1 INTRODUCTION

Ever since the publication of the report *Our common future* (World Commission on Environment and Development - Commission Brundtland, 1987) and the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992, sustainable development has become the central perspective in national and international environmental strategies. Important changes in production and consumption systems are required in order to meet the needs and aspirations of a growing world population while using environmental resources in a sustainable manner (IHDP 1999). Instead of ‘compliance to regulation’ the challenge is to develop policy strategies through which industrial systems can be transformed into sustainable ones. Next to developing innovative policy programs based on voluntary and collaborative approaches, systems of direct regulation have an important role to play, if strengthened. Doing so only in a national context has severe limitations. Environmental problems, their causes and possible solutions have strong international dimensions. Unilateral approaches are therefore quite meaningless and also come across the competitiveness of national industries. Obviously, transforming regulatory systems can therefore not be done by a single nation state in isolation. Collaboration at a higher level is a necessity. The European Union is one of the important arenas for this.

During the past decades, the importance of the European Union has grown so significantly that we now can speak of a new and unique system of multi-level governance in Europe (cf. Scharpf 1999). There is a frequent transfer of policy arrangements between the national and the European level, and vice versa. In this paper we focus on how European legislation is incorporated in national policy systems. Although the international nature of many environmental problems and the vulnerability of competitiveness of industry
lead to a clear need to integrate and coordinate national approaches at the European level (cf. Coleman 1990), we will show that the national context of policy-making proves to be more resistant to change than one would expect at first sight and the transfer of policy arrangements between different levels of governance is more complicated.

Theoretically, the paper builds on historical and sociological strands of new institutionalism. A central concept that is used to account for the observed variance in national responses is 'goodness of fit' (cf. Knill and Lehmkuhl 1999; Börzel and Risse 2000; Cowles et al. 2001). The general expectation is that member states have a hard time coping with European developments if these don’t match with domestic systems of policy-making. The analysis shows that this is especially the case when there is a misfit in institutional structure and/or policy style between the different levels. Empirically, the paper reviews the implementation of the IPPC Directive. We report on the developments in Denmark, Germany, the Netherlands, Spain and the United Kingdom.

The set-up of the paper is as follows. In section 2 we further introduce the multilevel character of policy-making in Europe. The IPPC directive is described in section 3, followed by a comparison of domestic responses in section 4. We end the paper with some conclusions in section 5.

2 MULTILEVEL GOVERNANCE IN EUROPE: A NEO-INSTITUTIONALIST PERSPECTIVE

The European Union was established by the Rome Treaty in 1957 (The Treaty for the foundation of the European Economic Union). In the years since the European Union has developed as a complex and unique institutional structure. It is important to note that the European Union is not a supranational institution. National actors and institutions play a significant role next to European institutions. The principle of subsidiarity states that the Community will take action only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of effects of proposed action, be better achieved by the Community.

Thus, policymaking within the European Union is to a large extent a negotiating process between many

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actors at various levels. The main actors involved in the decision-making process are the Commission and the member states. The European Commission has the formal right of initiating legislation. The real power, however, lies at the national level. Through the Council of Ministers the member states make the final decision whether or not to adopt legislation and they give specific meaning to it during implementation. Member states have to face the challenge of implementing the outcomes of the negotiating process at the European level. European developments can be seen as a (small) innovation to the larger policy-system of member states. This implies not only changing legislation but also changing organizational structures, expertise, and working routines. This is not an easy job. Choices made previously limit the range of options. Change is possible but it takes a good deal of political pressure to produce that change. And the range of possibilities for that change is constrained by the institutional context.

This argument is derived from new institutional theory that tells us that change in general is difficult (cf. Peters 1999). There must be a strong driving force, since institutions develop robustness towards changes in their functional and normative environments, as well as towards reform attempts (Olsen 1997: 161). The attention for institutional analysis has been reintroduced in political science by March and Olsen in 1989 with their book “Rediscovering Institutions”. Their work showed the importance of the societal context in which action takes place instead of a focus on the individual actor and his motives. Organizations develop what is called standard operating procedures (cf. Peters 1993) – learned responses of the organization to certain problems. These standard operating procedures are important for organizations for they enable an efficient response. Without them the response would be slower and the organization would likely be less effective. Therefore, once launched, policies and their implementation processes continue along on the same path until some sufficiently strong political force deflects them from it. The existing institutional context constrains the ability to change, in our case: to adapt to European developments. While it is necessary for an effective governance system that there is a smooth interplay between the European and national level the transfer of policy approaches from the European to the national level is complicated. Current domestic institutional contexts constrain responses to European developments. Although changes are hard to establish, institutions are capable of change. Possible mechanisms through which change can occur are through learning, by the power of new ideas (as developed through a new policy program), external pressures, dysfunction of the original design, and critical junctures of (inde-

issues of industrial transformation and European integration. De Bruijn is the European co-ordinator of the Greening of Industry Network, a global network concerned with the transition of industry towards sustainability.
pendent) political pressures (cf. Peters 1999). The European Union is one of the sources of factors setting these mechanisms in motion. The question is however whether the European Union is a strong enough source.

Given that policy-making at the European level is a give and take between the member states, one can expect that outcomes of specific negotiating processes (e.g. a directive) create ‘winners’ and ‘losers’. Some member states may have been successful in ‘uploading’ their policy approach to the European level, while other ones may be faced with the task to ‘download’ foreign approaches. Thus, European legislation may fit better with certain national settings than with other ones. Domestic responses are likely to vary according to the goodness of fit (Olsen 1997: 177). In cases of a near match, European developments can be easily incorporated and complied with in the existing setting. Legislation that represents a more radical change has a much higher chance for failure. Such programs imply that government agencies change their implementation practices and maybe take on new roles in their relationship with industry. So, path-breaking programs will likely meet strong opposition from existing institutions (e.g. March and Olsen 1989) since the required change then completely counters existing ideas, working routines, existing structures, competencies, etc. Knill and Lenschow (2001) note, however, that not all adaptational pressures will meet strong resistance. They add the notion of the institutional core of national administrative traditions which they describe as “administrative structures and procedures that are embedded in the member state’s respective state, legal, and political traditions” (2001: 124), and, elsewhere, as “general characteristics shaping administrative practices and structures within a country, which follow from the specific constellation of the macro-institutional context, including the state tradition, the legal system, as well as the political-administrative system” (2000: 258). Processes of Europeanization (the incorporation of European legislation into domestic settings) that conflict with this core will meet strong resistance.

Understanding what constitutes this core, or what elements of national policy systems are most resistant to change is important for understanding the possibilities and limits to developing an effective European multilevel governance system. Institutions around environmental policies have different dimensions. European legislation may come in conflict with the existing content of policies (i.e. standards or instruments in use), with the existing institutional structure (i.e. legislative structure or organization of
implementation processes) or with the existing policy style. Policy styles are defined by Richardson (1982: 2) as ‘systems of decision-making, different procedures for making societal decisions’. He further speaks of ‘standard operating procedures’ for the government’s approach to problem solving and the relationship between the government and other actors in the policy process (idem: 13). He argues that national policy styles determine the range of options that is feasible to consider and describes a national style as ‘the procedural ambition’ of policy makers.

As said, Europeanization can create adaptational pressures on all three dimensions. The question is whether these pressures meet the same opposition in cases of misfit. Van Waarden expects “the substance of regulations to be easier subject to harmonization than the form and style by and the networks in which they are formulated and implemented” (1995: 364). Green Cowles and Risse (2001: 232) also find that “convergence is largely confined to policy [content] rather than to system-wide domestic structures”. In other words, member states might easier overcome misfits concerning policy content then on structures and styles. The institutional core then refers mostly to structures and styles and less to policy content.

In sum, one would expect European programs to be less successful when they do not relate closely to existing parts of domestic systems. In cases with an insufficient or improper institutional capacity and/or when there is a misfit with the dominant style in environmental policies, the chances for successful implementation are limited.

3 THE IPPC DIRECTIVE

The European Union was set up as an economic entity by the Rome Treaty in 1957. The participating countries didn’t provide for a common environmental policy. In line with the growing attention for environmental affairs worldwide (e.g. the United Nations conference on the Human Environment in Stockholm 1972) the Heads of State or Government insisted that a common policy was needed in October 1972. This resulted in 1973 in the first Environmental Action Program. Since then we can speak of an environmental policy of the Union. Since the Rome Treaty didn’t mention the environment as a basis for common policy, during the first years the competence for environmental policy was based on some broad formulated articles of the treaty. Since the emergence of trade barriers due to divergent environmental
standards in member states was being used to engage in environmental policies, it was a reactive process of agenda setting (Liefferink and Andersen 1997: 11). Therefore, most of the early legislation was meant to eliminate obstacles to free competition between member states (Sands 1991). The necessity of the link with economic development resulted in an ad-hoc development of environmental policy, trying to soften the external effects of economic growth. During the 1970s and 1980s, legislation in the form of directives was mainly concerned with setting limits on emissions of specific pollutants (Lévêque, 1996: 13). In twenty years time more than 200 measures were taken. In some fields successes were noticeable. However, by the mid-1980s, it was clear that broader and more integral strategies were needed. Regulations too often ended up in shifting pollution from one media to another rather than eliminating pollution. The Single European Act of 1987 gave the EU explicit competence for environmental policy. Since 1992 the concept of sustainability has also been added to the main aims of the Union (Treaty on European Union). Current European environmental policy takes an integrated approach at environmental problems. The 5th Environmental Action Program 5EAP ("Towards Sustainability" CEC, 1993) for instance follows a thematic approach with targets formulated for the short-, middle- en long-term, instead of focusing on problems in different environmental media separately. Out of the understanding that the ultimate goal of sustainable development can only be achieved by concerted action on the part of the relevant actors working together in partnership, 5EAP aims at a mixing of actors and instruments at the appropriate levels (CEC 1993: 113). In this respect 5EAP speaks of shared responsibilities between governments, business and the general public. The broadening of the set to policy instruments beyond direct regulation is one of the key orientations of the new approach. During the last decade the EU has promoted a well-developed mix of policy-instruments. On the one hand new, innovative approaches are introduced. On the other hand efforts are made to strengthen and transform national systems of direct regulation. In this paper we focus upon the prime examples of the latter: the Integrated Pollution Prevention and Control directive IPPC (Council Directive 96/61/EC).

The IPPC directive is intended to change and harmonize the environmental regulation of industry in the member states by imposing common requirements for issuing permits to (large) sources of industrial pollution throughout the EU. The directive is modeled to a large extent after the UK system of Integrated Pollution Control (see below). The directive itself was published in 1996. New or significantly altered installations had to be regulated by October 1999. Concerning the policy content the directive has two
leading principles. First, regulation must take the environment as a whole, instead of regulating separate environmental media (air, water, waste, …). Second, emission standards are to be based on the ‘Best Available Techniques’ (BAT) which means that in principle the most effective technology for pollution abatement must be used, but under economically and technically viable conditions. The European Commission organizes a horizontal exchange of information on Best Available Techniques, following the requirements of article 16.2 of the IPPC-Directive. The result of the information exchange is laid down in so-called BAT Reference documents (BREFs) that then have to be incorporated in environmental permitting procedures in the member states. BAT Reference documents are produced for each industrial sector mentioned in Annex 1 of the Directive. In total approximately 30 BREFs will be produced, covering some 50 industrial activities. For each BAT Reference document, a Technical Working Group (TWG) is established with experts from member states, industry and environmental NGOs. Member states may choose how to deliver their input to the working groups. The task of the Technical Working Groups is to provide and validate the available information. The process mainly involves a technical assessment of possible techniques. In the end a TWG has to come up with a proposal for BAT for a specific area. The European IPPC Bureau in Seville, Spain facilitates the work of the TWGs. The directive has little to say about the institutional framework in which it must be applied (Gouldson and Murphy 1998:46). Member states may choose to have one agency issuing permits, or may opt for a coordinated permit issued by different agencies.

In sum, the IPPC directive clearly demonstrates the multilevel character of European environmental policy with both the national and the European level strongly involved, as well as local regulators and representatives from industry. The directive holds fairly strong requirements concerning policy content but with ample opportunities for member states to have a say in it. The directive also calls for an integrated institutional structure and asks governments to collaborate with industry in developing the BREFs.

4. IMPLEMENTATION INTO THE DOMESTIC SETTING

We are studying how five member states are dealing with the IPPC directive: Denmark, Germany, the Netherlands, Spain and the United Kingdom. These countries have been chosen to provide a broad cross-section of environmental policy in Europe. Next to written sources/policy documents and statistical

2 Mid 2001 9 BREFs had been published, see http://eippcb.jrc.es.
data (Eurostat), data have been gathered through sources of information of the EU (DG XI, IPPC Bureau, EMAS Helpdesk) and (telephonic) interviews with key-actors within national ministries and agencies of environmental affairs. Below we describe the process of implementation per country followed by a comparative analysis.

Legislation in Denmark uses broad framework laws. Implementation of decisions on guidelines is left to negotiations between major interest organizations and the ministry. The main act in industrial regulation is the Environmental Protection Act of 1973. This act already made use of an integrated permit system with an integrated pollution prevention and control approach that stimulates the use of best available technologies, with a recent emphasis on cleaner technologies (OECD 1999: 134). The introduction of IPPC into the Environmental Protection Act was therefore fairly easy. Only art. 15 (concerning public participation in permit procedures) contained a new element for Denmark. It has now been added to the Environmental Protection Act, but only for the few Danish installations that fall under IPPC. Permitting procedures for other installations still go without formal public participation. As Denmark has a profound decentralized political and administrative structure (Christiansen and Lundqvist 1996), regulators in Denmark have a lot of discretion and are expected to take the local situation into account when issuing permits. Danish permits had a more or less guaranteed validity of 8 years. The more centralized system of Best Available Techniques puts some pressure on this practice. Denmark has a well-established tradition of formal and informal collaboration between parties (OECD 1999: 145). This has not resulted in a comprehensive process of developing national input for the Technical Working Groups. Denmark only participates in the groups that are directly relevant to the current industrial structure (18 out of 32). Also the number of representatives from Denmark in the working groups is well below the average of the other four countries under study (18 representatives in total) and they don’t usually deliver formal national reports as input to the work of the group. This can be explained by the fact that Denmark is a late industrialist. Even today there are few large industrial plants and there is relatively little heavy industry (Andersen 1997: 251). The practical meaning of IPPC is therefore limited to Denmark. After publication of the BAT Reference Documents they won’t be formally incorporated into Danish law. A Statutory Order is expected that will proclaim ‘that they shall be used as reference documents’, and not as binding documents.

The relevant act in industrial environmental regulation in Germany is the Federal Immission Control Act
(Bundesimmissionsschutzgesetz). The 1974 act forms the basis of a nation-wide, comprehensive law on air quality, noise abatement and plant safety. German environmental law is, however, extraordinarily fragmented (Pehle 1997; OECD 1993). First, there is federal legislation and legislation by the states. Second, most measures and regulations still are concerned with individual environmental media (Jänicke and Weidner 1997: 142). In principal Germany uses emission limit values instead of prescribing certain techniques. This is another perspective on limiting industrial emissions than the one employed by IPPC with its focus on techniques. Germany participates in 22 Technical Working Groups with a total of 62 representatives. Although Germany’s policy style can be characterized as inflexible and legalistic, the German society in general has a strong corporatist structure (Knill and Lenschow 1998). Germany usually doesn’t deliver its own formal notes as input, but it does form so-called shadow groups for each working group. In the shadow groups industry is also involved, next to representatives from the federal level and the Länder. After publication the BAT Reference documents will be incorporated in the ‘TA Luft’ in which emission limits are laid down instead of techniques. Experts will evaluate the need to change the emission limits when a new document is available. Also then, it is expected to contain mostly emission levels, but then based upon the list of techniques mentioned in the BAT Reference document.

The basis for environmental policy in the Netherlands was laid in the early seventies. In 1972 the Ministry of the Environment was installed. With some urgency media-specific environmental laws were formulated depending on a strong command-and-control mechanism. Since the 1980s there is a strong development towards integration (OECD 1995: 32; Liefferink 1997: 218). The Environmental Management Act of 1993 (Wet Milieubeheer) incorporated most medium-based laws that had been established previously. Key feature of this act is the provision for a new integrated system of environmental permitting that enables organizations to apply for a single permit covering nearly all operations except for discharges to water. Pollution control in the Netherlands already was a coordinated but not fully integrated system (Gouldson and Murphy 1998: 110). Except for some technical details, IPPC therefore gave a close fit with the Dutch regulatory system. The transposition of IPPC was fairly easy. The Netherlands contributes to 25 Technical Working Groups with a total of 63 representatives. The current practice in the environmental field reinforces the strong neo-corporatist traits of the Dutch society with its tendency towards bargaining and cooperation with interest groups (Liefferink 1997: 223). The input in these groups is therefore created through extensive consultation with and participation from industry (associations), and documented in so-
called Dutch Notes. After publication the BAT Reference documents will be integrated fully into the Dutch Emission Guidelines (NER).

Institutionalization of environmental policy in Spain started in the 1970s but it took until 1978 before investments in environmental areas became somewhat significant (De Esteban Alonso and López López 1993). During the first decade of democratic Spain environmental affairs still were more or less neglected (Font and Morata 1998: 213). Most attention was given first to re-establishing democracy, and then to the economic expansion. Environmental protection did not meet general international standards before Spain’s inclusion in the EU (Roy and Kanner 2001: 246). Mandatory regulation in Spain also still takes place in a fragmented regulatory system. Both the legislation as the implementation structure are ‘secto-

The United Kingdom has the oldest system of environmental protection (Carter and Lowe 1998: 20). Before 1973 the UK could be seen as a frontrunner and pathfinder on environmental affairs (OECD 1994: 99). In 1970 the environment ministry (Department of Environment) was established as a combination of sections of the bureaucracy that had previously existed in different departments. During the early 1970s major pieces of legislation were introduced. Traditionally the UK applied a fragmented approach to environmental problems. Separate policies were developed for air and water pollution, waste, etc. The legislation was broad and discretionary. There were hardly any legislatively prescribed standards and quality objectives (Carter
and Lowe 1998: 25). Already in 1976 the need for an integrated multi-media approach was recognized in the UK. It took until 1990 however before the Environmental Protection Act was passed, which introduced Integrated Pollution Control. It has been a major source of inspiration for the IPPC directive. The IPPC directive therefore was of the same general nature than the existing system in the UK, provided some small details. The general policy style of the UK (especially in environmental policy) is being described as informal, accommodative, flexible, cooperative, consensus-oriented and technocratic with a clear role for scientific understanding of issues (Carter and Lowe 1998: 25, Gouldson and Murphy 1998: 71; Vogel 1986; Weale 1997: 93). This is consistent with the lack of an overall national strategy. The IPPC directive was introduced through 5 rounds of consultation with industries and NGOs, in line with the mediating policy style. No great difficulties were encountered during these sessions. The UK participates in all 32 Technical Working Groups with a total of 59 representatives. They deliver their input through IPC Guidance Notes. After publication of the BAT Reference Documents, the UK will develop its own IPPC Guidance Notes, which will be based upon the reference documents, but are expected to be much more specific.

If we compare the developments within the five case-countries, it is clear that major changes are taking place within each of the countries. The ‘starting position’ of member states in implementing European legislation, however, differs considerably. Member states had developed different legislative structures and used different kinds of permit requirements. The underlying policy styles of member states also differ considerably. This leads to variance in misfits, see table 1.

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**Table 1:** Misfits between Europe and the member states

Although most of the member states have succeeded in transposing the directive, it proved to be easier for some member states than for others. IPPC was the biggest challenge for Spain. The Netherlands and the UK on the other hand experienced little adaptational pressures since their regulatory systems were
already more or less in line with IPPC. Germany, Denmark and especially Spain therefore experienced more adaptational pressures than the UK and the Netherlands. In Germany, the misfit mainly concerned the policy content (emission limits instead of BAT) and institutional structure (fragmented instead of integrated). For Denmark, the misfit concentrated on the institutional structure (decentralized system instead of binding national targets) and policy style (no formal public participation). For Spain, adaptational pressures developed on all dimensions, but mostly on the institutional structure (coming from a fragmented, underdeveloped system). In general you could say that members states with a close fit (the Netherlands and the UK) also follow the directive most closely. Denmark with its conflicting style and structure seems to be trying to insulate itself from IPPC, while Germany with its adaptational pressures regarding the policy content tries to increase the fit with its own regulatory system by participating extensively in the information exchange and by translating the outcomes in a way that fits more closely with its existing permit system. For Spain the gap between the existing regime and IPPC is too large to cross easily. The case of Spain proves that the lack of sufficient institutional capacity can seriously hinder the implementation of European legislation. The implementation of an integrated system of pollution prevention (such as required by the IPPC directive) proves to be difficult without a substantial system of regulation already in place. Without the existence of highly qualified regulators who are used to dealing with (complex) industrial processes, it is virtually impossible to negotiate ‘Best Available Techniques’ in an integrated way with industrial actors.

6. CONCLUSIONS

The European Union has become one of the main institutions in regulating the environment. From an institution merely producing technical standards the EU nowadays has become a promoter of a comprehensive and integrated approach on environmental affairs. Where sustainable development has become the main perspective, policies are intended to lead to a process of industrial transformation. Given the complexity of such a process and to avoid free-riders (member states that don’t put sufficient pressure on industry), governance in the European Union has to take place in a multilevel setting, that is in a tight interplay between the European and national level. National programs need to be coordinated and supplemented by collective approaches. Policies may originate at the national level, then be transferred to the European level, followed by implementation by the member states. In order for an effective

3 The table gives an overview of major misfits and does not list all minor problems member states encounter when implementing
European governance system to develop this transfer needs to be a rather smooth process. In this paper we have looked domestic responses to European legislation, in particular the implementation of the IPPC directive.

If we look at our data it is clear that misfits can happen on all three dimensions that we distinguished: policy content, structure and style. The question is whether the resulting adaptational pressures meet the same opposition. Our central expectation was that especially a misfit on institutional structure or policy style complicates the transfer. The one clear example of a misfit on policy content (IPPC in Germany) doesn’t seem to create major difficulties. Although implementation is somewhat more complex than in the UK and the Netherlands for instance, this has more to do with its fragmented policy structure. More severe problems indeed seem to happen when adaptational pressures concern the institutional structure or the policy style. Although IPPC holds no strong requirements concerning policy style, it does ask governments and industrial actors to collaborate on developing national input for the Technical Working Groups. If a member state isn’t used to collaboration and negotiating with societal actors, this process seems more difficult. But the influence of style shouldn’t be looked at in isolation. We see a clear relation between style and structure. IPPC introduces a more centralized element in systems of direct regulation (by means of the BAT Reference Documents). This is an uncommon element for member states who are used to giving a lot of discretion to local regulators (e.g. Denmark). Turning such a system around requires more than a technical or administrative change. Going back to our question on what constitutes the institutional core, we conclude that it is the interplay between policy content, structure and style that determines how well European developments can be integrated in domestic settings. Especially when European legislation conflicts with the ‘deep motivations’ of actors implementation is complicated. These motivations are reflected foremost in the policy style, but of course they have also repercussions for the way institutional structures are built and the contents of policies. Elements of content and structure therefore might reflect the policy style, and vice versa. Policy styles are relatively stable and hard to change in general. Even if there has been a major change, like in the Netherlands where the authoritarian policy style with a distant, negative attitude towards target groups has changed into a new approach designed to encourage self-regulation (Bressers and Plettenburg 1997: 116) and in the UK where the policy style has been changed from a more flexible, cooperative style to a more formal and explicit approach
(Weale 1997), there is no direct relation with European integration.

What does this mean for multilevel governance in the European Union? Developing such a system assumes that policy arrangements can easily be transferred from the European to the national level. Our analysis shows that this requires some uniformity in policy systems, especially in institutional structures and policy styles. We have to observe however that these differ considerably between the member states. The member states of the EU partly come from different political and cultural background. The starting point and national contexts therefore differ enormously. The environmental policies of the EU have to accommodate the problems of more or less industrialized and urbanized states, suffering from substantial environmental degradation, with individual member states being at different states in accepting and implementing the common environmental agenda (Butt Philip 1998: 254). The environmental conditions also differ between member states. Member states therefore have followed partly different routes and have built different institutional structures. Misfits between these domestic systems and European legislation are hard to overcome. We therefore expect that European integration will at best lead to some coordination of national approaches at a rather superficial level, but at the same time member states are able to preserve their national distinctiveness. The development of a balanced and coordinated European governance system for industrial transformation seems therefore out of reach as yet.

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