EU As a “Regulatory Empire”

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Introduction

It has been some time since the concept of “Empire” has been on the map of social sciences. Empire seems to be a handy concept to explain the Post-Cold War and Post-9.11 world where globalization impacts on every square inch of the surface and the United States emerged as a unipolar power in the global political structure, while the concept of Nation-State is gradually losing the central importance of explaining global system. Many scholars employ the concept of Empire in order to demonize of the US unilateral action or criticize the use of US hegemonic power with an assumption that Empire is something evil and oppressing.

The concept of Empire that will be discussed in this paper does not aim to criticize the United States or its use of power. Instead, this paper aims to discuss that the concept of “Empire” should be redefined according to today’s international context. Also, this paper assumes that empire does not always stand alone, but often competes with other empires, such as in the case of 19th Century, where British Empire competed with French or German ones. Thus, it would be wrong to suggest that only unipolar dominant power can be called “Empire”. Even in today’s context, there can be several empires exists and competes in the global arena.

In this paper, we shall put our focus on the actions of European Union (EU), and examine whether EU can be regarded as a new type of “Empire” in today’s global order. Europe has an experience of being empires since the Roman Empire, and most recently, it has been the home ground of Spanish, Portuguese, Dutch, British, French, German, Belgian and Habsburg Empires. It understands deeply and keenly what

the world order with empires looks like and how difficult colonial management is when there is a strong nationalism and desire for national state-building (which are European notions!). In other words, if Europe (or EU) stands out as an Empire, it should be quite different from what the European empires used to be.

So far, we have discussed the concept of "Empire" without precise definition, but as it appears in many arguments, it is necessary to define what "Empire" does really mean. Usually, the empire is a polity where an Emperor dictates certain geographical area (such as Holy Roman Empire) with a quasi-supranational governance mechanism (such as Roman Empire) and dominates distant territory or colony (such as British or French Empires). It would be interesting to discuss the typology of empires, but here, we need to concentrate the common feature of empire. Masaaki Sugiyama, Professor of History at Kyoto University, defines "Empire" as "relationship, sphere of influence and order which is made by an integral power which reigns beyond plural communities, tribes, societies, regions, powers, and states[1]".

From this definition, the EU seems to qualify to be called as an "Empire". It has an integral power at Brussels and holds certain power over member states. Of course, the EU institutions – European Commission in particular – do not have superior power in all dimensions of political affairs as other empires do. Only a few policy areas such as competition policy are exclusively conducted by the Commission, but many policy areas require agreements from member states, although these agreements are given by Qualified Majority Voting (QMV) where not all member states give consent. Also, there are several policy areas such as defence and security policy require unanimity where all member states shall agree upon the decision. In this sense, it is difficult to call EU as a full-fledged "Empire"[2].

[1] Masaaki Sugiyama, "Thread of the History of Empire: for Modelling Empire in the History", in Y. Yamamoto (ed.) *Study of Empire: Principle, Categories and Relationship*, Nagoya University Press, 2003, p.62

[2] Although Zielonka argues that EU is a "neo-medieval Empire", his argument stresses the similarity of medieval Empire and EU on their fuzziness. This paper argues that the force of EU in its enlargement was not fuzzy at all, and the "rigidness of application of EU rules" was the source of power of EU to build an Empire towards East and South. See, Jan Zielonka, *Europe as Empire: the Nature of the Enlarged European Union*, Oxford University Press, 2006.

However, this paper defines EU as a "Regulatory Empire". Although it is not a full-fledged empire, this paper hypothesize that EU is a new type of "Empire" in the context of globalizing market economy and political interdependence. A particular attention should be paid, as in the case of Zielonka's argument, to the enlargement in 2004 and 2007. The way in which EU-15 imposed political, economic and social conditionality – so-called Copenhagen Criteria – was a clear cut case of its "Empireness".

1. Definition of "Regulatory Empire"

The concept of "Regulatory Empire" is, first of all, an empire that imposes its market regulation to other states with its sheer size of economy which create the "gravity" of attracting goods and investments. In a globalized market, there is a variety of sizes of market, from mega market such as EU single market, NAFTA or ASEAN Free Trade Area (AFTA) to small national market in developing countries. These different markets compete in the single global economic sphere for trade and investment, and obviously, bigger market is more attractive for investors and traders. Since there is no "global regulatory authority" to control over the transactions in the global market, the rule of the game in the global market is similar to a pure free competition of national regulations with minimum control by WTO and a few international regimes. On this assumption, many countries which wish to trade with bigger markets shall follow the rules of these markets and reform their regulations of domestic markets in order to improve the competitiveness to penetrate in the bigger market which occupies a large portion of global market. If a country wants to penetrate into EU single market, it has to

comply with high standard of environmental or safety regulation on the products, otherwise its product would not be able to be exported in the EU market. Furthermore, the non-EU companies need to employ accounting standards of EU (the rules of IASB to be precise) for smooth entry into EU capital market. Thus, the countries with strong economic ties with EU such as Switzerland, Norway, Turkey, Ukraine and Northern African states are in a position without much choice but to adopt EU standards in their markets for improving their industrial competitiveness to penetrate EU market, which eventually make EU as a "Regulatory Empire" to force other countries to comply with its rules and regulations with its "gravity" of market.

Secondly, the "Regulatory Empire" does not exercise direct coercive forces toward other countries for complying their regulations. It is true that some EU states such as Britain and France are still military giant and possess military capability to intervene global affairs, but since 1960s, their exercise of military power is limited mainly to peacekeeping activities or humanitarian interventions, which have little ambition for occupying or controlling other countries[3], perhaps with an exception of Falkland War. EU and its member states understand that military coercion would make it difficult to maintain sustainable influence on other countries from its historical lessons.

Thirdly, the "Regulatory Empire" can exercise its power when there is a voluntary acceptance of the regulations of the empire. The sheer size of the market creates the "gravity" for subordinate states to depend heavily on the EU market for the welfare of their society. The more the subordinate states depend on the EU market, the less they can ignore the rules, regulations and standards that are defined by the EU. This is particularly true for their monetary policy for maintaining a stable exchange rate with euro. This eventually means that the subordinate states shall focus on the maintenance of their currency values and monetary policy at the expense of their macro-economic policy. The other obvious example is the question of accession. As discussed below, those neighbouring states which have strong wishes to join EU have no choice but to comply with the existing rules and regulations of EU (*acquis communautaire*), which stretches from macro-economic regulation such as limits on state aid to day-to-day industrial exercise such as hygienic regulation of butcher shop. Even those countries which do not wish to join EU and maintain stable exchange rate with euro needs to follow the rules and regulations of EU. For example, EU (European Commission to be exact) has very strong competence for defining anti-competitive action of industry. Japanese and American companies such as Hitachi or General Electric (GE) were targeted by the European Commission for distortion of market competition. In order to avoid these regulatory claims from the European Commission, Japan and the United States have to be aware of the EU regulations and adjust their regulations for not to contradict with them. However, it should be noted that these sort of compliance to EU rules and standards is not ordered or forced by Brussels, but by Japanese or American own judgements. The subordinating countries make decisions according to their procedures and legal process to comply with EU rules as an exercise of their sovereignty.

Fourth, the "Regulatory Empire" requires providing universal values or norms for making subordinate states obliged to follow. No matter how much subordinate states depend on the empire economically, it would be difficult for their social forces to accept the rules and regulations of the empire. Usually social forces which benefit from existing rules and regulations resist any change which might undermine their source of benefit or power. Thus, it is important for convincing not only the national leaders but other social forces to accept the rules and regulations of the empire as a legitimate norms, and construct a discourse based on universal values and norms so that the acceptance of these rules and regulations would promote national and universal interests. The discourse on "global standards" (i.e. accounting standards, safety standards, environmental standards etc.) is a good example of such a legitimating discourse for subordinate states to accept the rules and regulations of the empire. The EU as a supranational institution has strong

[3] Pierre Pascallon (ed.) *Les Interventions extérieures de l'armée française*. Bruylant, 1997.

advantage in this case. Unlike the case of the United States where decisions are taken by small number of individuals, ultimately by the President, the decision of the EU is a consequence of discussion, deliberation and debate among member states, interest groups and European Commission officials. As a result, EU decisions would have a functional universality, which does not represent any interest of certain country or organization. The rules and regulations of EU are, in many cases, compromises of different interests, and therefore, even there are influences of strong interest groups, they are hidden behind the complex decision-making process. And inside the complex decision-making process, a discourse with universal values and norms is often the defining factor for most of the member states to agree on the decision (perhaps environmental policy is a good example). This sort of universal values and norms make it difficult for subordinate states to reject or avoid.

The "Regulatory Empire" develops its sphere of influence without using violence. In a globalized world, subordinate states have little option other than complying with the rules and regulations of the "Regulatory Empire", and eventually these states could not find any other policy option than voluntarily reforming their fiscal policy, privatize national enterprises and introduce market competition. The obedience to the "Regulatory Empire" may put a lot of stress on the daily lives of people and domestic economy, and as a result, the social forces of subordinate states would strengthen criticism against, and often create the momentum to overthrow their government. In response to these social pressures, the governments of subordinate states may have a tendency to appeal populist agenda. Those subordinate states – they are sovereign states at least legally – would exercise their legal rights to detach them from "Regulatory Empire" and establish more autonomous regime to control their own market. Perhaps typical examples of these populist countries are Venezuela under Chavez, Iran under Ahmadinejad or Russia under Putin governments. However, it would not be a realistic economic policy in a globalized market by isolating their economy from the mega market such as EU and the United States, and would result further confusion in their market because it is almost impossible to complete a national economic policy without incorporating global market rules and regulations.

2. The explanatory power of "Regulatory Empire"

It is then important to explain why the concept of "Regulatory Empire" is useful for understanding today's international order. Already, there are a lot of concepts explaining the new international political and economic order in the globalized world, for example "global governance" or "Washington Consensus[4]".

However, the reasons for introducing new concept here are, first of all, it is insufficient to describe today's global order as a cooperative one, which is assumed in the concept of "global governance" arguments. It is true that the roles of international institutions such as the United Nations, IMF or WTO are more important than ever, but these institutions are constituted by many member states and the decisions are made by consensus (or quasi-consensus such as veto rights in the Security Council of the United Nations). Thus, it often takes a long time to set up rules and regulations if any, and most of the cases, the rules and regulations are quite vague and general in order to attract support from many countries. The case of Doha round negotiation is a good example how difficult it is to make a rules and regulations for managing global trade. Instead, the concept of "Regulatory Empire" explains that the rules and regulations of global market is made and operated by the centre of the empire and they are acting as *de facto* global standards. In other words, the "Regulatory Empire" does not bother to cooperate at international institutions, and apply its rules and regulations all over the world.

Secondly, as the concept of "Washington Consensus" stresses, there is an image that the rules of the global market is made by the United States. But if one looks into detail, it is not always true that the United States is the dominant state in managing the rule-making process. Of

[4] Paul Krugman, 'Dutch Tulips and Emerging Markets,' *Foreign Affairs*. vol.74 no.4, 1995.

course, the United States is a great power, but as discussed above, it is up to the subordinate states which decide to accept the global rules or not. Unpopularity of the United States after Iraq war and financial crisis after the shock of sub-prime mortgage collapse, there are many countries gradually taking distance from the United States and shifting their interest in European market. Increasing volume of foreign reserves in euro is one example of that. Also London is growing to be more important exchange market for currency and commodities than that of New York or Chicago which eventually imposed serious problem of financial crisis on London. The states geographically closer to the EU, such as Turkey, Maghreb and Balkan states depend more on the EU than the United States, and they tend to play with the EU rules. It is important for the analysis of the sphere of regulatory influence to take the spatial division into account. In this context, the concept of "Regulatory Empire" has some advantage for analyzing the spatial structure of global market by using an analogy of colonial empires.

Third, the concept of "Regulatory Empire" would enable us to focus on the relationship between the "centre" and "periphery" as in the dependence theory or World System theory. It is often argued that globalization would make it possible for "governance without government[5]" and non-state actors such as multinational corporations (MNCs) and non-government organizations (NGOs) would function as actors in shaping of global market. Of course the roles of MNCs and NGOs are important, but we must not forget that the only actor who can define what would be the rules and regulations of the global market is sovereign states, and among them, the regulatory empire such as the United States or the EU are very few actors which can make autonomous rule-making. MNCs and NGOs may put pressure on the government, but they don't have the power to override or countervail the governments' decision. The power of non-state actors in the formation of global order remains to be informal, and if they want to exercise their power in a formal framework with legal legitimacy, it should be done only through the sovereign state[6]. Thus, in a global market, the "centre" in Wallerstein's term is at the core of decision-making in the centre of regulatory empire, and "semi-periphery" is the governments of subordinate states, and the "periphery" is at the periphery of subordinate states[7]. As discussed by Wallerstein, the subordinate state governments are in the position to accept, willingly or unwillingly, the rules and regulations of the "centre" while controls over the "periphery". Therefore, the criticisms, dissatisfaction and protests concentrate on the "semi-periphery", so that the "centre" will not be exposed to those protests from the periphery (see recent upraises of Haiti, Burkina Faso, Mozambique, and Madagascar etc. for protesting the rise of food prices). The "centre-periphery" relation was a particular problem of empire in the history of mankind, and thus, the concept of "Regulatory Empire" would be suitable for explaining today's global order.

[5] James N. Rosenau and Ernst-Otto Czempiel, *Governance without Government: Order and Change in World Politics*. Cambridge University Press, 1992.

3. Historical Background of EU as a "Regulatory Empire"

Then we need to ask why the concept of "Regulatory Empire" is applicable to today's Europe. The most important thing is that many European states have experience of failed colonial empire. For many years, particularly in the 19th Century, European states colonized Latin America, Africa, Asia, and Pacific islands with their economic, military and technological superiority while they build their states based on nationalism. On the one hand, they stress the national identity and homogeneity in "centre" and strengthen their economic and military capabili-

[6] However, there are some global standards which are not decided by states. The good examples are International Standard Organization (ISO) which evaluates corporate activities is a non-governmental organization, so as International Accounting Standard Board (IASB). These points are well discussed in Saskia Sassen, *Losing Control?: Sovereignty in an Age of Globalization*, Columbia University Press, 1996.

[7] Immanuel Wallerstein, *Modern World-System I: Capitalist Agriculture and the Origins of European World-Economy in the 16th Century*, Academic Press, 1974.

ties, but on the other, they conquered other nations and integrated into their polity. This contradiction finally appeared as movements for independence, and colonial European states paid a very high price. This process of the expansion and collapse of colonial empire overshadows the European vision of the world, and the lessons they learned became the principle of their actions.

So what they learned from the lessons. First, they learned how strong the willingness for "self-determination" is. Although the political and legal concept of "self-determination" was established after the World War I, the notion of national political autonomy and the appeal to nationalism as a principle for national unity emerged in 19th Century Europe after Napoleonic War. The colonial elites, such as Nehru of India, Nkrumah of Ghana and Bourguiba of Tunisia, spent quality of time in European countries and witnessed a stunning surge of nationalism for nation-building and modernizing process. They questioned the colonial occupation by European countries, and mobilized their population for independence by appealing to nationalism. As a result, European states were not able to contain these movement, and in some cases defeated by the nationalist military forces, and most of the former colonies became independent sovereign states in 1960s (although these newly born states were not based on the ethnic groups or tribes, but artificial "nations" based on the administrative spatial division). In short, the ideology of "nation-state" destructed its own empire.

This experience in history taught Europe that only military and economic dominance or "civilization" discourses are not enough to maintain the colonial occupation. The concept of "self-determination" became the backbone structure of international order, and it would become impossible for occupying foreign territory. Thus, the imperial domination can only be able to realize when the empire respects the self-determination of subordinate states, and exercise their power by subordinate states voluntarily following the orders of empire through legitimate domestic legal and political process. This is quite different from explicit use of force by the United States in the cases of Chile in 1973 or support of anti-communist guerrillas during the Cold War or foreign occupations in Afghanistan and Iraq today. On the other hand, European states have not exercised their military power for direct intervention, other than peacekeeping operations in various places. However, Europe has set up a lot of rules and standards of global market (environmental rules, CE certification, ISO standards, IASB accounting standards, and so forth) which are imposed to third countries. These rules and standards are not forced by coercive power but through persuasion by negotiation, and voluntarily accepted by subordinate states through their domestic ratification processes. European states, from their past experiences, respected the "self-determination" while propagated global rules and regulations in their favour.

The second lesson they learned from the past experience is that the cost of colonial management was enormously high. Whatever the objective of the colonial occupation was – be it an exploitation of resources, enlightenment of barbaric society, or enlarging the market – the cost of developing social and industrial infrastructure, administrative system, and military force to protect their interests increased infinitely and harmed the balance sheet of empire. Also, financial and human resources eroded when they faced independence movement. Patrick O'Brian discussed that the cost of conquest was often surpassed beyond the anticipated one, and the management of colonies ended up with overspending of the wealth of empire[8].

It is also true that the development of mass communication technologies, such as newspaper and radio, made it possible to spread the image that the colonial occupation was not successful, and people who has the democratic rights to define the course of political affairs began to question whether colonial occupation would balance the cost and the benefit. It became increasingly difficult to maintain the imperial policy without popular consent both in mainland and colonies.

The third lesson that European states learned was the destructive consequence of the competition of empires. Although it was extremely

[8] Patrick K. O'Brian, *The Industrial Revolution in Europe I*, Blackwell Publishers, 1994.

costly, there was an expectation that colonial investment would bear fruits in the future, and furthermore, it was imperative for occupying the territory before other colonial empire would do so. Also, the expansion of their territories stimulated the nationalistic sentiments which eventually aimed to consolidate the nation that were sharply divided by labour movement and regionalism. As a result of this competition, doubts and uncertainties dictated the international political atmosphere, and the emergence of Germany as a late-comer industrialized empire and protectionist/mercantilist policies increased the tension between empires, which led to the World War I and II. These great wars were the mother of today's EU. European states pledged not to repeat the history of destructive wars and determined to establish an eternal peace between France and Germany. The EU as a regulatory empire is standing upon the ruins of traditional colonial empire, and this experience is a "birthmark[9]" of the EU.

From these lessons, it is clear now that even the EU exercises its power as an empire it would definitely not be the one in the 19th Century. Whenever EU tries to stretch their sphere of influence, it would respect the self-determination of subordinate states without coercive occupation and avoid military confrontation with other empires. Comparing to the actions of the United States, the "empireness" of the EU seems to be very moderate and invisible. However, it does not mean that EU is not an empire. From its own experience, EU is building an empire which is very cost-effective and less brutal empire, that we call a regulatory empire.

4. "Regulatory Empire" Goes East

The finest example of EU being as a "Regulatory Empire" is its Eastern enlargement. After the Berlin Wall was torn down, there was an enthusiasm in the Central and Eastern European Countries (CEECs) for

[9] Edelgard Mahant, *Birthmarks of Europe: The Origins of the European Community Reconsidered*. Ashgate, 2004.

joining EU and transforming their economy, but soon they had to face a chaotic and confused situation because of the lack of proper governance and market regulations (partially because of American "shock therapy"). The ethnic conflict in Former Yugoslavia created further confusion of the relationship between Western European states and CEECs. Having faced with these chaotic circumstances, the European states had to react to stabilize the CEECs while the enthusiasm for "return to Europe" remains. In 1993, the European Council at Copenhagen decided to set up so-called "Copenhagen Criteria" for CEECs to join the EU. The Copenhagen criteria requires the candidate countries (CEECs) to achieve (a) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and, protection of minorities, (b) the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and (c) the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. Among which the most difficult one for CEECs was to accept *acquis communautaire* (*acquis*) to meet the requirement to participate in the single market. The *acquis* is a comprehensive legal system of EU laws which contains 31 Chapters, 8,000 items in 18,000 page-documents. Furthermore, there was no guarantee for candidate countries to join the EU when they achieved these criteria. It is up to the accession negotiation, which is the bilateral negotiation between EU (represented by Commission and the Presidency) and the candidate country. So, the candidates had no choice but to commit themselves to reforming fiscal, administrative, judicial, and regulatory systems. Also they have to invest in social infrastructure such as electricity, water supply and sewage, road, ports, airports, communications and so forth in order to meet the EU standards, while improving their fiscal balance.

Meanwhile, the EU has constantly monitored the achievement of *acquis* and evaluated how much candidate countries worked on the reform agenda. In 1997, the EU published "Agenda 2000" which was as if a grade sheet given to students from their teacher, without taking much consideration how much these reform agenda put stress on the so-

cial forces. In 2001, the EU decided to drop Bulgaria and Romania from candidate countries because they had not met the Copenhagen criteria, particularly the accounting standards, rule of law (corruption) and border control. If candidate countries do not meet the criteria, that's the end of story, no matter how much the reform destruct the bases of normal lives of the people. This is exactly the kind of things that "Regulatory Empire" does towards its subordinate state.

Then why did CEECs have to commit themselves to Copenhagen criteria? It is because they depend heavily on EU for their economic growth. As it can be seen from the table, the volume of trade with EU is twice as large as that of the rest of the world for the three largest countries of CEECs, export in particular. In order to export to the EU market, the products have to comply with regulations and standards of the EU (such as safety requirements, packaging, chemical contents, etc.), and those regulations are only made through EU decision-making processes. In other words, without the membership of the EU, there is no chance that they can have a say in decision-making but to follow those regulations. Furthermore, the border which divides single market and non-EU market is a big barrier for CEECs. The cost of CIQ (Custom, Immigration, and Quarantine) process, tariffs notwithstanding, is a heavy burden for CEECs to penetrate into the EU market.

Table Dependency on EU trade: Czech Republic, Hungary and Poland

Unit: Million euros

	Czech Rep. (export)		Hungary (export)		Poland (export)	
	To EU-15	ROW	To EU-15	ROW	To EU-15	ROW
2002	27,825	12,763	27,425	9,078	27,824	12,289
2003	30,052	12,857	27,709	9,944	29,915	13,511
	Czech Rep. (import)		Hungary (import)		Poland (import)	
	From EU-15	ROW	From EU-15	ROW	From EU-15	ROW
2002	25,906	17,043	22,459	17,468	34,391	21,580
2003	26,803	18,382	27,203	18,936	36,069	22,347

Source: Eurostat

Furthermore, CEECs would be able to attract more investments if they join the EU. Although there were several pre-accession scheme such as joining EEA and European Agreement (EA), but it would be more attractive for investors if the CEECs join the single market and export to single market without any barriers. For CEECs, it is crucial for attracting investments because they face a serious problem of unemployment after public sector reform and privatization. If they would not be able to join the EU, the government of CEECs could not cope with the pressure from their society.

Even after they completed the accession process, the reform process would not end. The membership of euro would be the next target for improving their economy. In order to join euro, CEECs have to comply with Maastricht criteria – capping the budget deficit within 3% of its GDP, national debts within 60% of GDP, low inflation rate and membership of EMS. Again, achieving these criteria would not be easy. Many EU-15 countries had problems with national debts and budget deficit, and even Germany and France, the two most responsible states for the EU economy, had their difficulties to meet these criteria. For CEECs, it would be more difficult since they need to invest heavily for ailing social infrastructure, broken pension funds, and rescuing unemployment. For a moment, CEECs' economy is rapidly growing due to foreign direct investments and relative cheap labour, but the wage level is also rapidly increasing and their advantage is gradually diminishing. However, the financial crisis after the collapse of Lehman Brothers hit CEECs extremely hard since foreign investments are deserted. There is also a problem of brain and labor drain. Due to the accession to the EU, many young and talented people are moving towards West for finding higher quality and salary jobs, and it would be difficult for CEECs to make them stay unless there is a significant investment in high added value industries and R&D. However, these new investments for the future generation would be difficult if the governments reduce public spending in order to pursue the objective to join euro. As a result, there is a strong migration pressure towards West, while those who stay in CEECs demand further for better social security and pension. This is exactly the case of "semi-periphery" as Wallerstein argues, and as a result,

the power structure of the “centre” will not be affected by the social movements of the "periphery".

It is certain that the *acquis* and Copenhagen criteria played an important role for stabilizing CEECs after the democratization and drastic market reform. However, it is also important to note that the stability of CEECs was the interest of the (West) European states. For the EU, the stability of economy and society of CEECs is the most important interest, especially with regard to its failure for intervening in Balkan conflicts and dependency to the United States for solving international crisis. In addition to that, the development of democratic regimes in CEECs would buffer the protests and criticism from the periphery. It was a triumph of the EU to dictate newly emerged free markets, which may be dominated by the US interests, and control over these new markets by exercising their power as the “Regulatory Empire”.

Having said that, the values and norms that EU put in the Copenhagen criteria, such as basic human rights, democracy, rule of law and good governance, are also used as political conditionality in the development assistant programs. For example, EU imposed a suspension of the financial aid from European Development Fund to Haiti, Fiji, Cote d’Ivoire, and Zimbabwe because these countries violated the “democratization clause” of Cotonou Agreement[10]. There are similar clauses in the European Neighbourhood Policy (ENP) and other bilateral agreements with developing countries. In most of the cases, EU can unilaterally review its assistance program or suspension of the Most Favoured Nation (MFN) treatment[11]. So, even the states are less dependent on EU than CEECs, EU use assistant programs as a leverage to impose its value.

[10] *Council Decision* of 29 January 2001, of 9 April 2001, of 25 June 2001, of 18 February 2002.

[11] Tadashi Yamamoto, “Human Rights and Democracy at the EU: the Question of Conditionality”, *Japan EU Studies Association Journal*, vol 22, 2002.

5. Competition with other Regulatory Empire

So far, we have discussed how EU plays its role as a “Regulatory Empire”, but we need to ask whether EU remains as a regional regulatory empire or a global one. The time when EU emerged as a regulatory empire coincides with the time when the United States exercises its military might and attacked Afghanistan and Iraq as if it is a traditional 19th Century-type empire. Vis-à-vis the US imperial action, the “empireness” of the EU seems to be sloppy and incomplete because of the lack of military forces to sanction the subordinate states as the last resort. The division between Franco-German camp and British-Italian-Spanish coalition on Iraq suggests that EU still lacks the power to convince other countries when there is no collective willingness.

However, as the progress of globalization moves on, the sphere of influence of the EU as a regulatory empire seems to be extending. The debate over international trade rules through WTO dispute settlement processes, particularly on the cases of banana, GM (Genetically Modified) foods and beef hormones with the United States represents a peaceful competition of regulatory empires, and in some cases EU wins important trade conflicts (such as the case of trade through tax haven). Furthermore, the battle over the global standards of accounting would be crucial for attracting international investments, and the International Accounting Standard Board (IASB) which is supported heavily by the EU states became a *de facto* global standard. The case of mobile phone provides another interesting case. European states employed Global System for Mobile Communications (better known as GSM) because it would enable European mobile phone users to connect in foreign countries. It encouraged European manufacturers to develop products for global market, and eventually Nokia of Finland and Ericsson of Sweden became the champions in this market. In terms of health and safety, EU is also taking advantage of using its sheer size of market. The RoHS Directive and REACH Regulation are good examples of EU’s regulation changing the behaviour of Multinational Companies. Apart from global market regulations, EU is also winning the battle against the United

States in competition of the provider of universal values. For example, the elimination of death penalty became the universally legitimate claim due to the European efforts in spreading its values, and the United States is under pressure for following the universal value. Also, in the area of environment policy, EU reigns as a champion for reducing green house gas emission and reusable energy. Finally, the EU became the most prominent actor in the application of its competition policy extraterritorially. Huge fines were given to General Electric (GE), Microsoft, and many other global giant companies since they were not behaving according to EU's rules and regulations. The idea of extraterritorial application of anti-trust policy was invented by the United States, and for a long time, the US was the most prominent player. But today, it is undoubtedly the EU, the Commission to be precise, that are feared by non-EU states including the United States and Japan.

However, it is also true that the United States is also very strong "Regulatory Empire". It has defining influence in IMF and setting up political conditionality, and set standards in civil air traffic and maritime traffic, and global financial market. The EU still remains as a regional regulatory empire, and it requires three conditions to be much stronger regulatory empire. First, the successful cases for the EU to create and impose global standards are always the case where EU's standard is much higher and rigid than that of the United States. The CE certification and environmental policy would be good examples. If EU's standard is lower than the United States, the subordinate states would employ American standards. Second, the power of influence is defined by how much subordinate states depend on the EU market. However, the geographic constraints are not easy issue to overcome. Thus, it is necessary for EU to use more international institutions to persuade subordinate states. Third condition is whether EU can hold a unity and collective power. In cases of Iraq, WTO negotiation (especially on agriculture policy), and sanction against Russia suggest that the EU would be very weak in negotiation if the member states are not in agreement. It is difficult to assume that EU would override American empire, but the role of the EU is increasing and the battle between regulatory empires would be much sharper one in times to come.

Conclusion

No matter how much EU's influential power increases, it would be difficult to see Europe going back to 19th Century-type empires. In the 21st Century, the empire can only be functional empire if it respects self-determination, uses discourses of universal values, and let subordinate states to take actions to comply with the rules and regulations. Being a "Regulatory Empire" would be more cost-effective, lower-risk way to manage the empire.

The analysis of EU as a "Regulatory Empire" would enhance our understanding to the EU. Often, EU or European integration process in general is regarded as a "good thing". It is certain that the European integration is a unique experiment in the history of mankind and it established a structure not only for a peaceful coexistence but also for prosperous economy and social cohesion. However, it is wrong to assume that everything EU does is a good thing. EU, as a polity of 450 million inhabitants and world's largest GDP, has its own interest and strategy for development. As it has seen in the case of referenda in France, the Netherlands and Ireland, EU also suffers a lot of problem of legitimacy and credibility from their own citizens. Furthermore, these citizens are demanding EU to be more effective to implement their values and norms, such as environmental issues, capital punishment or whaling. EU needs to respond to these pressures and exercises its power or "gravity" of the market as a leverage to force other countries to comply with their values and norms. These values and norms seem to be benign and better than that of the United States. However, we need to remind ourselves that the colonial empires in the 19th Century also employed discourse of "civilization" and "modernization" of primitive societies.