it is countries with a high-growth potential that Europe is most interested in. To meet its objective Europe intends to deploy its battery of norms in the key areas of respect for intellectual property, access to government markets, and discrimination against foreign investors, not to speak of the fundamental social norms concerning environment, energy efficiency and human rights. There is, of course, the risk that its commercial policy then be overburdened with, conditionalities when the balance of power is in Europe's favour (Fantini and Modini). The issue should be squarely faced, all the more so in that it is clear that Europe has no intention through these agreements of relaxing its control over sensitive aspects of agricultural production and even less so over the movement of people.

c) World governance

We opened this paper with the assertion that a preference for world governance was the core of European political ideology. And that this ideology was further affirmed as American unilateralism became stronger.

The call for global governance has been implemented by Europeans in several ways:

In the WTO Europe has spoken out for a “broad agenda” intended to ensure that the opening of new markets and the regulation of these markets progress simultaneously by including, as we have seen, social and food protection norms. In the UN Europe has been the sole voice to appeal for the creation of a Global Environmental Agency.

Even in private-sector regulation, European influence is no longer minimal. Taking accounting norms, for instance, the new norms adopted in Europe since 2005 were in the beginning closer to American norms than to the former European norms. But little by little the International Financial Reporting Standards (IFRS) have become a “European” global accounting norm in competition with the American accounting standards, the US-GAP (Generally Accepted Accounting Principles in the United States). In a field in which there was only one *de facto* world standard (the American) alongside a myriad of local standards, there are now two dominant norms, even if there are many similarities between them.

Yet global governance is far from having lived up to its promise and Europe is a long way from matching acts to principles.

As we have seen the WTO has not really succeeded in furthering a “broad commercial agenda” of the kind Europe had called for. Since the Doha Conference Europe has failed in its attempts to link trade to respect for environmental regulations, as it has failed to link commercial agreements with fundamental social norms and have its partners respect the famous “Singapore issues”. In fact Europe is talking of global governance less frequently than before. The Barroso Commission has above all tried to demonstrate that globalization will prove to be an advantage for Europe.

Moreover Europeans’ interest in further global governance is lukewarm above all when it comes to creating new institutions. But that’s only half of it. Europe, that talks of a more open world, tends by its national divisions to block a fairer representation of emerging countries in the Security Council as well as in the G-7 and the IMF. In the latter case the voting rights of China, India and Brazil, taken together, are 20% below those of Italy, Belgium and the Netherlands. How can one purport to defend a pluralist vision of the world and insist on emerging countries taking up their

responsibilities in world economic governance when one denies them representation proportional to their population? On the energy issue, which is for it of prime importance, Europe is at the parting of the ways. In trying to convince the Russians of the merits of an Energy Charter, Europe is defending the idea that market institutions guaranteed by norms are preferable to bilateral geopolitical agreements (Helm). But Europe here encounters resistance not only from Russia, but from the majority of member states for whom energy remains a sovereign prerogative (Finon and Locatelli).

Norms are not possible without justice, unless one considers that norms are in the final analysis but a means to power in the hands of those who lack the strength to exercise it otherwise.

Scenarios

What political scenarios for the future can be drawn from this analysis? The first consists of seeing in the current situation the start of a process leading to full-fledged European power. I will call this scenario *Power in Progress*. The second would not be a transformation of European power but a transformation by Europe of the issues at stake in power: a scenario of *Transformative Power*. Lastly, the third would be the perpetuation of the present situation which we will call *Derived Power*.

Scenario 1: Power in Progress

This scenario has a number of arguments going for it. A growing power, progressively becoming aware of its common interests, develops common implements for its commitments. For shared interests, a shared – even unique – command; a scenario akin to America's. But of the three, this is the most improbable

scenario. For unlike the United States, Europe's point of departure is a set of nation states determined to share, but not dissolve, their sovereignty. So the comparison with the U.S. doesn't really hold (Laïdi,a). In addition, the transition from a shared recognition of interests to a shared policy runs into numerous obstacles.

There are often in Europe discrepancies between what are perceived to be interests and their reality. Objectively, Great Britain has major interests in Europe. But this in no way reduces British opinion's hostility to sustained support for commitment to Europe. It explains why, moreover, the theory that Britain is in fact intent on dominating Europe has never been confirmed; rather than influencing Europe, Britain's goal is to prevent Europe from interfering with British interests.

The second obstacle is that acknowledgement of common interests will never dissuade certain states from resorting to *free-riding*, even if it means claiming to act in the common interest while being the first to go it alone. The French project for a Mediterranean Union is an excellent example.

And finally, the idea of common interests still leaves room for differing priorities. Europeans have every reason to develop a common energy policy in view of their collective vulnerableness to energy volatility. But this does not prevent them from envisaging the pooling of interests in very different ways.

Scenario 2. Transformative Power

Here Europe's activities are seen as influencing the collective perception of world issues and their priorities. Climate change is a good illustration of this scenario. Through its efforts Europe has succeeded in putting the issue at the top of the world agenda despite strong opposition from the United States. In addition, Europe has managed to make of it the first to be shared by all members of the

international community. A considerable achievement because climate change is beginning to have political consequences in a variety of domains, such that in a few years we will no doubt see political or military conflicts closely linked to environmental issues. Hence we can consider Europe's transformative power as a plausible outcome, but we should neither exaggerate nor misestimate it. It is characteristic of the international system to generate new issues, but this does not mean that traditional questions of security, where Europe is far weaker, will be set aside. In addition, the fact of bringing certain issues to the fore does not mean that Europe will remain the king player. In other words, if tomorrow the question of climate change were to become a strategic issue of a more classic kind, Europe would not necessarily be the best prepared to confront it. We can only hypothesize that Europe's soft power will see to it that the political issues stemming from the existence of world public goods will not systematically degenerate into violent conflicts involving armed force.

Scenario 3: Power by default

In this scenario Europe's power would consist of fragments that Europe made no attempt to consolidate. It would be more of a *derived* power rather than a *constructed* power: one which gave no indication of a will to collective authority. Europe would remain a fragmented power, one that did not try to acquire power's traditional attributes. It would exercise this power by default, with no conscious purpose, which does not mean however that it would be powerless. Of the three scenarios, the first appears the least probable. We should thus count, for the next twenty years, on the other two; it is the combination of scenarios two and three that holds the key to understanding Europe's place in the world

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