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ABSTRACT Today we have three bodies of literature relevant for understanding negotiations in international organizations, and they seem like islands in the sea, largely independent from one another. Each island has established significant relevant knowledge, while not taking the others' ideas into account very much. The three are negotiation analysis, political economy and constructivist contributions. Each has potential value for scholars of the European Union (EU). This divided field, after accomplishing much, offers many interesting opportunities for fresh research. It faces the prominent challenges of addressing fundamental conceptual problems and integrating the separate literatures.

KEY WORDS Argument; bargaining; distributive strategy; European Union; integrative strategy; international organization; negotiation.

Today we have three bodies of literature relevant for understanding negotiations in international organizations, and they seem like islands in the sea, largely independent from one another.¹ Each island has established relevant knowledge while not taking others into account very much. The bulk of our ideas about the negotiation process come from negotiation analysts, who, however, have focused on international organizations only occasionally. Second, political economy research on international organizations (IO) attempts to explain negotiated co-operation without devoting sustained attention to the negotiation process at the level of delegations, but has happened upon certain aspects without a framework to understand the whole process. Third, a few International Relations (IR) constructivists have begun to apply their ideas to IO negotiations. Each has potential value for scholars of the European Union (EU).

This contribution takes stock of research on negotiations among members of established world-wide IOs, studies whose ideas could be and in some cases are being applied and developed in EU research. Space permits only a small selective sample. It picks up a variety of issues but emphasizes economics and environment. Most scholarship on security negotiations concentrates on deterrence, peace talks, negotiating with terrorists and arms control rather than international organizations. This essay does not attempt to cover works on regional

organizations equally, but does point to numerous EU studies whose ideas parallel the others.

WHAT HAVE WE LEARNED SO FAR?

The negotiation process is a sequence of actions in which two or more parties address demands, arguments and proposals to each other for the ostensible purposes of reaching an agreement and changing the behavior of at least one actor (Ik   1964: 3–4; Odell 2000). *Negotiation* and *bargaining* are used interchangeably here, as in the dictionary and much negotiation scholarship.

1. Negotiation analysis

Much of this first research program has developed in psychology, law and business studies since the 1960s but remains relatively unexplored by political science and International Relations. Researchers on this island are concerned with negotiation in general – from divorce settlements to business deals to world politics. They share a methodological preference for theorizing about and observing negotiator behavior at the individual or delegation level as directly as possible, through experiments or case studies in the field. During the 1980s and 1990s this tradition became partly institutionalized through the Program on Negotiation headquartered at the Harvard Law School, the Processes of International Negotiation Project based at the International Institute of Applied Systems Analysis, *Negotiation Journal*, and *International Negotiation*.

The multidisciplinary tradition has developed a comprehensive conceptual framework for analyzing negotiation.² Experimentalists have tested many hypotheses, with students or experienced negotiators as subjects. In the international case study literature, most theoretical elements found are typologies – of negotiation stages, issues, roles, strategies and tactics. Less frequent are general hypotheses that explain variation across many cases and are stated precisely enough to be refuted. Few hypotheses have been studied in more than a handful of cases. Much negotiation analysis does not refer to IOs in particular, but advocates expect its ideas to prove fruitful there, while others are skeptical. The ideas are presented here in a rough order moving outward from the face-to-face process to coalitions and finally the institutional environment in which IO negotiators operate.

1.1. Core concepts with multiple meanings

Much negotiation theory refers to two-party encounters, but some key ideas have achieved wider influence. Walton and McKersie (1965) learned from observing United States (US) labor–management negotiation in the field that it is best conceived as four sub-processes running simultaneously. *Distributive bargaining* resolves pure conflicts of interest. *Integrative bargaining* finds

common or complementary interests and solves problems confronting both parties. *Attitudinal structuring* influences the parties' basic social relationship. *Intraorganizational bargaining* achieves consensus within each party. This seminal classic's most fundamental insight for the novice is that bargaining is much more than familiar distributive behavior – the striving to claim as much as possible at the expense of the other and defending against its claiming.

Integrative or problem-solving tactics include proposing agenda items likely to benefit both sides, communicating information more fully, joint exploration for opportunities to create joint gains, and imaginative searches for new arrangements outside the parties' opening positions. *Integrative* does not mean yielding to a demand without compensation, nor does it require altruism.

Walton and McKersie, Iklé, and their successors have long blended certain insights from simple rationalist premises with an emphasis on perceptions, biases, framing and persuasion. This tradition introduced the ideational dimension of negotiation a decade before game theorists began incorporating incomplete information, and a generation before IR constructivism was invented. It would be a mistake to confuse negotiation analysis with a narrow version of rational choice that is limited to selfish material incentives and fixed preferences without persuasion.³

As negotiation research expanded, different authors used core terms with somewhat different meanings. Some recognized that there is no guarantee that all parties to a negotiation will behave the same way. When one party uses an integrative strategy and the other a distributive strategy, can the process as a whole be classified as 'distributive bargaining' or 'integrative bargaining'? For clarity of description many authors adapted these terms to refer to the individual party in the first instance. Thus, *distributive* (or competitive, value-claiming) refers to a set of actions one side can use, and *integrative* (or co-operative, problem-solving, value-creating) refers to a different set of individual behaviors. Odell (2000) proposes a conceptual continuum of strategies ranging from purely distributive through mixed to purely integrative. Then a particular interaction can be described by aggregating whatever mix of behaviors that set of parties exhibits.

A different subset of studies, in contrast, reduces *bargaining* to mean exclusively distributive behavior by all parties, and contrasts it with *problem-solving*, which seems equivalent to integrative bargaining (e.g., Elgström and Jönsson 2000). These studies attempt to classify the behavior of all parties to a negotiation into one of these two categories; they do not allow for the possibility of different strategies by different players. Still another subset contrasts *bargaining* with *arguing*, using *bargaining* in a third sense to mean only discursive interactions in which no parties offer arguments and reasoning to persuade another to change her thinking (Deitelhoff and Müller 2005; Ulbert and Risse 2005). Dür and Mateo (2010) classify strategies as *hard* or *soft*, whose meanings differ from the more common *distributive* and *integrative*. Naturally a proliferation of meanings is a serious obstacle to knowledge accumulation and to influencing other scholars and practitioners.

1.2. The alternative to agreement

A core proposition is that the party's best alternative to a negotiated agreement (its *batna*) will set its resistance point inside the process – the worst deal it will accept – and hence set the limits of the zone of agreement on that issue (Raiffa 1982: 45). More precisely, how parties perceive the respective outside alternatives will shape their behavior. Moravcsik (1998) deploys this insight to explain distributional outcomes of major European Community (EC) internal negotiations. Odell (2009) proposes the hypothesis that a worsening in a party's perceived outside option during IO talks will lead the negotiator to shift her strategy in the integrative direction, and vice versa. This study in the World Trade Organization (WTO) features the EU as a central player, finds evidence that changes of resistance points are common, and that such changes probably are critical to breaking deadlocks. In fact a key part of many negotiations is attempts by each to change others' outside options away from the table or perceptions of them, to get parties to accept deals they had rejected. Negotiation can change parties' preferences in this sense. The perceived alternatives to agreement are more accurate guides to behavior and outcomes than state power or size.

1.3. Issues

The nature of the issue under negotiation is a main feature in Oran Young's model of the institutional bargaining process (1994: ch. 4), designed to explain the formation of international regimes and based on observations of environmental talks.

Another hypothesis proceeds from a distinction between issues that are inherently fixed-sum and those that have greater integrative potential. Walton and McKersie (1965: 129) find that agenda items involving strictly economic values where one side's gain is the other's loss are less likely to generate integrative behavior than qualitative issues or rules that will establish future rights and obligations. Winham (1986: 367) confirms this hypothesis in the Tokyo round of the General Agreement on Tariffs and Trade (GATT), where talks to set tariff rates exhibited more distributive behavior than talks to write new rules, where behavior was more flexible and exploratory. Conceição-Heldt (2006) develops a related idea about EU negotiations. Another common idea is that the special properties of different international issues lead to variations in the bargaining process across issue areas.

Sebenius (1983) situates issue linkage in a comprehensive understanding of the process. Adding an issue to a negotiation can lead to one-sided gains for the powerful, or widen the zone of agreement or reduce or destroy a zone of agreement, depending on the issue's properties.

1.4. Phase typologies

Zartman and Berman (1982), after learning from interviews with 50 United Nations (UN) ambassadors and other senior interstate negotiators, divide the

international negotiation process into three phases. In the *diagnostic* phase, parties decide to explore the possibility of negotiating, conduct separate preparations and sound out other parties. In the second phase they search for some general principle or *formula* to guide the third phase. For example, Paul-Henri Spaak's overarching principles are credited for helping European states negotiate the European Common Market (Zartman and Berman 1982: 93). In the *detail* phase negotiators then work out the particulars of an agreement consistent with the formula. This stage typology contrasts with the simple image of bargaining as mutual concessions leading to convergence.

Spector and Zartman (2003: 277) focus on the role of negotiation in how international regimes evolve after initial establishment. One conclusion is that when the states move on to the phase of *regime governance*, the negotiation process changes 'from initial concessional bargaining to problem solving as a basis for governance. . . . The members quit competing and vying for advantage'. In parallel, Elgström and Jönsson (2000) find that problem-solving has become increasingly institutionalized in day-to-day EU negotiations. But we also have plentiful evidence of continuing competition for advantage in the UN Security Council, the WTO and the EU.

1.5. Psychology and communications

The psychological community has confirmed many hypotheses about the negotiation process. Only a few have been studied in international organizations so far, but some believe these ideas have potential in that domain too. The insight that political science has recognized the most is prospect theory: individuals take greater risk to avoid or recoup a loss than to reap a gain of the same magnitude. Thus, when negotiators are framed to minimize their losses, they use strategies (such as making threats) that run a higher risk of breakdown, and they reach fewer agreements than negotiators who have identical interests and information except are told to maximize their gains (Bazerman and Neale 1992: 39). Berejikian (1997) uses this loss-framing hypothesis to explain changes in EC behavior during the UN negotiation that created the regime to protect the world's ozone layer.

Another form of framing is partisan bias. Each IO negotiator is a partisan for his or her organization. We know that the negotiator framed to take the perspective of one side in a dispute overestimates the value of her outside option, underestimates the degree to which the other side's objectives are compatible with hers, and uses a self-serving definition of fairness, on average and significantly compared with randomly assigned subjects given identical information except framed to think like neutrals (Thompson 1995). When partisan bias is present on both sides, it narrows the zone of agreement from what would exist on objective grounds.

Some findings from university experiments are confirmed by a study whose subjects were government trade officials playing roles in a simulation during a WTO training program. Under time pressure these expert subjects also made

tactical decisions by relying on fixed rules of thumb rather than responding to clear new information from others' moves. They too showed evidence of self-serving bias. They found it difficult to tell which aspects of others' actions were valid signals and which were irrelevant. Some convergence toward common knowledge occurred over rounds, but it was jerky and incomplete (Dupont *et al.* 2006).

Psychologists and communication researchers have devoted extensive attention to argumentation and persuasion, in and outside negotiation. Putnam *et al.* (1990) find that negotiators for US teachers and school administrators specialize in different types of argument at different stages. Arguments are made to establish what the issue is as well as to negotiate over the issue. Persuasive arguments are made during efforts to reduce conflict and reach mutual-benefit agreements. Convergent arguments, a special type created from the positions of other participants, make collaborative problem-solving more likely (Keough 1992: 117). Axelrod (1977) codes arguments made in three foreign policy settings and concludes that the key to persuasion in these settings is developing not arguments that are more resistant to attack or better supported by evidence, but arguments that others have not already taken into account. Each of these findings suggests a research question that could be investigated in the EU.

Many academic political scientists are skeptical of the value of laboratory findings for International Relations. Some assume the only relevant beliefs are individual idiosyncrasies, which are of no interest to theorists. Others assume that state negotiators are so constrained by bureaucracy and constituents that there could be no space in which individual negotiator biases and arguments could make any lasting difference, except perhaps on marginal matters. Some assume that professional experience will drive out biases and ignorance found among naïve undergraduates, for whom the stakes are low.

Other scholars respond that beliefs and biases like partisanship are not necessarily idiosyncrasies; some are shared by whole agencies or nations. International case studies find that capitals give their delegations significant autonomy. Learning from experience often reinforces rather than offsetting biases (Babcock and Loewenstein 1997). 'Experts who have rich models of the system in question' are even more susceptible than lay people to overconfidence in judgments and confirmatory bias (Rabin 1998: 32). Hardly any skeptics reject laboratory findings because they have investigated them empirically in International Relations and demonstrated that they are useless.

1.6. Coalitions

Moving outward from core ideas, a coalition is a set of parties that explicitly coordinate among themselves and defend the same position. Strategy includes tactics to build and preserve coalitions and split rivals. Coalitions are used both to claim value from others and to promote joint-gain deals.

In IOs, coalition impact varies with the prevailing decision norm. When decisions are made by voting, a coalition reaching the required minimum share of votes wins. When the norm is consensus or unanimity, minority

coalitions also influence the process (Elgström *et al.* 2001). In the GATT, for example, coalitions of small states have attracted more attention to their arguments; they have changed the thinking and behavior of other members when setting the agenda. Coalitions have made joint proposals and thus shaped terms of agreements and have blocked agreements they did not like. Coalitions find it more difficult to operate as a group when settling at the end, since settling often requires detailed concessions and trade-offs over which members have somewhat different preferences (Hamilton and Whalley 1989).

Under the consensus norm, the coalition's most significant distributive move is the threat to block agreement, and presumably that threat is effective to the extent that it is credible. Outside parties and mediators are more likely to believe the threat (a) the more homogeneous the members' preferences, reducing the odds that splitters will fragment the group; (b) the more the coalition includes powerful players, who may block even if their allies desert them; and (c) the larger the coalition, provided its members overcome the fragmentation problem. Odell and Sell (2006) illustrate a coalition that did so; Narlikar and Odell (2006) describe another that fragmented and gained little.

1.7. Institutions and negotiation behavior

Case research in world-wide international organizations has learned some things about how institutions shape negotiator behavior within them. Besides the difference between voting and the consensus rule, a few recent studies have begun to investigate effects of the chair of a multilateral negotiation on its efficiency and the distribution of value. Odell (2005) documents three types of mediation tactics used by chairs of WTO negotiations to promote consensus and the dilemmas raised by each type.

The EU is perhaps the extreme case of a strong institution that should shape negotiating behavior among members, and negotiation scholars have devoted attention to this relationship (e.g., Elgström and Jönsson 2005). Tallberg (2006) offers a theory of chairmanships as institutions developed to overcome collective action impediments like transaction costs and incomplete, biased information. Tallberg finds that in the EU, the members' *batnas* are not enough to explain outcomes. EU presidents raise the efficiency of EU negotiations while also bending the process in their favor.

1.8. Strategy effects

Finally, some negotiation research has assessed the effects of different strategies. Regarding distributive strategy, Bayard and Elliott (1994) report that US's use of threats under trade law section 301 to gain unrequited trade concessions gained more when the target state was more dependent economically on the US, when targeting a border measure rather than a less transparent one, and when a GATT panel had ruled against the other side except when the target was EC Common Agricultural Policy. Regarding mixed-integrative strategy

we have case studies illustrating its use and effects, but need more comparative empirical studies to pin them down and identify conditions that enhance the effects, inside the EU and elsewhere. Research on island 1 has not incorporated many ideas generated on islands 2 or 3.

2. The political economy of international co-operation

A second large island is international political economy (IPE). Some IPE studies of IOs touch on one aspect of the negotiation process, such as issue linkage, without considering the process as a whole. Martin (1992) hypothesizes that the presence of an IO will make issue linkages among the member states more likely and provides case evidence including one from the EC. From the island 1 vantage point, attempts at issue linkage are a feature of virtually all international negotiations (the only exception being one limited to a single issue). Yet, why do some attempts fail while others succeed? Often overlooked is that while an issue linkage can bring reluctant parties to the table, some linkages make agreement more difficult to reach. And since issue linkage is only one possible element in a negotiation strategy, studying it in isolation leaves unclear how linkage fits in the whole process.

Putnam (1988), building on Walton–McKersie and Raiffa, suggests that internal politics can affect the odds of agreement and the distribution of gain in an international agreement. The two-level game literature could be classified as both negotiation analysis and IPE. Evans *et al.* (1993) use this metaphor to analyze several European cases, including East–West security bargaining over Germany after 1945, weapons collaboration among allies, the Intermediate-Range Nuclear Forces (INF) dispute and the 1986 EC enlargement dispute with the US. Milner (1997) defends a formal version of the theory in part by contrasting the European Coal and Steel Community and European Defense Community negotiations. Patterson (1997) and Frennhoff Larsén (2007) expand the concept to three levels for the EU.

Limited-information game models present a third partial view of the process. These models assume negotiators who make decisions rationally and have reservation values that are fixed during bargaining. These models attribute bargaining impasses to one rational player's uncertainty about the second's true willingness to fight. The second player has incentives to bluff and miscalculations can result. In some models an early round provides new information, the first player updates its probability estimate and modifies its position, and they converge on agreed terms. I do not know of a study that has used a model of this type to explain an IO outcome. Koremenos *et al.* (2001) use game theory findings to propose hypotheses about why rational states form IOs with different structures in the first place, but say little about negotiations within a structure or about IO change over time. Few IPE studies have considered related findings from the other two traditions.

This short survey includes only a small sample from this large island. Most IPE works on IOs skip over the negotiation process at the delegation level.

More precisely, they do not often theorize about or gather evidence systematically on negotiator behavior. Many concentrate on state power structure and features of international institutions at the macro level, elements which the negotiator must accept as given in the short term. A longer survey should integrate those ideas too; they are relevant for the long term and are neglected by many negotiation studies.

3. Constructivist contributions

A third large island is populated by constructivist political scientists, whose attention has also focused mostly on questions other than negotiation, including longer-term changes in world politics. A few, however, turned their attention to interstate negotiation as such in the late 1990s and should not be overlooked. As for methods, they tend toward case studies based on documents that record discourses among states and others, rather than field work.

Risse (2000), dissatisfied with IPE, proposes that the concept of *arguing* as Habermasian communicative action can help explain negotiated agreements. Negotiators offer arguments to persuade others to change their thinking and agree on a course of action. In genuine deliberation, state negotiators seek the best collective outcome, and are open to changing their beliefs and preferences at the table on their way to a reasoned consensus. The best argument determines the outcome, regardless of states' power and interests. For Müller (2004), arguing can be motivated by self-interest rather than sincere truth-seeking, and negotiators may not be open to changing their minds. This latter usage seems to parallel island 1 writings about the direct route to persuasion through argumentation.

Several recent case studies provide new evidence on arguments in IOs that led to persuasion which changed negotiation behavior and outcomes on a variety of issues (Deitelhoff and Müller 2005). Ulbert and Risse (2005) claim that shared norms shape the negotiation process in an IO. These taken-for-granted norms differ across IOs and empower certain actors as legitimate in the process, rule certain arguments out of order and determine which discursive strategy will be effective. Their six case studies find three discursive strategies that were used to make arguments resonate with an organization's established norms. Deitelhoff and Müller (2005), reporting on the same project, suggests several hypotheses about conditions that will raise the odds and effectiveness of genuine deliberation:

- when negotiators are members of a common institution and already committed to common norms, approximating a common lifeworld;
- when talks take place in an international institution that gives the weak some authority despite power inequalities, approximating the ideal speech situation;
- when the negotiators are free of strong pressures from domestic or international politics;
- when negotiators are more uncertain of their interests.

The EU is the most likely IO in which to find genuine deliberation, since its members are more similar and have deeper legal institutionalization than those of any other international organization. Niemann (2006) is a rare work that merges ideas from islands 1 and 3. This case study of internal EU talks to set a common position for WTO negotiations in the 1990s does find authentic deliberation, but only in a sub-committee of the 113 Committee during the early phase. Later and above that level, other behavior identified by negotiation analysis dominated, even in the EU.

Most constructivists entered this subject without considering earlier negotiation analysis. Some of the newer concepts seem to overlap with earlier ones, and this literature generally does not show that the new way of capturing the subjective is an improvement. *Arguing* as genuine deliberation seems to overlap with such earlier ideas as persuasion, integrative problem-solving and arguing from principle and keeping an open mind (Fisher and Ury 1981: ch. 5). Concentrating on modes of communication also misses other ways that negotiators act, compared with more comprehensive frameworks built on many case studies and experiments. And an analytical disadvantage is incurred if we attempt to classify all negotiating action as either *arguing* or *bargaining*. In this scheme *bargaining* lumps together elements of distributive strategy (such as the threat) and elements of integrative strategy (such as an offer of material reward), and excludes arguments. This typology cuts across the better known distinction between distributive and integrative strategies and tactics. A distributive strategy can employ some material elements and some arguments, and so can an integrative strategy. Using the *arguing/bargaining* typology instead makes it difficult to see variations between these very different strategies and study their effects.

WHERE DO WE GO FROM HERE?

Our knowledge about IO negotiations is separated into three literatures that are poorly integrated, and it is still primitive in many ways. There are many things we do not know; many interesting research questions are calling for attention.

Looking toward the future, a fundamental challenge facing researchers in Europe and elsewhere is resolving this field's conceptual difficulties. Knowledge accumulation will be impeded as long as the field is in disarray about the meanings of such central concepts as *bargaining* and *strategy*. Competing academics can of course rationalize by saying that competition pushes researchers to improve. While there is something in this view, the present apparent confusion, viewed from outside the academy, is a weakness. There is a prominent need to move our disagreements from semantics to substance. I have made my recommendations (Odell 2000) and believe those concepts apply in the European Union.

Beyond this, each school can seek answers and theoretical improvements in studies of EU negotiations, first, by continuing along its familiar track.

Conclusions supported by one or two cases need to be checked elsewhere; ideas documented with one method need to be confirmed with others. On island 1, more analysts could classify European states' strategies (state by state) and study whether strategies vary predictably by issue or negotiation phase. What happens when some states begin with integrative and others with distributive moves? Under what conditions do states reciprocate what others do? Under what circumstances do distributive tactics gain more, and which conditions favor mixed-integrative strategy?

But another implication of this review is the opportunity for exciting research that integrates knowledge across the three literatures. Integration may develop most easily from the bottom up, as more empirical projects weave together ideas from two or three islands.⁴ On island 1, for instance, case study authors could investigate whether different strategic games identified in IPE generate different behavioral strategies as defined by negotiation analysts. They could follow the lead of communication researchers and IR constructivists to document which types of argument are used in which institutional settings. Do some institutional designs discourage or amplify judgment biases documented in experiments? Experimenters could create ways to test hypotheses about the effect of institutional differences (as conceived by either rationalists or constructivists) on negotiator beliefs and behavior.

Researchers could further isolate the effects of institutional context on negotiation behavior by varying the institutional context. Do changes in voting rules or other institutional features lead states to use integrative strategies more or less often? Elgström and Jönsson (2000) and Niemann (2006) vary the stage of decision-making within the EU and find more integrative behavior earlier than later. New research might compare negotiation behavior in different international organizations. One could compare the same European state's negotiation behavior *vis-à-vis* EU partners with its behavior toward non-members with similar preferences on a similar issue. Do coalition dynamics vary by organization?

On island 2, political economists studying EU dynamics with case studies could incorporate or refute more ideas from negotiation analysis and constructivism to answer their questions. Statistical hypothesis testers could attempt to find proxies for testing ideas developed in negotiation case studies or experiments (see Odell 2002b). Game theorists could attempt to model negotiation processes imagined or found by experimenters or case studies.

Constructivists interested in EU negotiations will find in negotiation analysis a more comprehensive foundation on which to build. Parts of that tradition can also help deepen constructivist theories' micro-foundations (Odell 2002a). Constructivists could consider importing and adapting ideas from experimental studies of argumentation and persuasion, as some have begun to do.

These are only a few of many possibilities. No completely unified empirical theory of international negotiation is in the cards. But our knowledge could become much better integrated than it is today. That future body of knowledge would be even more respected and influential.

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NOTES

- 1 The metaphor was coined by Jönsson (2002).
- 2 Sebenius (1992) reviews the early phase of a line in this tradition that makes informal use of some game theoretic concepts, pioneered by Walton and McKersie (1965) and Raiffa (1982). Each of the latter two attempts to identify all key dimensions of a negotiation. Lax and Sebenius (1986) and Odell (2000) build further on those foundations.
- 3 Ulbert and Risse (2005: 353) attempt to reduce previous knowledge to a straw man: 'Studies on international bargaining have overwhelmingly focused on the material context of negotiations'.
- 4 To monitor new research on economic negotiations, view the Economic Negotiation Network at <http://www.usc.edu/enn>

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