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What is This?

Contested Compliance: Interventions on the Normative Structure of World Politics

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This article argues that 'contested compliance', i.e. a situation in which compliance conditions are challenged by the expected norm followers, offers an empirical access point for studying changes in the normative structure of world politics. It conceptualizes the normative structure as the 'structure of meaning-in-use' that works as a reference frame for decision-makers. The argument builds on a distinction between type, category and meaning of norms. In addition, the article distinguishes between a behaviorist approach to the impact of regulative and constitutive norms on state behavior, and a reflexive perspective on the impact of discursive interventions on the normative structure of world politics. The intention of the argument is twofold. First, it addresses the puzzle of good norm following despite increasingly contested norms, e.g. regarding the European Union's accession criteria, on the one hand, and the United Nations Security Council resolution 1441, on the other. Second, it draws on and develops further the input of reflexive sociology on International Relations theory.

KEY WORDS ♦ compliance ♦ conflict ♦ enlargement ♦ European Union ♦ Iraq ♦ legitimacy ♦ regional integration ♦ sovereignty

Introduction

So far, compliance literature has addressed the question of why states comply with supranational norms (Koh, 1997), or, in turn, how non-compliance with such norms could be explained (Boerzel, 2001). This article highlights situations in which compliance conditions are contested by the designated norm followers. I argue that cases of contested compliance have, so far, received little attention in International Relations theories, despite entailing key information about stability or change of the 'normative structure'

(Barnett, 1999: 8) in world politics. The normative structure is constituted by discursive interventions that secure the (re)construction of the values, norms and rules entailed in it (Taylor, 1993: 58; Reus-Smit, 1997, 2001a). It is conceptualized as the 'structure of meaning-in-use' (Milliken, 1999: 132) that 'frames' decisions (Keck and Sikkink, 1998; Payne, 2001), or, in any case sets a framework of reference for decision-makers in world politics. The article develops the argument about the central role of contested compliance in world politics based on a distinction between two different perspectives in the subfield of compliance research. These two perspectives are distinguished according to their analytical emphasis on either state behavior or social practices. So far, political scientists have studied behavior as a reaction to norms in order to explain compliance. This article proposes that analysis of social practices in context provides additional leverage when it comes to explaining cases that otherwise seem puzzling, for example, contestation by the designated norm followers. Thus, the proposition is to distinguish between studies with a predominant focus on state behavior as a reaction to international norms, i.e. 'behaviorist approaches', and those which stress the role of discursive interventions as social practices that entail and re/construct the meaning of norms, i.e. 'reflexive approaches'.

The article pursues a twofold intention. First, it addresses the puzzle of good norm following despite increasingly contested compliance. This puzzle is brought to the fore by a case study which links the two situations of contested European Union (EU) enlargement conditions, i.e. the 'accession criteria',[1] on the one hand, and the question of whether or not compliance had been achieved, or indeed even sought by the designated norm follower, i.e. Iraq regarding the United Nations (UN) Security Council resolution 1441, on the other.[2] The case study illustrates that in both situations the discursive interventions about compliant behavior involved a dialogue between EU candidate countries, EU member states and 'others' (the US) that centered on the legitimacy of regional integration and pooled sovereignty as a normative structure in world politics. Second, the article seeks to draw on and develop further ways in which the application of reflexive sociology (Guzzini, 2000; Dallmayr, 2001; Lapid, 2001) in International Relations theory (IR) is to be substantiated. Here, the most challenging issue for IR scholars is to refrain from 'oversocializing actors' based on structuralist perspectives and allow for an analytical perspective on 'social change' that takes the structure–agency relation into account without letting either part collapse into the other (Barnett, 1999: 7; Risse, 2000; Boesche et al., 2003). The case study of contested compliance is carried out to illustrate the input of social practices on changes in the normative structure of world politics.[3] This normative structure has entailed the principles of the rule of law, democracy, fundamental freedoms and human rights to which the

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members of the liberal community of democratic states (Müller and Risse-Kappen, 1990) have adhered in an albeit varying, yet steady promotion of compliance. In doing so, they succeeded in a considerable expansion of the territorial reach of that structure, especially since the end of the Cold War. As a result, regional integration based on the practice of pooled sovereignty in the context of supranational institutional settings became a widely accepted concept for stabilizing that normative structure (Haas, 1958; Brunkhorst, 2002; Haas and Haas, 2002). Now, one could hypothesize about an emerging pressure and contestation of shared norms which will either — as a social outcome — favor and enhance the normative structure of regional integration, or, lead to competition among different normative structures.

Two profoundly different conceptualizations of 'interaction' in relation to the expansion of compliance with norms and the expansion of that normative structure prevail. They include first, a behaviorist understanding of strategic interaction which holds that government behavior (as the dependent variable) demonstrates a *reaction* to particular types of norms (Finnemore, 1996; Katzenstein, 1996; Finnemore and Sikkink, 1998; Martin and Simmons, 1998). According to this approach, interaction is regulated or constituted by norms. The second approach works with a reflexive understanding of conflictive interaction which implies that the meaning of norms as the dependent variable is embedded in social practice. The first presents a neo-Durkheimian understanding of norms as 'social facts' which structure behavior (Ruggie, 1998b). The concept of a norm is used 'to describe collective expectations for the proper behavior of actors with a given identity' (Katzenstein, 1996: 5). The second represents a neo-Giddensian understanding of a dual quality of norms as structuring and constructed which argues that the 'structural properties of social systems are both the medium and the outcome of the practices that constitute those systems' (Giddens, 1979: 69; see also Bourdieu, 1982, 1993; Tully, 1995; Wiener, 2002b). The crucial difference between the two approaches is that the behaviorist approach operates with stable norms, while the reflexive approach works with the underlying assumption of norm flexibility. While the former approach can therefore argue that prescriptive rules are entailed in the norm; the latter approach locates the norm itself in the practice. As Payne therefore correctly concludes, 'outcomes of "highly contested" normative struggles cannot adequately be interpreted without also examining social process' (Payne, 2001: 39).

To clarify, the argument advanced in this article does not seek to weigh a reflexive approach against a behaviorist approach. Both approaches offer analytical value-added in their own right, following their respective interest in different categories of norms, as the following section will elaborate in

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more detail. It is argued that the strength of behaviorist approaches lies in inferring and predicting behavior by referring to a particular category of norms that entails 'standards for behavior' (Finnemore and Sikkink, 1998).[4] In turn, a reflexive approach offers the assessment of another category of norms such as constitutional principles, world-views and routinized practices (Koslowski and Kratochwil, 1994; Christiansen et al., 1999; Koslowski, 1999). While the former is inevitably more interested in rules and principles of procedure (e.g. Franck, 1990, 1995), the latter's potential input lies with studying normative change in world politics (e.g. Reus-Smit, 1997, 2001a). Typically, compliance research builds on liberal assumptions about state behavior including most decisively the interest in collaboration among states enhanced by the glue of international communities and the input of interest groups on state behavior. For example, the liberal community thesis underlying the behaviorist approach would argue that social ties matter and shared identities enhance norm recognition (Jepperson et al., 1996; Katzenstein, 1996; Slaughter, 2003). Therefore, 'socialization' is a key factor in explaining the compliant behavior of designated norm followers, usually outsiders of the liberal community (Johnston, 2001; Schimmelfennig, 2001). The liberal community, the identity of its members and the norms which structure appropriate behavior within the community are hence assumed as stable factors. *Social change is expected with the norm following actor.*

As the article seeks to demonstrate, a behavioral approach to compliance would find more or less compliance with the designated norm followers and speculate about whether or not and if so how a situation of contested compliance could be solved. In turn, a reflexive approach that studies the social practices as part of the normative structure will facilitate a link between contestation and social change in world politics, arguing that solving the compliance problem is of ultimately lesser importance to world politics than the changed normative structure. The case discussed in this article suggests that social change occurs as a result of discursive interventions uttered by both norm setters and norm followers (see also Fierke and Wiener, 1999). In this case, the liberal community thesis does not offer sufficient explanation. If it is true that 'the rule lies essentially *in* the practice' (Taylor, 1993: 58; emphasis in original) compliance work will gain important insights from assessing the meaning of norms based on an empirical focus on social practices. If the practice changes so will the meaning of the norm. *Social practices are central to the construction of meaning as a social outcome of the process.* To reverse the bracketing of social practices, the article proposes a reflexive approach to rules and norms.[5]

To demonstrate the analytical leverage generated by an additional focus on social practices once social change on the norm setter's side stands to be

assessed, two situations will illustrate the puzzle of contested compliance. The *first* example is provided by the situation of massive eastern enlargement of the EU[6] which requires candidate countries to comply with particular conditions in order to be eligible for EU membership. While the candidate countries maintain an explicit and documented interest in EU membership, in the process representatives of the candidate countries turned to openly questioning these very conditions. This critical position notwithstanding, public votes have demonstrated overwhelming support for accession.[7] The enlargement situation shows that despite contestation, accession countries are good norm followers according to familiar indicators of first, institutional adoption of supranational rules and, second, public support for membership in the EU member states. The *second* example refers to the Iraq crisis which involved contestation with reference to two institutional environments, the UN and the EU. The actors debated whether or not agreement with the United States' strategy of preemption[8] in the aftermath of debating resolution 1441 in the UN Security Council was justified. Their respective interpretation of the rules set by international law was based on reference to normative structures shaped in different contexts. While all states belonged to the UN, only some were longtime members of the EU and/or NATO and others were aspiring to become members of these organizations. While all states subscribed to the same principles of international or transnational law, their interpretation of the meaning of the respective norms differed considerably, leading some to justify war and others to oppose it. Which position will hold forthwith based on which normative structure as reference frame?

The article proceeds in three further sections. The following *section 2* offers a brief review of the key questions that are raised by research on norms in general, and compliance research in particular. It distinguishes between a behavioral approach and a reflexive approach to norms and identifies a set of hypotheses on expected compliance with norms generated from that literature. *Section 3* elaborates on the case study which demonstrates norm contestation against the expectations raised by behaviorist hypotheses including EU eastern enlargement and the European crisis over decision-making about preemptive war against Iraq. It sheds light on the puzzle of contested compliance with recourse to a reflexive approach to compliance. The *final section* concludes with a summary of the findings and an outlook for further research. It calls for an analytical distinction between norm diffusion research and norm contestation research in order to assess stability and change of normative structures in world politics.

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Compliance with Norms

For some time now, students of International Relations have focused on the role of norms in complex decision-making where norms offered guidance for state behavior.[9] Norms were considered as 'problem solving devices for dealing with the recurrent issue of social life: conflict and cooperation' (Kratochwil, 1989: 69). They were subsequently 'held to affect state behavior by providing solutions to coordination problems, reducing trans-action costs, providing a language and grammar of international politics, and constituting state actors themselves' (Cortell and Davis, 2000: 65–6). At the time, research was mostly interested in the role of norms at the international level. A second wave of norms studies, however, while keeping the focus on state behavior as the dependent variable, 'argued that international norms also have important effects on state behavior via domestic political processes' (Cortell and Davis, 1996, 2000).[10] Indeed, indicators for compliance have been read off state behavior.[11] However, as compliance research advanced, state behavior was held to be increasingly influenced by domestic elites and transnational advocacy groups. More recent research found that compliance with international norms is due to interactive processes of 'strategic social construction' (Finnemore and Sikkink, 1998: 888) involving governments, social pressure groups and elites that enhance the motivation for compliance.[12]

The Behavioral Approach: Norm Diffusion

To lawyers 'international law is a complex of norms which regulate the mutual behavior of states' (Kelsen, 1968: 85). International law constitutes the context for 'normative obligation' according to which states behave, including most fundamentally, convergence regarding the norm of *pacta sunt servanda* (treaties are to be obeyed).[13] What explains the power of normative obligation? Why were states motivated to comply with norms in the absence of legally enforceable rules?[14] Do 'social norms provide an important kind of motivation' (Elster, 1989: 15; c.f. Chayes and Chayes, 1993: 186), and, if so, how could actors be persuaded to comply?, were key research questions raised by among others Adam and Antonia Chayes, in order to critically scrutinize the generally held assumption that 'almost all nations observe almost all principles of international law and almost all of their obligations almost all the time' (Henkin, 1979: 47; c.f. Chayes and Chayes, 1993: 177). How to persuade states to comply has turned into a leading research question assessed from the disciplines of international law, International Relations theory and European integration studies, respectively. Early institutionalists explored '*the role that norms*, backed by

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organizations such as the UN, *play in affecting states' behavior*.[15] Constructivist approaches in all three disciplines have brought the additional dimension of strategic interaction as a push factor in compliance processes to the fore, shedding light on processes of socialization, elite learning, persuasion and internalization as conducive to the outcome of norm following behavior. Constructivists share an increasing interest in developing robust approaches to assess precisely 'how political actors produce the intersubjective understandings that under gird norms' (Barnett, 1999: 8; Payne, 2001: 38). Interaction takes place in different contexts in which either competition over types of norms or competition over meaning takes place.[16] The 'social context of norm development' (Payne, 2001: 40), and hence the context of norm implementation and contestation, is distinguished according to the location of political arena, legal framework of reference, organizational environment and epistemic community formation. This conceptualization of 'context' works with two insights developed by institutionalists and constructivists, respectively. First, 'actors strategize in an institutional setting' and second 'actors are embedded in and circumscribed by a normative structure' (Barnett, 1999: 6–7). Third, in addition to these insights drawn from structural approaches, actors contribute — through practices — to the (re)construction of that normative structure (Milliken, 1999) while they are guided by it, nonetheless.

The compliance literature suggests that the context in which norms evolve matters in a significant way.[17] If we follow the core constructivist assumption that social norms matter to actors with a shared identity (Jepperson et al., 1996; Katzenstein, 1996), norm following or contestation depend on the context in which compliance takes place. Community formation in international relations has been conducive to communities with shared identities in which expectations about norm following based on core principles such as, for example, the rule of law, democracy and fundamental freedoms and human rights, converge. The most familiar settings in which such supranational communities have emerged include, first, the world political arena where politics is guided by international law and the organizational environment is set by the UN, NATO, OECD, WTO and others; second, the European political arena where politics is regulated by transnational law and the organizational environment is set by the EU, OSCE and the Council of Europe; and third, domestic politics which is regulated by constitutional law. The most influential community formations comprise the 'OECD World' (Zuern, 1998), the community of 'civilized states' (Risse, 2000) and the EU.

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Interaction: Types of Norms

In order to identify the type of norm, the prescriptive rules entailed in a norm, and how to convince others of adopting the norm, scholars called for more robust empirical work on ways of strategic interaction towards norm diffusion (Checkel, 1999). The processes include first, elite learning in international institutional environments; second, internalization and transfer of legal rules to domestic contexts; third, socialization of outsiders into the behavioral rules set by a community of insiders; and fourth, persuasion through arguing, typically within a supranational negotiating context, and shaming based on non-state actors such as advocacy groups both in international as well as in domestic political situations.[18] The following demonstrates four linear approaches to norm diffusion and the relevant hypotheses, emphasizing the most commonly applied 'liberal community thesis' regarding strategic interaction in the process of compliance. The first, elite learning perspective, begins with the assumption that an 'organizational field'[19] provides a context for norm diffusion. Qua interaction within one particular organizational field, typically provided by an international organization, norms are internalized within a supranational context and then transferred into domestic contexts. The success of elite learning processes depends on the prescriptive force of a particular type of norm, i.e. human rights, labor standards or citizenship rights and the ability to persuade domestic elites of the validity of this norm (Checkel, 1999, 2001). Interaction between different contexts such as supranational institutions and domestic politics matters. Hypothetically, elite interaction in international organizational fields establishes shared norms. Based on this norm transfer into domestic contexts, compliance varies according to learning, communication and domestic institutional structure.

The second, persuasion approach, is defined as 'the process by which agent actions becomes social structure, ideas become norms, and the subjective becomes the intersubjective' (Finnemore and Sikkink, 1998: 914; Klotz, 1995: 29–33; c.f. Payne, 2001: 38). It 'is expressly recognized as a principal method of inducing compliance' (Chayes and Chayes, 1995: 26, c.f. Payne, 2001: 55). The process is interactive and takes place within the arena of global politics with international law providing the legal reference frame. Framing normative ideas 'in such a way that they resonate with relevant audiences' is a 'central element of successful persuasion' (Payne, 2001: 39). Yet, often norm acceptance is due to 'coercion or some other mechanism, rather than persuasion' (Payne, 2001: 40). Hypothetically, persuasion occurs through arguing and bargaining among elites. In addition, shaming by advocacy groups as well as non-state actors seeking to influence government behavior in the international, transnational and domestic

contexts features as important strategic interaction with a view to persuading designated norm followers who are reluctant to comply. A third perspective draws on international law, assuming that compliance is pushed by 'interaction, interpretation, internalization' or, indeed, socialization which infers the interpretation of norms '*into* domestic structures' (Koh, 1997: 2649). Interaction is thus taking place within the legal realm.[20] Similarly, a focus on the meaning of legal rules offers an important access point for the input of practice.[21] This approach remains, however, restricted to an exclusive focus on the legal sphere within a political community. It hypothesizes that the meaning of legal rules is embedded in a set of beliefs which is created through the rule of law *as* a social practice. Compliance among members of a community, who adhere to the rule of law, is hence expected to be high.

Finally, the liberal community hypothesis draws on the socialization literature that works with two implicit assumptions. First, it assumes that outsiders assume the role of designated norm followers who by definition have an interest in gaining access to resources such as organizational membership or membership in a community of 'civilized states' or 'liberal states' (Risse, 2000; Slaughter, 2003: 7). Second, it assumes that the outsider's wish to become a member implies going to *any* length in order to obtain the resources including, in particular, the readiness to bend to the community's set of rules and beliefs. As Schimmelfennig summarizes it, 'in order to get access to these resources, the actor adopts the constitutive beliefs and practices institutionalized in the social environment and taught by the socialization agency' (Schimmelfennig, 2001: 117). This adoption of beliefs and behavior is defined as a process of socialization (Risse et al., 1999; Schimmelfennig, 2001; critically: Johnston, 2001) in which interaction between the socializing agency, i.e. the norm setter, on the one hand, and the norm follower, on the other hand, is observed (Finnemore and Sikkink, 1998). The outcome of this interaction depends on the question of whether and when outsider (states) are successfully socialized into accepting the rules set by a given context to which the rule following agency is external. Typically, 'two classes of actors' are considered, 'i.e. the states and international organizations that act as socialization agencies, and the external states toward which the socialization process is directed' (Schimmelfennig, 2001: 117). Access to the desired resource is offered by the socializing agency that identifies the conditions for membership. This perspective on compliance suggests a behavioral yardstick of success, that is, the outcome is successful, if and when norm followers are successfully socialized into accepting the rules of the norm setters. It follows logically that socialization is only possible in a situation where two different classes of actors, outsiders

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and insiders, interact. In other words, with socialization becoming increasingly successful the incentive for compliance declines. The following hypothesis follows from this perspective. Hypothetically, then, the behavior of civilized states converges according to core liberal norms (sets of rules) *and*, in addition, the incentive to follow norms depends on the carrot of membership. Compliance with norms in communities and the disposition towards norm adoption by outsiders are therefore expected to be high.

The liberal community hypothesis leads researchers to expect that community outsiders who seek membership will accept the cost of adopting the rules of that community. According to this hypothesis, 'member states can be assumed to share the constitutive values and norms of their community organization and to have been exposed, for a certain time, to socialization within the organization' (Schimmelfennig and Sedelmeier, 2002: 514). From that perspective, contested compliance would imply raising the stakes of membership and hence putting the realization of the key interest at risk. In turn, the argument developed in this article focuses on conflictive interaction as a central factor in the process of establishing social legitimacy. The process is based on a shared meaning of norms, in addition to the accepted relevance of a particular type of norm, i.e. enhancing success and likelihood of compliance following the consolidation of the norm's meaning. After all, 'Understanding is always against a background of what is taken for granted, just relied on. . . . our understanding resides first of all in our practices' (Taylor, 1993: 47, 50).

Interpretation: Meaning and Categories of Norms

Studying procedures and norms 'as causes' for behavior[22] implies setting the analytical focus towards ways of behavior in relation to *types* of norms, i.e. human rights, minority rights, labor standards, environmental standards or other (see, e.g. Payne, 2001). Analyzing the impact of particular types of norms allows IR scholars to identify shifts in types of norms and their political 'power' in a given social context of world politics (Risse et al., 1999). Yet, it leaves situations of conflicting or changing meanings of norms analytically underestimated. This emphasis on type over meaning of norm obscures the possibility of analytically defining variation in the meaning of norms.[23] Thus, 'language often is unable to capture meaning with precision . . . treaty language, like any other language, comes in varying degrees of specificity. The broader and more general the language, the wider the ambit of permissible interpretations to which it gives rise' (Chayes and Chayes, 1993: 189). At the same time, the successful signing of international agreements often depends on precisely this imprecision. Detail is not necessarily conducive to agreement as it 'is vulnerable to the maxim *expressio*

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unius est exclusio alterius (to express one thing is to exclude the other)' (Chayes and Chayes, 1993: 189). Subsequently, meanings are often left intentionally vague. This adds to the potential of variation in the interpretation of meaning in the different domestic contexts where compliance with a norm is expected. In addition, the implementation of rights in legal framework treaties will generate different degrees of political respect and judicial control. The likelihood of norm contestation increases with changes of context and/or incentives for compliance. I therefore propose a shift in analytical attention towards social practices to assess the *meaning* of a norm. Conflictive interaction brought to the fore by norm contestation broadens the analytical focus of compliance research towards the additional dimension of social change.

The influence of norms in world politics has been studied extensively. This is not the place to add another review to the growing body of literature.[24] A note of caution about different definitions of the norms at work is in order, however. Two categories of norms need to be distinguished for analytical reasons. They include, on the one hand, a *generic category of social norms* that provides 'reasons' which appear persuasive to decision-makers, and a *specific category of procedural norms* which entail 'instructions' that are applicable under given circumstances, on the other (Kratochwil, 1989: 69, 73). While both categories influence agency and are constructed by it, the latter category of norms is usually understood as a 'behavioral rule' entailing 'single standards of behavior' (Finnemore and Sikkink, 1998: 891) such as specified regulations and/or prescriptions.[25] In turn, the former category of norms encompasses a wider set of sociocultural information, entailing worldviews or core constitutional norms and principles such as, for example, the reference to a 'community of values'. It has therefore also been termed a normative structure or frame. It is not unusual for specific procedural norms to be in conflict with the generic sociocultural norms. Indeed, as this article argues, often the general perception of acknowledging the reason entailed in a generic social norm or normative structure, say human rights, conflicts with accepted rules, say the adoption or rejection of the death penalty in national constitutional frameworks. For example, the regulatory practices, i.e. human rights implementation differs distinctively regarding the adoption of the death penalty in the United States and its rejection in the United Kingdom, despite both countries' membership in the international community of 'civilized states' that adheres to the generic categories of norms such as the rule of law, democracy and human rights. Thus, 38 states including the US federal government have statutes authorizing the institution of the death penalty.[26] This practice is maintained despite the US being a signatory to treaties that uphold the human rights norm such as the 1948 Universal Declaration of Human Rights (UDHR) and in spite of an

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enormously successful input of human rights norms as a normative reference point for compliant state behavior in world politics.

The Reflexive Approach: Norm Contestation

A reflexive approach presupposes that meanings — while stable over long periods of time and within particular contexts — are always in principle contested.[27] The analytical assessment of conflictive potential leads beyond a mere assessment of procedures and norms as causes for behavior that tends to leave actors the role of 'cultural dupes' with little impact on social change (Barnett, 1999: 7). Barnett proposes solving this analytical problem by applying the concepts of identity, narratives and frames in order to situate context (cultural path) to particular international agreements (decisions). Most importantly, for the problem of contested compliance, is his perception of situating social practices over time, as a narrative which 'provides a collective understanding of how to understand the past, situate the present and act towards the future' (Barnett, 1999: 8). Social practices in context are thus conceptualized as two additional key factors which allow for the assessment of social change as an immanent aspect of compliance processes. Shared cultural contexts are expected to produce shared interpretations of meaning and, therefore, high social legitimacy of rules. Regime analyses, neoliberal institutionalism as well as sociological constructivist analysis have all demonstrated that the sociocultural context provides an important institutional 'environment' that matters for decision-making processes (Katzenstein, 1996: 11–25; on regimes see Krasner, 1983; Zuern, 1998). By focusing on social practices, the article draws on critical observations about the structural inflexibility of sociological constructivism[28] which facilitates more information about the role of different types of norms than about the impact of variation in the meaning of one single type of norm. With their respective concern for reflexivity and social interaction, the meta-theoretical observations of the 'interpretivist' and the 'sociological turn' of constructivism (Guzzini, 2000: 149) point to analytical tools to get at that meaning. Most importantly for that enterprise is an understanding of the role of '*social context* within which identities and interests of both actor and acting observer are formed' (Guzzini, 2000: 149; emphasis added; see also Barnett, 1999).[29] In sum, the argument borrows from reflexive sociology[30] which while often noted, especially by constructivists, has received little empirical attention among IR scholars as yet.

The reflexive approach builds on the central assumption about the dual quality of structures as constituted by and changed through social practices, which has been developed by Anthony Giddens, Pierre Bourdieu and Charles Taylor. For example, according to Giddens' concept of structuration

the duality of structures stems from a procedural perception of practices. Taylor takes this notion further, noting that 'the practice not only fulfills the rule, but also gives it concrete shape in particular situations. Practice is . . . a continual "interpretation" and reinterpretation of what the rule really means' (Taylor, 1993: 57). To assess the meaning of a rule therefore implies going back to the practices that contributed to its creation. Importantly, these practices involve contestation by way of discursive intervention. They imply an ongoing process of re/construction. As Guzzini summarizes, the 'international system . . . is still a system whose rules are made and reproduced by human practices. Only these intersubjective rules, and not some unchangeable truths deduced from human nature or from international anarchy, give meaning to international practices' (Guzzini, 2000: 155). IR scholars have addressed this empirical problem by focusing on discourse as the 'structure of meaning-in-use' (Milliken, 1999: 231). Discourse has therefore been conceptualized as 'the location of meaning' (Huelsse, 2003: 39). Translated into empirical research, this focus implies studying social practices as discursive interventions, e.g. in official documents, policy documents, political debates and media contributions. As Milliken observes, 'discourses do not exist "out there" in the world; rather, they are structures that are actualized in their regular use by people of discursively ordered relationships' (Milliken, 1999: 231). Discursive interventions contribute towards establishing a particular structure of meaning-in-use which works as a cognitive roadmap that facilitates the interpretation of norms. This structure creates pressure for institutional adaptation on *all* involved actors; at the same time, discursive interventions that refer to this structure have an input on its robustness.

This assessment of norms leads beyond a neo-Durkheimian perception of norms as social facts that exert structural impact on behavior (see also Kratochwil, 1984; Kratochwil and Ruggie, 1986; Ratner, 2000: 651 ff.). It means studying norms as embedded in sociocultural contexts that entail information about how to interpret a norm's meaning in context. The reflexive approach assumes that norms entail a dual quality. They are constructed and structuring. Hypothetically, the meaning of norms evolves through discursive interventions that establish a structure of meaning-in-use. Compliance therefore depends on the overlap of that structure in the reference by norm setters and norm followers. It follows that studying social practices in context opens analytical access to the interpretation of meaning which is constitutive for sustained compliance with norms as contestation sheds light on different meanings of a norm, thus enhancing the probability of establishing shared understanding of that norm.

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Case Study

The following case study demonstrates how the interpretations of the meaning of norms change over time and contribute to social change. Three contexts in which discursive interventions interact with existing norms or contribute to evolving norms are distinguished in order to assess the shifts in meaning of these norms that are constituted by and constitutive of compliance *as* a practice. First, the global context that is institutionally organized by the UN and NATO and regulated by principles and rules of international law; second, the regional context that is institutionally organized by the EU, the Organization of Security and Cooperation in Europe, as well as the Council of Europe and regulated — to a large extent, yet not exclusively — by the principles and norms of transnational law; and third, the context of nation-states regulated by constitutional law. As the hypotheses generated in the previous section emphasize, the interactive relations among states in these contexts are increasingly structured by processes of community formation. According to the liberal community hypothesis, these processes are expected to enhance the convergence of distinctive normative prescriptions and the interests of members vs. non-members. Typically, the latter's interest in membership trumps over other interests, hence providing those states that are in a privileged member state position with the powerful position of raising demands, establishing conditions and hurdles for those who seek membership. In this scenario of communities in which non-members compete for membership, compliance with membership rules, accession conditions, or, indeed, performing international political acts in the interests of the powerful member states is expected. The central logics of action identified by political scientists (March and Olsen, 1989; Risse, 2000), i.e. consequentialism, appropriateness and arguing point to this expectation which builds on the assumption of — however generated — stable norms. The 'structure of meaning-in-use' hypothesis, in turn, would assume that the meaning of norms is contested, unless and until a mutually satisfactory interpretation is established through discursive intervention which may or may not be conflictive.

Based on an investigation of discursive interventions in the final stage of EU enlargement and during the Iraq conflict, the following case study brings an interesting paradox to the fore. Thus, in the enlargement case candidate countries are reminded that the EU is a *community of values* to which the candidates must adhere (and the liberal community thesis would expect the candidates to adopt these values by way of socialization). In the Iraq conflict scenario the invitation to comply with the shared values of the

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EU is explicitly repeated, in particular, to the EU candidate countries. Yet, the interpretation of the meaning of what the European community of values might mean is clearly contested by a rift between the long-term members of that community themselves who end up taking different positions regarding both international and transnational European law. Making assumptions about compliance based on community membership is hence contradicted by both the 'best' case scenario of EU enlargement and the 'test' case scenario of contested consequences of UN Security Council resolutions. Based on discursive interventions the following case study demonstrates how the meaning of 'community of values' identified as the core of the liberal democratic normative structure, that sets the framework of reference in both situations, is contested and (re)constructed with reference to norms such as 'responsibility', 'equality', 'fairness', 'democracy', 'non-intervention', and how, as a preliminary outcome of this process, the concepts of 'sovereignty' and 'regional integration' emerge as highly contested in world politics.

It is important to note that the following case study involves two sets of dialogue in which different coalitions of, at times, the same parties to the dialogue interact. The first set focuses on a dialogue that unfolds in particular between 'old' EU (and NATO) member states, to one side, and 'new' EU (and NATO) candidates, to the other. The second set identifies the dialogue carried out predominantly among 'old' EU (and NATO) member states themselves. Throughout the first dialogue the norm of a 'shared community of values' is strategically used by 'old' member states in order to bring candidates in line. As the old members are divided among themselves, the strategic use of the norm contributes to forging a new interest in enlargement among the EU member states. Thus, the point of enlargement was long pinned down to a mixed bag of interests including a 'mission' to share democratic values including a market economy with the previous communist bloc countries, 'responsibility' towards the Eastern European 'brethren', as well as security interests, the structure of meaning-in-use in the aftermath of the Iraq conflicts suggests a different and enhanced political potential for an enlarged — and consolidated — EU in world politics. By linking the two situations, then, the case study demonstrates that the interpretation of the meaning of norms, in particular, the meaning of generic sociocultural norms, cannot be assumed as stable and uncontested. On the contrary, discursive interventions contribute to challenging the meaning of norms and subsequently actors are likely to reverse previously supported political positions.

The 'Best' Case Scenario: Enlargement Candidates Contesting Community Conditions

In the process of EU enlargement candidate countries are expected to comply with the conditions for membership, specified at the 1993 European Council meeting in Copenhagen. These so-called Copenhagen criteria have been agreed in accordance with international law, they rule the process of compliance up until the point of membership with the EU in 2004. At this point each candidate's status changes to that of law abiding member state bound by the transnational European law based on the Treaty of European Union (TEU).[31] An additional challenge to this shift from candidate to member state is being set by the twofold process of institutional change that has begun to unfold in the EU in the aftermath of the Nice Inter-governmental Conference (IGC)[32] in the year 2000 which called for institutional adaptations before an enlargement to more than 20 member states could occur. As a consequence, the 'finality' focused process of constitution-building, on the one hand, and the 'compliance' focused process of (eastern) enlargement, on the other, overlap in time (Wiener, 2002a). In other words, the member states participate in finalizing the constitutionalization of the Treaties and the subsequent declarations at the 2000 Nice IGC and at the 2001 Laeken Summit[33] to the point of constitutional change at the IGC in 2004. This change puts them in the position of having to obey the rules they created. By contrast, for the candidate countries it creates the new challenge of adopting and implement-ing yet another set of rules which have been negotiated and identified by others. That is, these rules are part of a 'structure of meaning' which must be put into use, yet, which has not evolved in relation to practices of the candidate countries. While, in EU enlargement processes, the accession *acquis* traditionally entails the entire *acquis communautaire*, this time the accession *acquis* has been expanded towards the adoption of minority rights.[34] It is important to note that while the *acquis* is supposed to work as a roadmap providing the basis for understanding and interpreting the EU's constitutional texts, to those who were not involved in creating the *acquis*, its meanings are likely to require explanation. As would be expected, the ten accession countries 'were very cautious' in their approach towards the draft constitution prepared by the Convention for the Future of Europe while the EU member states, in their majority, welcomed the draft.[35] Indeed, the latter's reception of the draft constitution was found to be 'surprisingly positive' demonstrating a 'broad majority in favor of the draft'.[36] Once compliance with the accession criteria is successfully completed by the candidate countries, as member states they stand to face the additional task of having to *learn* how to interpret the meanings of the revised constitu-

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tional texts in order to accept the EU's norms, principles and routinized practices of governance as legitimate.

Compliance with (Double) Standards

An emerging 'two-class approach to EU membership' in various policy areas has been noted.[37] This approach encompasses, in particular, the norm of minority rights. In addition to the existing *acquis communautaire* the accession conditions defined by the European Commission agreed at the Copenhagen European Council in 1993 entailed the condition of respect for minorities (De Witte, 1998; Williamson, 2000; Pentassuglia, 2001). Thus the conditions for membership defined by the so-called Copenhagen criteria entail:

- the stability of institutions guaranteeing democracy, the rule of law, human rights *and respect for and protection of minorities* (political criterion);
- the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the European Union (economic criterion);
- the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (criterion concerning adoption of the Community *acquis*).[38]

That is, in addition to the constitutionally defined conditions for enlargement according to Articles 7, 6(1) TEU, minority rights have been added by the norm-setting EU. Less than a month after the treaty revision at the Amsterdam IGC in 1996, 'the European Commission, in its opinion on the request for accession to the EU of a number of Central and Eastern European countries insisted on the importance of what it called "respect for minorities" as one of the political criteria for membership in the European Union'.[39] However, the successful implementation and acceptance of the minority rights condition by the candidate countries can hardly be expected since there are no legal instruments to guide minority rights protection. Indeed as De Witte observes, 'among the famous "political criteria" set out by the European Union as conditions for the accession of, or — more generally — closer cooperation with the CEECs [Central and Eastern European Countries], *the insistence on genuine minority protection is clearly the odd one out*. Respect for democracy, the rule of law and human rights have been recognized as fundamental values in the European Union's internal development and for the purpose of its enlargement, whereas *minority protection is only mentioned in the latter context*' (De Witte, 1998: 5; emphases added).

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Despite the formal legitimate procedural context of enlargement[40] candidate countries have begun to contest the previously agreed accession criteria. Their reactions to the Commission's proposals for enlargement negotiations,[41] in particular, on extended transition procedures in the areas of free movement and agricultural policy, suggest that some feel that they get less than they have bargained for.[42] For example, Jaroslaw Kalinowski, the Polish farm minister, has been found to 'attack' the European Commission's proposals for incorporating new member states into the EU's farm subsidy regime as 'discriminatory, saying they were likely to leave the most efficient Polish farmers worse-off after EU membership than they were before' and 'accused the EU of *double standards* for wanting to set in stone what new members would receive for the next 10 years, when the budget for the current EU was only set until 2006'.[43] This intervention was not well received in Brussels. Indeed Poland was seen as causing 'irritation by demonstrating *an attitude of bargaining* that is often irreconcilable as well as by its *difficulties in understanding*'.[44]

Commission officials sustain the perception of enlargement and finality debate as two parallel events, insisting on the separation of bargaining for membership, on the one hand, and deliberation over substantive issues on the other, by stating that the candidate countries '*have to accept the rules of the game of the club* [of the 15 old member states; author] they have to implement our rules'.[45] When asked whether the participatory conditions for candidate countries in the accession process should be enhanced, a commission official replied, 'No, I don't think so . . . these are rules . . . and when you want to become a member of the club, then these rules must be complied with . . . the rest can be negotiated once they are members of the club. . . . I think that *for accession, one should set up a hurdle which they will have to deal with, see and accept.*'[46] The discursive interventions by the norm setters thus reinforce the rule following rationale, i.e. the candidate countries' duty to comply and the expectation that club membership comes at the cost of compliance. In a long-term perspective, however, that rationale may imply backlashes. Situations of lacking norm resonance such as in the case of the contested chapters on budget policy might not be in the EU's own interest once electoral politics come into play (Merlingen et al., 2000; Danner and Tuschhoff, 2002). As the Polish farm minister pointed out, 'I need to convince our farmers to vote for accession. . . . But how am I supposed to convince them if they will expect lower incomes after accession?'[47] Later in 2002 Wladyslaw Serafin, president of the largest Polish farmer union 'Kolka Rolnicza', said that his organization would urge a 'No' vote on EU membership adding that 'if EU proposals concerning the direct payments — I do not say 100 per cent — will not guarantee competitiveness to a Polish farmer, we will vote "no" in a referendum'.[48]

Why this sudden turn against EU conditionality? The behaviorist approach suggests that the candidate countries have not yet been successfully socialized. However, the liberal community hypothesis would expect an increasingly shared identity. Thus, the main preconditions for shared norms were expected to be if not fully established, yet progressively put in place. Contested compliance then comes as a surprise. In turn, once the normative structure that had been constituted by discursive interventions within the context of European integration is considered, a shared understanding of a belief in European integration would be expected — from insiders. Thus,

> . . . decision-making in the 'European' polity is not only guided by the shared legal and institutional property, the *acquis communautaire*, it is also both result and part of an ongoing process of construction. For example, overriding national interest in particular issue areas has become a shared principle that is legally grounded in the practice of qualified majority voting in the Council of Ministers. In accepting this rule, *co-operation between states* has acquired the meaning of *co-operation towards European integration*. In the Europolity co-operation, therefore, entails more than the sum of the co-operating actors and the rules that guide them. It represents a belief — however contested and diffuse — in the project of integration. (Wiener, 2002a: 17)

The following interventions during the Iraq conflict, in particular the issues raised by President Chirac of France, demonstrate that as new member states, EU candidate countries would be expected to follow core EU principles and values such as the rule of law, democracy, fundamental and human rights (see TEU Article 6) and, more generally, a favorable disposition toward cooperation towards integration.

The 'Test' Case Scenario: Iraq Candidates Called to Community Norms

Resolution 1441 of the UN Security Council defined the full and effective disarmament of Iraq as the goal to be achieved by the United Nation's weapons inspectors' deployment to Iraq in the 60 days following that resolution. According to paragraph 2 of this resolution, the UN Security Council decided,

> . . . to afford Iraq, by this resolution, a final opportunity to comply with its disarmament obligations under relevant resolutions of the Council; and accordingly decides to set up an enhanced inspection regime with the aim of bringing to full and verified completion the disarmament process established by resolution 687 (1991) and subsequent resolutions of the Council.[49]

The expectations as to how to comply with this resolution and, more specifically, the assessment as to whether or not Iraq had complied with it, differed significantly among the signatories of the resolution. The debates in the UN Security Council following the so-called 60–day reports of the UN's

chief weapon inspectors, Dr Hans Blix and Dr Mohammed el-Baradei, exemplify the points of disagreement among the members. While disagreement among members of the Security Council is not novel given a long history of opposing positions presented within this UN body, especially during the Cold War period, the fact that it manifested itself as crossing right through the community of (western) liberal states did. Thus, as the following will illustrate in more detail, the United States found its position of preemptive warfare against Iraq supported by the UK, Spain, Italy and Denmark among others while the French and the Germans (supported by Russia) were opposed. Following the Security Council decision, on 27 January 2003 Dr Hans Blix and Dr Mohammed el-Baradei provided the Security Council with their 60–day reports on inspection activity in Iraq. The US Secretary of State, Colin Powell reacted to this decision in favor of prolonged arms inspection activity in Iraq, stating that 'not much more time' would be granted to Iraq, if the US were to decide.[50] And the British foreign secretary, Jack Straw, added that for the first time Iraq was in 'material breach' of UN demands for it to disarm and subsequently conceded that war had become likely.[51]

The Rift between 'Old' Members

The Security Council did not reach a consensus as to how to deal with Iraq's failure to comply with resolution 1441, i.e. whether or not to offer more time in addition to the 60-day period which marked the arms inspectors' security report in order to disarm. The situation worsened when on 29 January 2003 eight European leaders signed a letter supporting the US campaign to disarm Iraq of its alleged weapons of mass destruction and calling for the UN security council to 'face up to its responsibilities'.[52] It called 'for a united support of the US and for European cohesion on the Iraq issue' and followed a joint announcement the previous week by Germany and France opposing war. The Bush administration had tried to undermine the importance of German and French opposition by denouncing them as 'Old Europe'.[53] The letter began by saying Europe shared many values with America including 'democracy, individual freedom, human rights and the rule of law' and went on to say that 'the Iraqi regime and its weapons of mass destruction represent a clear threat to world security . . . we must remain united in insisting his regime is disarmed'. The core message of the letter was a pessimistic note about the chances of the Iraqi president, Saddam Hussein, complying with the UN, stating that 'sadly this week the UN weapons inspectors have confirmed that his long-established pattern of deception, denial and non-compliance of UN Security Council resolutions is continuing. . . . We are confident the security council will face up to its

responsibilities.'[54] The letter brought a deep rift between the security council members to the fore as 'eight out of 10 countries who have spoken at a closed session of the United Nations security council are refusing to bow to pressure from Washington, and are arguing that the UN weapons inspectors in Iraq need more time. The remaining five, including the US and Britain have yet to speak.'[55]

Reference to common EU constitutional norms and values was brought even more clearly to the fore when, in a second statement issued the following week, a number of European countries supported the United States report presented by the United States Secretary of State, Colin Powell, to the Security Council in New York on 5 February 2003. In this statement the foreign ministers of ten NATO (North Atlantic Treaty Organization) candidate countries, known as the 'Vilnius 10' or 'V 10',[56] expressed support for the United States' position on Iraq. With that statement, the Vilnius 10 endorsed the US view of the situation as presenting a 'clear and present danger posed by Saddam Hussein's regime' as one which 'requires a united response from the community of democracies'.[57] Asked about the statement issued by the Vilnius 10, President Jacques Chirac referred to the EU as a community that shared a set of values, saying:

> . . . the candidate countries . . . honestly, I think they have *behaved* somewhat *irresponsibly*. Because being a member of the European Union nevertheless requires a minimum of consideration for the others, a minimum of consultation. If on the first issue you start giving your point of view irrespective of any consultation with the entity you want to join, then *that isn't very responsible behavior*. At any event, it's *not very good manners*. So I believe they have missed a good opportunity to remain silent.

In addition to characterizing the candidate countries — and future members — as *irresponsible*, Chirac threatened them with the stick of potentially rejected membership by way of referendum:

> Let me add that, quite apart from the not-being-nice or childish aspect of that initiative, it's dangerous. It mustn't be forgotten that several of the EU Fifteen are going to have to ratify the enlargement through referenda. And we are very well aware that, already, the general public, as always when it's a matter of something new, have some reservations about the enlargement. . . . So, obviously an initiative like the one you're referring to can but strengthen, among the general public in the Fifteen — and particularly in those countries which will be ratifying through referenda — a feeling of hostility. And it needs only one country to hold a referendum which fails to ratify the enlargement for it not to go ahead.[58]

Now, again, the EU member state discourse presented membership as a 'carrot' by referring to their power to reject membership. This assessment of

who is in charge of offering the 'carrot' differs quite significantly from the Polish assessment a little earlier in the same year when the Polish discourse entailed the 'threat' of refusing to become a member.[59] The accusation of irresponsible behavior was reinforced by Chirac yet again. When asked why he criticized only the candidate countries when EU member states were also among the signatories of the statement, he explained that:

> . . . some countries are candidates and the others are already in the family. After all, *when you're in the family you have more rights than when you're asking to join*, when you're knocking at the door. You understand, I'm not criticizing anyone. But that isn't good manners. . . . I think that Romania and Bulgaria were particularly irresponsible to get involved in that when their position is already very delicate with respect to Europe. If they wanted to reduce their chances of joining Europe, they couldn't find a better way.[60]

Rule following was hence considered as a condition of achieving the carrot of membership. In response, candidate country representatives expressed the expectation of being treated 'with respect', 'in the spirit of friendship and democratic relationships' as, for example, the Polish Deputy Foreign Minister Adam Rotfeld and Romanian President Ion Iliescu expressed, respectively.[61] On 6 March 2003, the foreign ministers of France, Russia and Germany issued a joint declaration stating:

> . . . our common objective remains the full and effective disarmament of Iraq, in compliance with resolution 1441. We consider that this objective can be achieved by the peaceful means of the inspections. . . . Russia, Germany and France resolutely support Messrs Blix and El Baradei and consider the meeting of the council on March 7 to be an important step in the process put in place. . . . we will not let a proposed resolution pass that would authorise the use of force. Russia and France, as permanent members of the security council, will assume all their responsibilities on this point.[62]

Despite a shared identity and a shared respect for the normative structure of the liberal community and its leading principles, members of the EU, NATO and the OECD world stood divided. For example, the US president, George Bush, stated that he would give diplomacy over Iraq 'weeks, not months' adding that he would welcome the exile of Iraqi leader Saddam Hussein. 'For the sake of peace, this issue has to be resolved', Mr. Bush said, in an effort to increase pressure on a divided international community.[63] While during the Azores meeting among the leaders of the US, UK, Spain and Portugal, the discursive interventions kept stressing the role of '*international law*' and the issue of compliance with resolution 1441,[64] in the following contributions, the US and UK interventions, in particular, turned to stress national sovereignty and the authority that evolved based on the doctrine of preemptive war as a response to the perceived threat of one sovereign state. Now legitimate decision-making was tied to the principle of

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sovereignty in an anarchic world of states. As George Bush said in his war ultimatum speech:

> . . . the United States of America has the *sovereign authority* to use force in assuring its own national security. . . . Recognizing the threat to our country, the United States Congress voted overwhelmingly last year to support the use of force against Iraq. America tried to work with the United Nations to address this threat because we wanted to resolve the issue peacefully. . . . the United States and our allies are authorized to use force in ridding Iraq of weapons of mass destruction. This is not a question of authority, it is a question of will.[65]

The deadline for President Saddam Hussein and his two sons to leave Iraq by 0100GMT on Thursday 20 March or face war, set by the US administration, produced mixed reactions worldwide. For example, President Jacques Chirac of France said, 'whether it concerns the necessary disarmament of Iraq or the desirable change of the regime in this country, there is *no justification for a unilateral decision to resort to force*. . . . No matter how events evolve now, this ultimatum challenges our view of international relations. It puts the future of a people, the future of a region and world stability at stake.' And the German Chancellor Gerhard Schroeder pointed out, 'my question was and is: *does the degree of threat* stemming from the Iraqi dictator *justify a war* that will bring certain death to thousands of innocent men, women and children? My answer was and is: no. . . . As desirable as it is that the dictator leaves his post, the goal of resolution 1441 is the disarmament of Iraq of weapons of mass destruction. . . . Whatever happens in the next days or weeks, you can be certain that my government will continue to strive for the smallest chance of peace.' In turn, as one of the signatories of the letter supporting Bush, the Danish Prime Minister Anders Fogh Rasmussen said, 'the international community has demanded for 12 years that Saddam Hussein give up his weapons of mass destruction, but Saddam Hussein has not co-operated. . . . It is unacceptable to make *a mockery of the international community's authority.*' In a similar vein the Italian Deputy Prime Minister Gianfranco Fini stated, 'if from the start of the Iraqi crisis everyone, especially at the United Nations, had exerted maximum pressure on Saddam — something that was not always the case — war would have been averted. . . . Some gave the impression . . . that they wanted at any cost to differentiate themselves from the Anglo-American position instead of putting pressure on Saddam. . . . Saddam . . . counted on the fact that a divided international community ultimately would not have been able to take a decision.'[66]

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Conflictive Interpretations of Values among 'Old' Members and Candidates

In response to the statement issued by the eight European leaders, French President Jacques Chirac said:

> . . . when you talk about the position taken, there have been two things. On the one hand, there were three countries which signed the letter, which five other countries of the European Union had proposed, on this Iraq issue. It's this letter which had come to be seen as creating a crisis or mini-crisis within the European Union, or at any rate as *being at odds with the idea of European common foreign policy*. These three countries were Poland, Hungary and the Czech Republic.[67]

To the candidate countries, this 'idea' is not readily accessible as it is not written down in the Copenhagen criteria. While it is stated in the EU's *acquis* which stresses the EU as a 'community of values' (Article 11, TEU), the meaning of these values is apparently not shared by old and new EU members. It appears obvious to Chirac who seeks to evoke the legitimacy of this guiding norm in his discursive intervention. Yet, the candidate countries apparently do not consider this norm as a central reference point for their action, nor do the three 'old' member states of Spain, Italy and the UK. While it could be argued that the three strategically put the candidate countries' lacking awareness of these values to their use, the responses by EU diplomats suggest that the leaders of these three EU member states are considered to be out of touch with European 'public opinion'. Thus, it was argued that according to EU officials the rift provoked among EU member states was 'absolutely unnecessary', said one EU diplomat. 'It is divisive. [Blair and Aznar] who have been tipped as future presidents of Europe should be more in touch with the mainstream of public opinion and other governments.'[68]

In addition, the wording of the letter of the eight demonstrates the increasing importance of EU enlargement and the opportunities of coalition-building with a view to future common foreign and security policy decision-making. Thus, British Prime Minister Tony Blair declared for example, that he equally valued the relationship he had with other EU leaders, adding, '*clearly Europe is no longer six countries, it is 15, shortly to be 25.*'[69] In other words, enlargement opened new opportunities for forging alliances to endorse the varying foreign policy preferences of the 'old' EU member states. Enlargement thus turned into an opportunity to consolidate the core principles and values guiding the EU's Common Foreign and Security Policy (CFSP) according to Article 11 (1) TEU:

> 1. The Union shall define and implement a *common foreign and security policy* covering all areas of foreign and security policy, the objectives of which shall be:

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- to *safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter,*
- to strengthen the security of the Union in all ways,
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those of external borders,
- to promote international co-operation,
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.[70]

These common values are not only stipulated by transnational European law to guide EU foreign policy decision-making. They also establish a link between core constitutional principles of transnational and global politics. Thus, the UN Charter referred to in the TEU stipulates in Article 2 (4) that, 'all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations'.[71]

However, it was precisely on these shared community values that 'old' EU members were not in agreement, and that lack of shared interpretation of meaning 'spilled over' into the interpretation of international law (Mayer, 2003: 296). The Iraq crisis thus contributed to a new emphasis on successful enlargement. On the one hand, enlargement offers the opportunity to request compliance with EU common values from the new member states joining the EU in 2004. On the other hand, the core principles of the EU's would-be constitution are contested among the current member states as well, leading some to interpret the UN Charter as endorsing war, and others to oppose it. As the controversial debates about the transnational law codified in the TEU which stipulates the EU as a 'community of values' regarding its foreign and security policy actions (Mayer, 2003: 4) brought to the fore by the Iraq crisis demonstrate, the consolidation of the link between the UN Charter's principles that prohibit violence, e.g. by preemptive war, on the one hand, and the EU's values, on the other, is a heavily disputed issue among European leaders. That dispute has highlighted more general questions about the rights, duties and obligations of members of the international community of states brought together in the United Nations Security Council and bound by international law, on the one hand, and the regional community of states brought together in the European Union and bound by transnational European law, on the other. Among the disputed issues are the conditions of membership such as, for example, a solid performance regarding the respect for and implementation of human rights.

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Thus, in his House of Congress speech on 18 July 2003, Tony Blair requested that:

> . . . the Security Council should be reformed. We need a new international regime on the nonproliferation of weapons of mass destruction. And we need to say clearly to United Nations members: '*If you engage in the systematic and gross abuse of human rights in defiance of the UN charter, you cannot expect to enjoy the same privileges as those that conform to it.*'[72]

A Renewed Interest in EU Enlargement

Despite these critiques, in the aftermath of the Iraq crisis EU member states reiterate, with a view to further enlargement including the Balkan states of Albania, Bosnia-Herzegovina, Croatia, Macedonia, Serbia and Montenegro, that solidarity with the EU position in cases of dispute between the US and the EU is expected. For example, the EU demonstrated 'annoyance that some of the Balkan countries have signed bilateral agreements with the US not to hand over American soldiers to the International Criminal Court (ICC)'.[73] As President Jacques Chirac said, for example, 'I am thinking particularly *about compliance with the European position on the universality of the* [international, AW] *criminal court.*'[74] In addition, in a joint statement at the EU's special summit for the Balkan states, the EU requested 'that the Western Balkan countries pledge *full and unequivocal cooperation with the International Criminal Tribunal* for the former Yugoslavia'.[75] The even more significant social outcome of contested compliance, in this case, is brought to the fore by a new sense of negotiating power among the candidate countries. They raised the possibility of supporting the EU once membership is obtained, which brings a new conditionality to the fore. For example, 'Bosnia indicated that membership of the EU could make it see differently'[76] its current position of supporting the US on preventing the ICC from access to US American troops by way of signing bilateral immunity pacts.

In turn, the US Defense Secretary Donald Rumsfeld was at pains to revoke a realist view of responsibility, saying, 'we need to be able to hold states accountable for their performances. Those who want to push sovereignty away can't have it both ways: *Either states are responsible for the governance of their countries or they are not.*' And he added, 'we must take care to not damage the core principle that under girds the international system — *the principle of state sovereignty*'.[77] Tony Blair reinforced this view in his US Congress speech by stressing yet another link between European transnational politics and global politics when he pointed out that:

> . . . now *Europe is at the point of transformation. Next year, 10 new countries*

will join. Romania and Bulgaria will follow. Why will these new European members transform Europe? Because their scars are recent, their memories strong, their relationship with freedom still one of passion, not comfortable familiarity. *They believe in the transAtlantic alliance.* They support economic reform. *They want a Europe of nations, not a super state. They are our allies and they are yours.*[78]

By stressing the sovereignty of states, both discursive interventions evoked the realist principle of anarchy as the core governing principle in international relations. While — in line with US foreign policy discourse — Rumsfeld's interventions endorse US unilateralism, Blair's interventions demonstrate a cautious yet firm belief in multilateralism.[79] Both discourses share, however, an emphasis on sovereignty that challenges ideas of regional integration that thrive on the principles of pooled sovereignty, qualified majority voting, supremacy and direct effect, such as is promoted in the majority of European member states who cooperate with a view to 'enhancing European integration' (Cappelletti et al., 1986; Weiler, 1999; Craig and De Burca, 1998; Wiener, 2002a). According to Rumsfeld, an 'eroding principle of sovereignty' that was, for example, enhanced by the institution of the ICC was to be avoided.[80] In sum, the discursive interventions uttered in the aftermath of the UN Security Council debates stressed a new contestedness of the concept of regional integration. This discursive intervention has contributed to an enhanced interest in strengthening regional integration.[81] Clearly, Rumsfeld's interventions contributed to undermining the respect for a supranational normative structure that suggests adhering to the principle of pooled sovereignty, which lies at the core of the project of European integration, and which is by now codified in transnational European law (Weiler, 1999; Shaw, 2000; Bogdandy, 2003; Weiler and Wind, 2003). In addition, his discourse referred to a normative structure of democracy that linked sovereign state behavior during the Iraq crisis and European enlargement, e.g. by pointing out that 'the *transition to democracy* [in Iraq, AW] will take time, and it will not always be a smooth road. In central and eastern Europe, the process has taken time, but it is succeeding.'[82] To the EU candidate countries that had only recently re-established sovereignty, this contestation of sovereignty thus offered an alternative to the series of conditional constitutional adaptation required by the EU accession agreements and subsequent compliance with EU law. In addition, the reference to the normative structure of democracy reminded them of their duty to demonstrate solidarity with the power that freed them from the yoke of dictatorship.

Changes in the Normative Structure: Regional Integration, or, Sovereignty at the Tipping Point?

As the enlargement situation demonstrates, the Central and Eastern European countries were primarily interested in membership, yet, in the light of approaching membership they also expressed a fear of the loss of — just re-established — sovereignty. Why this sudden lack of trust? For explanation, the empirical study first turns to discursive interventions. This process is guided by the generic social norms of fairness, democracy and the rule of law. Similarly, the Iraq conflict sheds light on a situation in which the interpretation of the meaning of norms has changed. Here compliance with the generic social norms of responsibility and community of values is crucial. Thus the bulk of enlargement studies sought to explain why the EU member states opted for enlargement. Given the relatively high costs compared to low gains expected from the process, the majority of analyses pointed to the strong push generated by idealist values such as promises of democracy, freedom and liberty and normative responsibility towards the Eastern European candidates who had long been excluded from the Western European 'family' (Sedelmeier and Wallace, 1996; Sedelmeier, 1998; Schimmelfennig and Sedelmeier, 2002; Huelsse, 2003: 102ff.; but see Fierke and Wiener, 1999). In the global political context of debating the politics of security, however, the combined processes of enlargement and constitution-building enhanced a changed norm of responsibility. Now, Western EU member states expected Eastern European candidate countries to share EU principles and norms. These norms involved, for example, refraining from signing 'immunity pacts'[83] with the US in order to protect US citizens against prosecution through the ICC as well as breaching European and international law as in the case of the war on Iraq.

The case study of contested compliance illustrates how the normative structure is affected not only by the deviation from compliant behavior, but by discursive interventions raised in order to sustain that behavior as rational within the context of world politics, where not only leadership but also membership are competed goods. The EU enlargement case shows deviating behavior of accession candidates based on a dialogue between 'old' EU member states and candidate countries and with reference to core principles of European integration as they have been consolidated over time and substantiated in the embedded *acquis communautaire* as the EU's normative and legal structure. As the dialogue suggests, that normative structure does not offer a convincing reference frame for the candidate countries who find themselves subjected to practices of double standards that deviate from the EU's norm of equal treatment of all member states, as well as from the practice applied in previous enlargement situations when candidate countries

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were expected to comply with the entire *acquis communautaire* (and not with additional conditions) thus establishing the same conditions for all future member states. In the Iraq case, the dialogue between 'old' members of the EU and NATO unfolding among those members of the UN who supported the UN principle of non-intervention and those who did not, demonstrates shifting between different normative structures in order to legitimize decision-making. In the enlargement case the candidate's decision to negotiate accession rules is considered to be 'breaking the rules' by EU officials referring to the probed rules of procedure in previous compliance processes, i.e. rule following is a condition for membership.

The candidate countries, in turn, expect 'fair' treatment according to the principles of equality and non-discrimination based on their position as future community members (contesting double standards). In the Iraq case the EU member states expect quite the contrary from the candidates — leaving the candidates with a mixed message about what is considered legitimate. In this case, President Jacques Chirac as well as Foreign Minister Joschka Fischer asked for 'responsible' action, expecting the candidate countries to behave as if they were already members of the EU. As part of the community, they were expected to know the rules of legitimate behavior, i.e. that consultation with their fellow (future) community members is the correct way to proceed. At the same time, Chirac justified his strongly worded criticism of the candidates' behavior by reasoning that they were candidates, not member states yet, and hence could not expect to have the same rights as the other members. Both situations are predictable cases of contested compliance according to the 'structure of meaning-in-use' hypothesis that works with the assumption that compliance is potentially conflictive pending the validation of the meaning of norms in each respective context of norm implementation.

Conclusion

The assessment of the changing normative structure in world politics offered by the reflexive approach to contested compliance was based on the discursive interventions that were central to the cultural validation of supranationally established norms. They constituted and changed the structure of meaning-in-use in the respective context. Thus, in the enlargement situation compliance with accession rules created political tension and mistrust between member states and candidate countries, resulting in conflict; and in the Iraq situation the candidate countries behaved as future members of two international organizations throwing about the 'carrot' of membership while struggling with their role as 'responsible' future EU member states and the temptation to maintain their

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newly gained sovereign position in world politics. The latter motivation, i.e. sustaining the role of a sovereign state cooperating under anarchy, clearly undermined the EU's norm of cooperation towards further integration. The conflicting expectations about appropriate and consequentialist behavior not only created political tensions, in the process they also contributed to changing the normative structure of world politics. While that structure stands by no means transformed, the reflexive approach highlights a new challenge for the principle of regional integration based on the practice of pooled sovereignty, nonetheless.

The point of the article was to demonstrate that an exclusive analytical focus on linear compliance behavior does not facilitate such an insight on social change. In addition, it would not expect contested compliance despite the interest in membership. The article sought to illustrate how the contested Iraq crisis contributed to two related changes in the normative structure that guides world politics. First, the discursive interventions of the US government officials contested the EU principle of pooled sovereignty by sustaining an argument between state responsibility and undivided sovereignty of states. Second, the forthcoming round of enlargement which will include the Balkan states' accession to the EU is likely to include a new condition for membership based on four 'strict conditions' that include — in addition to the familiar conditions of democracy, the rule of law, political and economic stability — the condition of 'solidarity' with EU positions in world politics.[84] According to the case study, successful compliance is not prevented but delayed by contestation. The question of whether contestation enhances the sustainability of compliance is therefore not far fetched. While it could be argued that contestation is insignificant for the outcome of compliance processes, this article suggests otherwise. It argues that contestation is central for establishing the legitimacy of compliance processes; indeed, it is constitutive towards social legitimacy. In the absence of formal political legitimacy, it is argued, social legitimacy generated through practices of contestation, enhances the conditions for successful, i.e. long-term, sustainable political stability based on a consolidated normative structure.

Outlook for Further Research

Research based on the liberal community thesis will typically study norm diffusion. Empirically it will therefore explore the domestic implementation of 'shared' inter/supranational norms. Examples of such research are offered by research on domestic human rights implementation, typically in those states which are not members of the community of civilized states such as non-OECD countries and/or non-EU countries. In turn, norm contesta-

tion research as highlighted by this article focuses on conflictive meanings in transnational and supranational contexts. It expects that in situations of conflict over the meaning of a norm, contestation emerges. While deterring norm implementation, it is expected to sustain compliance in the long run. Writ-large, the former is interested in the impact of regulatory standards and/or constitutive identities on state behavior (Katzenstein, 1996; Checkel, 2001: 182); and the latter focuses on contestation of core constitutional principles, world-views and routinized practices that (re)construct the normative structures which sustain or challenge political order (Tilly, 1975; Reus-Smit, 1997, 2001a). Both are important strands of compliance research, yet pursuing them in isolation unnecessarily obscures important theoretical advances in the field. Indeed, as Christian Reus-Smit has argued convincingly, studying one without understanding the other, is likely to produce dramatic consequences, such as, for example, abandoning the link between politics and international law altogether (Reus-Smit, 2001b: 574).

The article highlighted two related situations of conflictive interaction about the meaning of norms brought to the fore by *contested compliance*. The case study shed light on the contestation of social norms which are taken as stable indicators for behavior. In the first situation the meaning of the norms of fairness, the rule of law and democracy were contested during the EU's eastern enlargement towards the end of the ten-year enlargement process in 2001–3. The second situation demonstrated contestation of the norms of 'responsibility' and 'community of values' brought to the fore by discursive interventions during the Iraq crisis in February 2003. The case study was chosen to illustrate a situation of social change which would have gone unnoticed by the familiar behavioral approach to compliance. It highlights a change in the EU's interest in enlargement. While, so far, the leading assumption had been that EU enlargement was pushed by normative rather than material concerns with little 'carrot' for the EU itself and a lot of 'carrot' for the candidate countries, the two situations of contested compliance and the related change in the normative structure suggest that this rationale stands to be revised. Now, the EU has a genuine interest in enlargement in order to consolidate its position as a player in global foreign and security policy. 'Membership', previously a carrot for outsiders, now represents an increasingly appealing instrument for establishing a consolidated position in world politics. The more members the EU can oblige to follow EU constitutional norms, the stronger its position vis-a-vis the United States. Future empirical research will find the reflexive approach helpful to assess the political impact and changing role of human rights and minority rights norms in world politics. So far, behaviorist analyses of human rights politics have been able to identify the 'power' of human rights as a

type of norm, and subsequently studied the linear diffusion of rights in less powerful southern and/or rogue states. A reflexive approach equipped to study changes in the meaning of human rights with reference to the normative structure will, however, address the dispute over the role of human rights as a frame of reference in foreign and security policy.[85]

Notes

1. For details, see http://europa.eu.int/scadplus/leg/en/lvb/e40001.htm.
2. For the resolution, see S/RES/1441 (2002), Security Council, Distr.: General 8 November 2002.
3. A note of caution is in order here, as the case study does not represent conclusive materials drawing on comprehensive empirical research, but is restricted to a selection of texts in order to illustrate the potential of the 'reflexive' approach to compliance. It is used as a pre-study for future research.
4. See most clearly for this approach, Checkel's definition, 'for a norm to exist, it thus must embody clear prescriptions, which provide guidance to agents as they develop preferences and interests on an issue' (Checkel, 2001: 183). According to Checkel, for example, supranational European citizenship exists as a norm in the context of the Council of Europe; yet it is not a norm in the European Union. For a critical discussion of this perspective see Wiener (2003).
5. To that end, it builds on the work of Giddens (1979), Bourdieu (1990, 1993), Taylor (1993) and Tully (1995) among others.
6. On 16 April 2003, ten Central and Eastern European candidate countries signed the EU Accession Treaty, including the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, in Athens; see eu*observer*.com, 16 April 2003, (1/2).
7. In Hungary, support for the EU was demonstrated by about 84% of the votes; in Slovakia 92.46% of the votes were in favour; in Poland 77.5% voted yes for the EU, and in the Czech Republic 77% backed EU membership; see *BBC News* on 14 April 2003, 18 May 2003, 9 June 2003 and 14 June 2003, respectively. In addition, a survey carried out among the ten countries set to join the EU in 2004 found that the citizens of accession countries feel 'more European than their current "more nationalistic" EU counterparts'. Of over 28,400 citizens polled by *Eurobarometer* in May 2003, Estonians and Hungarians had the highest sense of national identity among the accession countries at 39%. By

contrast, the feeling of being 'British only' was recorded for 64% of UK respondents. Over half of the Austrians, Greeks, Swedes and Finns and just under half of the Dutch, Irish and Portuguese respondents identified themselves only by their national identity. See eu*observer*.com, 23 July 2003 (1/1), 'Accession country citizens feel more "European".' Note that 'eu*observer*.com' is the name of this electronic news service which is found at the following website: http://euobserver.com/.

8. For contemporary assessments of the US security strategy, see e.g. Gaddis (2002) and Knight (2002).

9. See e.g. regime analyses by Krasner (1983), Kratochwil and Ruggie (1986), P. Haas (1992), Rittberger and Mayer (1993), Martin and Simmons (2001).

10. For such studies, see, for example 'the spiral model' of norm following which was first developed by Kathryn Sikkink (1993) and was further developed when applied to a set of compliance cases that built on this insight, see Risse et al. (1999).

11. Compare Chayes and Chayes who write, 'when nations enter into an international agreement . . . they alter their behavior', see Chayes and Chayes (1995: 176).

12. For example, regarding the rising number of cases brought before the European Human Rights Court in Strasbourg under the European Convention of Human Rights (ECHR). See, European Convention for the Protection of Human Rights and Fundamental Freedoms (1950). For the detailed text see http://www.echr.coe.int/Convention/webConvenENG.pdf. See also Jacobson who finds that, 'the changes from the 1970s and the 1980s that have brought the convention to the fore and have indicated a shift in the object of international law and institutions, from that of states to that of individuals and NGOs, have been nothing short of breathtaking' (Jacobson, 1996: 87; see also Keck and Sikkink, 1998).

13. *Pacta sunt servanda* is specified by the Vienna Convention on the Law of Treaties, signed on 23 May 1969 (entered into force on 27 January 1980). Article 26 stipulates that 'every treaty in force is binding upon the parties to it and must be performed in good faith' (c.f. Chayes and Chayes, 1993: 185).

14. Key debates on why actors comply have been generated within International Relations theories that relate political decisions and behavior to the concept of law. Friedrich Kratochwil pinpointed the central question of this debate as, 'why actors follow rules, especially in a situation of alleged anarchy' (Kratochwil, 1984: 685).

15. See Martin and Simmons (1998: 731); c.f. Johnson and Niemeyer (1954: 27) (emphasis added, AW).

16. The term 'context' is preferred over the term 'level', arguably the more familiar term in IR, because levels do not provide any information about the sociocultural 'glue' that sets the conditions of meaning. See, for example, the use of 'highly contested contexts' which frame the competition of ideas about norms (Payne, 2001: 38).

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17. As Katzenstein has pointed out, the 'domestic and international environments of states have effects; they are the arenas in which actors contest norms' (Katzenstein, 1996: 25).

18. For these explanations, see e.g. Checkel (1999, 2001), Koh (1997), Schimmelfennig (2001), Johnston (2001), Risse (2000), Risse and Ulbert (2001), Risse et al. (1999), Keck and Sikkink (1998), Liese (2001), Locher (2002), respectively.

19. For literature on the organizational or organization field, see in particular the work of DiMaggio and Powell (1983), DiMaggio (1991), Powell and DiMaggio (1991), Ramirez et al. (1997), Wobbe (2003).

20. Koh's critical assessment of the Chayeses' managerial approach to norm resonance based on efficiency (Chayes and Chayes, 1995) as well as Franck's fairness approach to norm resonance based on legitimate procedure and his subsequent call for studies that shed light on transnational interaction as enacting and securing compliance (Franck, 1990, 1995). Note that this article, however, seeks to push Koh's plea for studying interaction (Koh, 1997) further by extending the process of interaction toward the interrelation between the *legal and the societal realm*.

21. See Kahn's argument, 'the rule of law is a social practice: it is a way of being in the world' (Kahn, 1999: 36).

22. See Checkel (2001), see critically Kratochwil (1989: 5).

23. See also Chayes and Chayes who observe that, 'language often is unable to capture meaning with precision. . . . treaty language, like any other language, comes in varying degrees of specificity. The broader and more general the language, the wider the ambit of permissible interpretations to which it gives rise' (Chayes and Chayes, 1993: 189).

24. See among others the work of Kratochwil (1984, 1989), Kratochwil and Ruggie (1986), Soysal (1994), Finnemore (1996a, 1996b, 2000), Finnemore and Toope (2001), Klotz (1995), Katzenstein (1996), Risse et al. (1999), and for an excellent review article see Checkel (1998).

25. Given its heuristic political and policy relevance, this category of norm has been subject to extensive studies by compliance researchers interested in the regulatory power of supranational institutions, especially yet not exclusively, the European Union; see e.g. Boerzel and Risse (2000), Joerges and Zuern (forthcoming) and Zangl (2001).

26. The Federal death penalty is based upon two legislative acts: the Anti-Drug Abuse Act of 1988 and the Federal Death Penalty Act of 1994. For details see http://vision2020.moscow.com/Archives/2000/0009/msg00116.html.

27. A turn towards reflexive sociology has, for example, been suggested by studies of 'law in context' (Snyder, 1990) and constructivist perspectives in IR in order to assess how 'cultural context shapes strategic actions' and is shaped by them (Barnett, 1999: 8; Guzzini, 2000; Payne, 2001). A normative argument which leads beyond the limits of this article would stress that, in addition, they ought to remain contestable. This general assumption leads to the task of normative safeguard of the principle of contestedness as well as the empirical test of

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contested interpretations of meanings in situations of norm change rather than stability, see e.g. Tully (1995, 2002) and Habermas (1992).

28. As Flynn and Farrell comment correctly, 'instead of fully exploiting the power of the insights they borrow from social theory about the recursive nature of the relationship between agent and structure, constructivists have ended up seeking to demonstrate only that norms as elements of structure (alongside material conditions) can determine the interests and identity of agents, rather than seeking to locate the power of norms in the process whereby they are created in the first place' (Flynn and Farrell, 1999: 510–11). Compare the recurring calls to address the 'emergence and decay of norms' by Kratochwil (1984: 690), see also Kowert and Legro (1996), Stewart (2001) as well as Ruggie's call for research on the 'nature, functioning and origin of norms' (Ruggie, 1998a: 13).

29. Note that this article is elaborating on the first of Guzzini's two dimensions of 'constructivism in terms of a social construction of meaning' (ontology), on the one hand, and 'of the construction of social reality' (epistemology), on the other (Guzzini, 2000: 149, 160). The intention is to draw on the meta-theoretical insights advanced by constructivists in order to address empirical problems in political science; for this approach, see also Risse and Wiener (1999).

30. As Guzzini observes correctly, 'reflexivity is then perhaps the central component of constructivism, a component too often overlooked' (Guzzini, 2000: 150).

31. While it is expected that the Intergovernmental Conference (IGC) in May 2004 will agree to the revision of the TEU to the Constitution of the EU, at the point of writing, the reference to the EU's legal framework remains the TEU including the Treaty of the European Community (TEC).

32. This process unfolds according to the provisions agreed with the 1997 Amsterdam Treaty. On the necessary reforms for enlargement, see Protocol No. 7 of the Amsterdam Treaty; for a detailed timetable on institutional reform between the Amsterdam IGC and the Nice IGC, see the Commission's website at http://europa.eu.int/comm/archives/igc2000/geninfo/index_en.htm.

33. For the Laeken Declaration, see http://belgium.fgov.be/europ/en_decla_laken.htm; for the Presidency Conclusions of the Nice Council Meeting (7–9 December 2000), see http://ue.eu.int/Newsroom/LoadDoc.asp?BID=76&DID=64245&LANG=1.

34. On the *acquis* and its implications for enlargement, see generally Gialdino (1995), Michalski and Wallace (1992), Wiener (1998) and Jørgensen (1999); for the current enlargement process and its particular conditions see Amato and Batt (1998), De Witte (1998), Grabbe (2001), Dimitrova (2001) and Schwellnus (2001).

35. The draft text was presented by the Convention President, Valéry Giscard D'Estaing on 20 June 2003 in Brussels. The convention process drew to a close on 10 July 2003 in Brussels, see 'Draft Treaty Establishing a Constitution for Europe', CONV 850/03, Brussels 18 July 2003. At that time, the Constitutional document was expected to be signed after a series of revisions at the IGC

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in May 2004; after the Brussels Council meeting in December 2003, however, the adoption of the Constitutional text was seriously challenged.

36. http://www.sueddeutsche.de/ 21 June 2003 (1/3) (translation from German text, AW).

37. See Danner and Tuschhoff, who find that candidate countries are about to turn into 'second-class members' (Danner and Tuschhoff, 2002: at 2/3 http://www.aicgs.org/at-issue/ai-konzept.shtml).

38. See the Commission website at http://europa.eu.int/scadplus/leg/en/lvb/e40001.htm (emphasis added).

39. See, Agenda 2000 — Volume I: 'For a stronger and wider Union', 15 July 1997, 52, (c.f. De Witte, 1998: 3).

40. Following Franck's definition of legitimacy defined as '*a property of a rule or rule-making institution which itself exerts a pull towards compliance on those addressed normatively*' (Franck, 1990: 16; emphasis in text), then the compliance pull of enlargement conditions should be decisive for the compliance behavior of the candidate countries.

41. Note that the Commission proposes the draft negotiating positions and stays in close contact with the applicant countries to solve problems arising during the negotiations; for details see http://europa.eu.int/comm/enlargement/negotiations/index.htm.

42. As the *Financial Times* reports, 'arguments over financing farm and regional aid in an enlarged EU represent the biggest potential obstacle to the successful conclusion of accession negotiations by the end of this year. Under the Commission's proposals, unveiled last month, enlargement would cost EURO 40.2bn between 2004 and 2006. Poland, the biggest of the 10 states hoping to join the EU in 2004, rejects the Commission's proposals to phase in direct aid to farmers in new member states over 10 years. Meanwhile, existing EU states, such as Germany, the biggest contributor, are already maneuvering to keep a lid on spending after enlargement.' See *Financial Times* 12 February 2002, 8.

43. *Financial Times* 12 February 2002, 8 (emphasis added).

44. *Frankfurter Allgemeine Zeitung* 8 February 2002, 5 (translation from German original and emphases; AW).

45. *Frankfurter Allgemeine Zeitung* 8 February 2002 (translation from German original text; AW).

46. Interview with Commission official, European Commission, Brussels, 28 August 2001 (emphases added; interviews conducted by and on file with author).

47. *Financial Times* 12 February 2002, 8.

48. eu*observer*.com 9 September 2002, http://www.euobserver.com/index.phtml?aid=7488.

49. See S/RES/1441 (2002), Security Council, Distr.: General 8 November 2002.

50. As Powell said, 'to this day, the Iraq regime continues to defy the will of the United Nations. The Iraqi regime has responded to 1441 with empty claims, empty declarations and empty gestures. It has not given the inspectors and the international community any concrete information in answer to a host of key

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questions. . . . The issue is not how much more time the inspectors need to search in the dark. It is how much more time Iraq should be given to turn on the lights and to come clean. And the answer is not much more time. Iraq's time for choosing peaceful disarmament is fast coming to an end.' See *CNN News*, 27 January 2003 at: http://edition.cnn.com/2003/US/01/27/powell.presser. transcript/.

51. *The Guardian* 28 January 2003 at http://www.guardian.co.uk/Iraq/Story/ 0,2763,883882,00.html.

52. The letter was published on the 30 January 2003 in *The Times* and the *Wall Street Journal*. As *The Guardian* reported, it 'was the idea of the Spanish prime minister, Jose Maria Aznar, including as signatories the British prime minister, Tony Blair alongside the Spanish president Mr Aznar and the leaders of Italy, Portugal, Hungary, Poland, Denmark and the Czech Republic'. *The Guardian* 30 January 2003 at http://www.guardian.co.uk/Iraq/Story/ 0,2763,885469,00.html.

53. In response to this statement the United States Secretary of Defense Donald Rumsfeld distinguished between the 'old Europe' including Germany and France who opposed the threat of war against Saddam Hussein, on the one hand, and the 'new Europe' of states such as the Vilnius Group that supported the United States, on the other. See *Radio Free Europe* 23 February 2003, Eastern Europe: Vilnius Group Supports US on Iraq, by Jeffrey Donavan; for details see http://www.rferl.org/nca/features/2003/02/06022003175020. asp.

54. *The Guardian* 30 January 2003 at http://www.guardian.co.uk/Iraq/Story/ 0,2763,885469,00.html.

55. *The Guardian* 30 January 2003 at http://www.guardian.co.uk/Iraq/Story/ 0,2763,885222,00.html.

56. The Vilnius Group includes Albania, Bulgaria, Croatia, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia. Seven out of these ten countries, including Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia, are expected to join NATO by the time of the next Summit in May 2004. For details, see http://www.nato.int/issues/enlargement/index.htm; see also *FT.com/Financial Times* 27 May 2003 (1/2).

57. Embassy of the United States of America, Sofia, Bulgaria, 5 February 2003; see for details http://www.usembassy.bg/documents/stat_vilnius.html. Curiously, as was demonstrated later on, the letter had been signed by the Vilnius 10 'the day *before* Mr Powell made his presentation'. It had been written by Bruce Jackson, a US citizen with ties to the White House, see *FT.com/Financial Times* 27 May 2003 (2/2) (emphasis added, AW).

58. Press Conference given by Jacques Chirac, Embassy of France in the US, 20 February 2003; details at http://www.info-france-usa.org/news/statmnts/ 2003/chirac_eurocouncil.asp (emphases added).

59. On this play with the 'carrot' brought to the fore by discursive analysis, see also Fierke and Wiener (1999).

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60. Press conference given by Jacques Chirac, Embassy of France in the US, 20 February 2003; details at http://www.info-france-usa.org/news/statmnts/ 2003/chirac_eurocouncil.asp [emphases added].

61. *BBC News* 19 February 2003, details at http://news.bbc.co.uk/go/pr/fr/ -/1/hi/world/europe/2775579.stm.

62. Official text of the joint declaration by the foreign ministers of France, Russia and Germany, see *The Guardian* 6 March 2003 at http://www.guardian.co.uk/ international/story/0,3604,908331,00.html.

63. *The Guardian* 30 January 2003, at http://www.guardian.co.uk/Iraq/Story/ 0,2763,885819,00.html.

64. See press conference hosted by US President George Bush, British Prime Minister Tony Blair, Spanish Prime Minister Jose Maria Aznar and Portugal's Prime Minister Jose Durao Barroso, The Azores, 16 March 2003; full text published by *The Guardian* at http://www.guardian.co.uk/Iraq/Story/ 0,2763,915807,00.html (2/6) (emphasis added, AW).

65. See transcript of Bush's war ultimatum speech from the Cross Hall in the White House, Washington, DC, Tuesday 18 March 2003, published by *The Guardian* at http://www.guardian.co.uk/usa/story/0,12271,916542,00.html (1/3) (emphasis added, AW).

66. For all quotations, see *BBC News* at http://news.bbc.co.uk/2/hi/middle_ east/2859485.stm (emphases added, AW).

67. Press conference given by Jacques Chirac, Embassy of France in the US, 20 February 2003, for details see http://www.info-france-usa.org/news/ statments/2003/chirac_eurocuncil.asp (emphasis added, AW).

68. *The Guardian* 31 January 2003 at http://www.guardian.co.uk/Iraq/Story/ 0,2763,886148,00.html.

69. See *The Guardian* 31 January 2003 at http://www.guardian.co.uk/Iraq/ Story/0,2763,886148,00.html (emphasis added, AW).

70. See Article 11 (1), Treaty of the European Union (TEU) (emphases added, AW).

71. For the UN Charter, see the UN website at http://www.un.org/aboutun/ charter/; for a discussion of this particular case, see the assessment offered by Mayer (2003: 3 et seq.).

72. Speech to the US Congress, Friday 18 July 2003, (3/5), published with *The Guardian* at http://www.guardian.co.uk/guardianpolitics/story/0,3605, 1000562,00.html (emphases added, AW).

73. eu*observer*.com 23 June 2003 (1/2); in addition the 'US has suspended over $47m in military aid to 35 countries that have not signed deals to grant American soldiers immunity from prosecution for war crimes', see *BBC News* 'US blocks aid over ICC row', 2 July 2003, (1/2); see as well *Spiegel Online* 'USA cut military aid for 35 states', 2 July 2003, (1/1) (translation from German original text, AW).

74. *Financial Times Deutschland* 23 June 2003 (2/4), at http://www.ftd.de/pw/ eu/1055680394316.html (translation from German original text and emphasis, AW).

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75. eu*observer*.com 23 June 2003 (1/2), see also *BBC News* 21 June 2003 (1/2) (emphasis added, AW).
76. eu*observer*.com 23 June 2003 (1/2).
77. eu*observer*.com 12 June 2003 (1/1) (emphasis added, AW).
78. Speech to the US Congress, Friday 18 July 2003 (3/5) (emphases added, AW).
79. See e.g. Blair's point, 'it is not the coalition that determines the mission, but the mission the coalition. But let us start preferring a coalition and acting alone if we have to, not the other way around.' Speech to the US Congress, Friday 18 July 2003 (3/5).
80. eu*observer*.com 12 June 2003 (1/1).
81. For the stress on the issue of regional integration, see also Preuss (2003). As was demonstrated by investigations of the US position later on, both statements, the first statement of the eight and the second statement by the Vilnius 10, 'were intended to show support for the Bush administration's agenda and demonstrate that Paris and Berlin did not speak for Europe'. While 'the White House has maintained it was not behind the two statements' at the time it 'welcomed the show of support'. See *FT.com/Financial Times* 27 May 2003 (1/2).
82. See US Defense Secretary Donald Rumsfeld's speech in New York on Tuesday 27 March 2003, published by *The Guardian* 28 March 2003 (3/3) at http://www.guardian.co.uk/Iraq/Story/0,2763,965444,00.html (emphasis added, AW).
83. The 'immunity pacts' are bilateral agreements between the US and other governments declaring that the latter will refrain from surrendering US nationals to the International Criminal Court (ICC). According to eu*observer*.com, 'the Bush government has managed to sign 37 such immunity pacts' so far, see eu*observer*.com 13 June 2003 (1/1).
84. *Financial Times Deutschland* 23 June 2003 (3/4), at http://www.ftd.de/pw/eu/1055680394316.html.
85. One example of this impact on world politics is provided by an emerging threefold strain on UK foreign policy. Considering the rift between the transatlantic allies over US defiance of the Geneva Convention in treating Guantánamo Bay prisoners with British passports (1); disputes over compliance with human rights as a new condition for membership in the UN Security Council (2); and a potential EU initiated 'world ban on death penalty' (3). In the light of the normative structure in world politics see, among others, the EU foreign ministers' discussion about tabling a UN General Assembly resolution on a 'world ban on death penalty'; and eu*observer*.com 22 July 2003 (1/2).

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