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**Open-ended Working Group of the Parties to  
the Montreal Protocol on Substances that  
Deplete the Ozone Layer  
Thirty second meeting**  
Bangkok, 23-27 July 2012  
Items 3–11 of the provisional agenda\*

## **Issues for discussion by and information for the attention of the Open-ended Working Group of the Parties to the Montreal Protocol at its thirty-second meeting**

### **Note by the Secretariat**

#### **Addendum**

1. The Secretariat is circulating, in the annexes to the present addendum, key resource documents that will be considered by the Open-ended Working Group under agenda item 9, nomination and operational processes of the Technology and Economic Assessment Panel and its subsidiary bodies and any other administrative issues (decision XXIII/10). Specifically, the annexes contain the following items, prepared by the Technology and Economic Assessment Panel in response to the request of the Twenty-Third Meeting of the Parties in its decision XXIII/10 and contained in volume 3 of its 2012 progress report: a draft standardized nomination form (annex I); updated terms of reference, reflecting the changes agreed to by the parties in decision XXIII/10 (annex II); and draft recusal guidelines for the Technology and Economic Assessment Panel, its technical options committees and temporary subsidiary bodies (annex III).
2. The annexes are presented as received from the Panel; they have not been formally edited.

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\* UNEP/OzL.Pro.WG.1/32/1.

**Annex I****Draft standardized nomination form\*****TEAP: Nomination Form**

This form is to be completed by:

- i) nominated experts to the TEAP, Technical Options Committees (TOCs), or Temporary Subsidiary Bodies (TSBs) and
- ii) the national focal point for the relevant party.

Position:  TEAP Co-chair  Senior Expert Member  TOC Co-chair  
 TOC Member  TSB Co-chair  TSB Member  
 If applicable indicate which TOC or TSB: \_\_\_\_\_

**Expert Information**

Please provide full names rather than only acronyms or initials

Title:  Ms.  Mr.  Other: \_\_\_\_\_  
 Professor  Dr.

Name (underline family name): \_\_\_\_\_

Employer / Organization: \_\_\_\_\_

Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

Web Site: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Gender:  Male  Female

Nationality/ies: \_\_\_\_\_

Country of residence: \_\_\_\_\_

\* The form is adapted from the International Plant Protection Convention (IPPC) Roster of Experts: Nomination Form, short version.

**Education**

Formal education and other qualifications:

**Employment History**

Main Countries or Regions Worked or Experience in:

If relevant to the nomination, please give details of previous employment beginning with current employer.

**Publications**

If relevant to the nomination, please give a list of publications

**Awards and Memberships**

If applicable and relevant, please list scientific awards, professional societies, honorary memberships, and membership in advisory committees/panels:

**Language Knowledge**

Note: All meetings, correspondence and report writing are conducted in English so good command of English is essential

Language <i>List mother tongue first</i>	Speak				Read				Write			
	Excel- lent	Good	Fair	Slight	Excel- lent	Good	Fair	Slight	Excel- lent	Good	Fair	Slight
	<input type="checkbox"/>											
	<input type="checkbox"/>											
	<input type="checkbox"/>											

**References**

Please give name and contact information for key professional references.

Reference 1:

Reference 2:

**Confirmation and Agreement**

I hereby confirm that the above information is correct and agree for review by the TEAP. I have no objection to this information being made publicly available. I also confirm that, if appointed, I will review and agree to abide by TEAP's terms of reference, its code of conduct, operational procedures, and relevant decisions of the Parties.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Confirmation by Nominating Government**

This section must be completed by the national focal point of the relevant party.

Government: \_\_\_\_\_

Name of Government Representative: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**RETURN COMPLETED FORM TO: THE OZONE SECRETARIAT**

## Annex II

### Updated TEAP terms of reference

Parties have requested that the Technology and Economic Assessment Panel (TEAP) annually update the status of technical feasibility and the phase-out progress.

#### 1. Scope of Work

The tasks undertaken by the TEAP are those specified in Article 6 of the Montreal Protocol in addition to those requested from time to time at Meetings of the Parties. The TEAP analyses and presents technical information. It does not evaluate policy issues and does not recommend policy. The TEAP presents technical and economic information relevant to policy. Furthermore, the TEAP does not judge the merit or success of national plans, strategies, or regulations.

#### 2. Organisation of Technology and Economic Assessment Panel (TEAP), Technical Options Committees (TOCs) and Temporary Subsidiary Bodies (TSBs)

##### 2.1 *Size and Balance*

The membership size of the TEAP should be about 18-22 to allow it to function effectively. It should consist of the Co-chairs of the TEAP, the Co-chairs of all the TOCs and 4-6 Senior Experts for specific expertise or geographical balance not covered by the TEAP Co-chairs or TOC Co-chairs. Each TOC should have two or, if appropriate, three Co-chairs. The positions of TOC Co-chairs as well as of the Senior Experts must be filled to promote a geographical and expertise balance. The overall goal is to achieve a representation of about 50 per cent for Article 5(1) Parties in the TEAP and TOCs.

The TEAP, through its TOC co-chairs,<sup>1</sup> shall compose its TOCs and, through the TEAP and TSB co-chairs, shall compose its TSBs to reflect a balance of appropriate expertise so that their reports and information are comprehensive, objective, and policy neutral.<sup>2</sup>

The TEAP, acting through TSB co-chairs, shall provide a description in reports by TSBs on how their composition was determined.<sup>3</sup>

##### 2.2 *Nominations*

Nominations of members to the TEAP and TOCs may be made by individual Parties to the Secretariat through their relevant government organization. Such a nomination will be forwarded to the TEAP for consideration and, in the case of nominations of the TEAP for recommendation to the Meeting of the Parties. Any nominations made by the TEAP will be communicated to the relevant Party for consultation before recommendations for appointment are made.

The TEAP co-chairs shall ensure that any potential nominee identified by TEAP<sup>4</sup> for appointment to the Panel, including co-chairs of the TOCs, are agreed to by the national focal points of the relevant party.<sup>5</sup>

The TEAP, working through the relevant co-chairs, shall ensure that all nominations to its TOCs and its TSBs have been made in full consultation with the national focal points of the relevant party.<sup>6</sup>

##### 2.3 *Appointment of Members of TEAP*

In keeping with the intent of the Parties for a periodic review of the composition of the assessment panel, the Meeting of the Parties shall appoint the members of the TEAP for a period of no more than four years<sup>7</sup> to be determined by the Parties. Members of the Panel may be re-nominated for additional periods of up to four years each<sup>8</sup> subject to re-endorsement by the Parties. In appointing or re-endorsing members of the TEAP, the Parties should ensure continuity as well as a reasonable turnover.

1 A reference to co-chairs is added, here and elsewhere in the text, to clarify who within the TEAP is responsible for implementing this obligation.

2 Paragraph 1 XXIII/10.

3 Paragraph 1 XXIII/10.

4 The TEAP assumes that this paragraph is intended to relate only to TEAP nominations because the TEAP would not have the authority to control how Parties make nominations.

5 Paragraph 5 Decision XXIII/10.

6 Paragraph 6 Decision XXIII/10.

7 Paragraph 7 Decision XXIII/10.

8 Paragraph 8 Decision XXIII/10.

#### 2.4 *TOC Co-chairs*

The Co-chairs of a TOC should not normally act as Co-chairs of another TOC.

#### 2.5 *Appointment of Members of TOCs*

Each TOC should have about 20-35 members. The TOC members are appointed by the TOC Co-chairs, in consultation with the TEAP, for a period of no more than four years.<sup>9</sup> TOC members may be re-nominated for additional periods of up to four years each.<sup>10</sup>

#### 2.6 *Termination of Appointment by Dismissal*

TEAP/TOC Co-chairs can dismiss a member by a two-thirds majority vote. A dismissed member has the right to request a vote of its relevant Panel, Committee or TSB and will be restored if supported by one third of the members of that body. A dismissed member of the TEAP has the right to appeal to the next Meeting of the Parties through the Secretariat. A dismissed member of a TOC can appeal to TEAP, which can decide on such issues with a two-thirds majority vote, and can appeal to the next Meeting of the Parties.

#### 2.6 Bis *Termination by effluxion of time*

The terms of all the members of the TEAP and its TOCs who have not been appointed for four year periods shall expire at the end of 2013 and 2014 respectively, in the absence of reappointment by the Parties prior to that time.<sup>11</sup>

A decision of the Meeting of the Parties is required to confirm reappointments to the Panel.<sup>12</sup>

#### 2.7 *Replacement*

If a TOC Co-chair/Senior Expert relinquishes or is unable to function, the TEAP after consultation with the nominating Party can temporarily appoint a replacement from amongst its bodies for the time up to the next Meeting of the Parties, if necessary to complete its work. For the appointment of a new member at the Meeting of the Parties, the procedure set out in paragraph 2.2 should be followed.

#### 2.8 *Subsidiary Bodies*

Temporary Subsidiary Technical Bodies (TSBs) can be appointed by the TEAP/TOCs to report on specific issues of limited duration. The TEAP/TOCs may appoint and dissolve, subject to review by the Parties, such subsidiary bodies of technical experts when they are no longer necessary. The Code of Conduct must be followed by the members of TSBs to avoid conflict of interests in the performance of their duties. For issues which cannot be handled by the existing TOCs and are of substantial and continuing nature TEAP should request the establishment by the Parties of a new TOC.

A decision of the Meeting of the Parties is required to confirm any TSB that exists for a period of more than one year.<sup>13</sup>

#### 2.9 *Guidelines for Nominations*

The TEAP/TOCs will draw up guidelines for nominating experts by the Parties. The TEAP/TOCs will publicize a matrix<sup>14</sup> of expertise available and the expertise gap in the TEAP/TOCs so as to facilitate submission of appropriate nominations by the Parties. The matrix should include the need for geographic and expertise balance.<sup>15</sup>

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9 Paragraph 7 Decision XXIII/10.

10 Paragraph 8 Decision XXIII/10.

11 Paragraph 9 of Decision XXIII/10.

12 Paragraph 12 Decision XXIII/10.

13 Paragraph 13 Decision XXIII/10.

14 There is some inconsistency between the way the current TOR and Decision XXIII/10 relates to the matrix. In the TOR, the TEAP/TOCs are responsible for the matrix, which relates to the TEAP/TOCs. In Decision XXIII/10 however the Panel are responsible for the matrix, which relates to the TSBs as well. In this draft, the approach adopted in the TOR prevails.

15 Paragraph 2 Decision XXIII/10.

The TEAP/TOCs, acting through their respective co-chairs, shall ensure that the matrix is updated at least twice a year and shall publish the matrix on the Secretariat website and in the Panel's annual progress reports.<sup>16</sup> The TEAP/TOCs shall also ensure that the information in the matrix is clear and sufficient to allow a full understanding of needed expertise.<sup>17</sup>

### **3. Functioning of TEAP/TOCs/TSBs**

#### *3.1 Language*

The TEAP/TOCs/TSBs meetings will be held and reports and other documents will be produced only in English.

#### *3.2 Scheduling of Meetings*

The place and time of the TEAP/TOCs/TSBs meetings will be fixed by the Co-chairs.

#### *3.2 bis Secretariat*

The Ozone Secretariat should attend the meetings of the TEAP whenever possible and appropriate to provide ongoing institutional advice on administrative issues when necessary.<sup>18</sup>

#### *3.3 Rules of Procedure*

The rules of procedure of the Montreal Protocol will be followed in conducting the meetings of the TEAP/TOCs/TSBs, unless otherwise stated in the terms of reference for TEAP/TOCs/TSBs approved by a Meeting of the Parties.

#### *3.4 Observers*

No observers will be permitted at the TEAP, TOC or TSB meetings. However, anyone can present information to the TEAP/TOCs with prior notice and can be heard personally if the TEAP/TOCs consider it necessary.

#### *3.5 Functioning by Members*

The TEAP/TOCs/TSBs members function on a personal basis as experts, irrespective of the source of their nominations and accept no instruction from, nor function as representatives of Governments, industries, NGOs or others.

### **4. Report of TEAP/TOCs/TSBs**

#### *4.1 Procedures*

The TEAP/TOCs/TSBs will be developed through a consensus process. The reports must reflect any minority views appropriately.

#### *4.2 Access*

Access to materials and drafts considered by the TEAP/TOCs/TSBs will be available only to TEAP/TOCs members or others designated by TEAP/TOCs/TSBs.

#### *4.3 Review by TEAP*

The final reports of TOCs and TSBs will be reviewed by the TEAP and will be forwarded, without modification (other than editorial or factual corrections which have been agreed with the Co-chairs of the relevant TOC or TSB) by the TEAP to the Meeting of the Parties, together with any comments the TEAP may wish to provide. Any factual errors in the reports may be rectified through a corrigendum following publication, upon receipt by TEAP or the TOC of supporting documentation.

#### *4.4 Comment by Public*

Any member of the public can comment to the Co-chairs of TOCs and TSBs with regard to their reports and they must respond as early as possible. If there is no response, these comments can be sent to the TEAP Co-chairs for consideration by TEAP.N

<sup>16</sup> Paragraph 2 Decision XXIII/10.

<sup>17</sup> Paragraph 3 Decision XXIII/10.

<sup>18</sup> Paragraph 15 Decision XXIII/10.

## 5. Code of conduct by members of the Technology and Economic Assessment Panel

### *Code of Conduct*

Members of the TEAP, TOCs and the TSBs have been asked by the Parties to undertake important responsibilities. As such, a high standard of conduct is expected of Members in discharging their duties.

In order to assist Members, the following guidelines have been developed as a Code of Conduct.

1. This Code of Conduct is intended to protect Members of the TEAP, TOCs and TSBs from conflicts of interest in their participation. Compliance with the measures detailed in these guidelines is a condition for serving as a Member of the TEAP, the TOCs or the TSBs.

2. The Code is to enhance public confidence in the integrity of the process while encouraging experienced and competent persons to accept TEAP, TOC and/or TSB membership by:

- establishing clear rules of conduct with respect to conflict of interest while and after serving as a Member, and
- by minimizing the possibility of conflicts arising between the private interest and public duties of Members, and by providing for the resolution of such conflicts, in the public interest, should they arise.

3. In carrying out their duties, Members shall:

- perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of the TEAP, TOCs and TSBs are conserved and enhanced;
- act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law of any country;
- act in good faith for the best interest of the process;
- exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
- not give preferential treatment to anyone or any interest in any official manner related to the TEAP, TOCs or TSBs;
- not solicit or accept significant gifts, hospitality, or other benefits from persons, groups or organizations having or likely to have dealings with the TEAP, TOCs or TSBs;
- not accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the Member;
- not step out of their role as a Member to assist other entities or persons in their dealings with the TEAP, TOCs or TSBs where this act would result in preferential treatment to any person or group;
- not knowingly take advantage of, or benefit from, information that is obtained in the course of their duties and responsibilities as a Member of the TEAP, TOCs and TSBs, and that is not generally available to the public; and
- not act, after their term of office as a Member of the TEAP, TOCs or TSBs in such a manner as to take improper advantage of their previous office.

4. To avoid the possibility or appearance that Members of the TEAP, TOCs or TSBs might receive preferential treatment, Members shall not seek preferential treatment for themselves or third parties or act as paid intermediaries for third parties in dealings with the TEAP, TOCs or TSBs.

[The provisions of the TOR relating to conflict of interest and recusal have been omitted for the time being, because their subject matter is addressed by draft guidelines on recusal prepared by the TEAP pursuant to paragraph 18 of Decision XXIII/10]

## Annex III

### Recusal guidelines for the Technology and Economic Assessment Panel, its technical options committees and temporary subsidiary bodies

#### Definitions

1. For the purposes of these Guidelines –
  - a. “conflict of interest” means any current professional, financial, self or other interest of a member, or of that member’s personal partner or dependent, which, in the opinion of a reasonable person might appear –
    - i. significantly to impair that individual’s objectivity in carrying out their duties and responsibilities for the TEAP, or
    - ii. to create an unfair advantage for any person or organization;<sup>1</sup>
  - b. “member” means member of the TEAP, TOCs and/or TSBs;
  - c. “recusal” means the process by which a member voluntarily removes them self, or is removed, from particular TEAP, TOC or TSB work because of a conflict of interest;
  - d. “the ethics advisory body ” means the body appointed under paragraph 29.

#### Purposes

2. The overall purpose of these Guidelines is to protect the legitimacy, integrity, trust, and credibility of the TEAP, TOCS and TSBs and of those directly involved in the preparation of reports and activities.<sup>2</sup>
3. Any Assessment Panel must pay particular attention to issues of independence and bias in order to maintain the integrity of, and public confidence in, its products and processes. It is essential that the work of TEAP and its TOCs and TSBs is not compromised by any conflict of interest.<sup>3</sup>
4. Compliance with these Guidelines is a condition for continuing to serve as a member.
5. These Guidelines are to enhance public confidence in the process while encouraging experienced and competent persons to accept TEAP, TOC and/or TSB membership by:
  - a. establishing clear rules of conduct with respect to the prevention and management of conflict of interest while and after serving as a member;
  - b. minimizing the possibility of conflicts arising between the interests and public duties of members, and by providing for the resolution of such conflicts, in the public interest, should they arise; and
  - c. balancing the needs -
    - i. to minimise any reporting burden, and
    - ii. to ensure the integrity of the TEAP process.<sup>4</sup>
6. These Guidelines are principle-based and do not provide an exhaustive list of criteria for the identification of conflicts.<sup>5</sup>

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1 This definition is central: drawn from the IPCC work it makes clear that the test is whether a reasonable person would perceive there to be a conflict. Conflict is defined with reference to two concepts: first, impairment; and second, an unfair advantage.

2 Stronger wording, taken from IPCC work, stressing package of legitimacy, credibility, integrity and trust.

3 New IPCC-derived text that explains why it is necessary to focus on conflict of interest and bias.

4 Introduction of an element of balance between reporting and the necessity to ensure the integrity of the process.

5 Makes express that any lists of criteria are not exclusive.

7. The TEAP, its TOCS, TSBs and its members should not be in a situation that could lead a reasonable person to question, and perhaps discount or dismiss, their work simply because of the existence of a conflict of interest.<sup>6</sup>

### Disclosure of Interest

8. Members shall annually disclose any activities and interests, which might call into question their ability to discharge their duties and responsibilities objectively. They must also disclose any funding, making clear the original funding source, for their participation in the work of the TEAP, TOC and/or TSB.<sup>7</sup> An illustrative list of interests<sup>8</sup> is provided in Annex A to these Guidelines.
9. Members shall disclose a material change in their activities, interests and funding within 30 days of any such change.
10. In the previous paragraph, “interests” includes, but is not limited to, business, government or financial interests in ozone-depleting substances, their alternatives, and products made with or containing ozone depleting substances or their alternatives.<sup>9</sup>
11. Notwithstanding the obligations in paragraphs 8 and 9, a member may decline to disclose information related to activities, interests and funding where its disclosure would adversely and materially affect –
- a. international relations, defence, national security or imminent public safety;
  - b. the course of justice in prospective or current court cases;
  - c. the ability to assign future intellectual property rights;
  - d. the confidentiality of commercial or industrial information; or
  - e. personal confidentiality.
12. A member who declines to disclose information under paragraph 11 must declare that they are doing so in their disclosure of interest under paragraphs 8 or 9.

### Conflict of Interest

13. A member’s strong opinion (sometimes referred to as bias), or particular perspective, regarding a particular issue or set of issues does not necessarily create a conflict of interest but it may do so. It is expected that the TEAP, TOCs and TSBs will include members with different perspectives and affiliations which should be balanced so far as possible.<sup>10</sup>
14. These Guidelines apply only to current conflicts of interest. They do not apply to past interests that have expired, no longer exist, and cannot reasonably affect current assessment. Nor do they apply to possible interests that may arise in the future but that do not currently exist, as such interests are inherently speculative and uncertain. For example, a pending application for a particular job is a current interest, but the mere possibility that one might apply for such a job in the future is not a current interest.<sup>11</sup>
15. The ethics advisory body may be consulted by
- a. Anyone considering whether to declare an interest under paragraphs 8 or 9; or
  - b. Anyone seeking to avoid a conflict of interest.

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6 Provides that perception is key; the key test is whether a reasonable person might challenge work because of a conflict, regardless of whether that conflict actually affected the work.

7 Drawn from the current TOR.

8 It is worth noting, in passing, that as with the current TOR the illustrative list of interests will identify examples of interests that should be disclosed, not interests that would give rise to a conflict.

9 Again, drawn from the current TOR; but with two minor amendments (to make it clear that the provision is not exclusive), and to delete “production” from the old text (which related to financial interests in the production of ozone-depleting substances).

10 This is distilled from the IPCC work. The paragraph acknowledges that it is inevitable that members will come to TEAP work with strong, sometimes publicly stated, opinions and perspectives. Those opinions and perspectives should be balanced, but will not necessarily create a conflict of interest.

11 Drawn almost entirely from the IPCC work this text should help to determine what potential interests are too remote to be declared.

## Recusal

16. Depending on what is appropriate in the circumstances, a member's recusal may be complete or partial.
17. Where a member's recusal is complete, that member is recused from decision making and discussions related to a defined area of work.
18. Where a member's recusal is partial, that member is recused from decision making but may participate in discussions related to a defined area of work.
19. A member who is recused completely or partially from an area of work may nevertheless answer questions with respect to that work at the request of the TEAP, TOC or TSB.
20. A member who declines to disclose information under paragraph 11 must completely recuse themselves from discussions and decisions on related topics.
21. A member may recuse himself from a defined area of work where he believes that he has a conflict of interest.
22. A member may be recused from a defined area of work by the co-chairs, of the relevant TEAP, TOC or TSB, by a simple majority acting on their own initiative or at the initiative of another member.
23. Where TOC or TSB co-chairs are unable to act by simple majority on the recusal of a member, that member may be recused by a simple majority of the co-chairs of the TEAP.
24. Where the TEAP co-chairs are unable to act on the recusal of a member, or where a member proposes that a TEAP co-chair should be recused, the TEAP should debate the recusal fully, unless that is not reasonably practicable, with a view to ensuring the balance of opinion is taken into account. Only if there is such a debate may the TEAP take the matter to a vote. The TEAP may, by a two thirds majority of those voting, make a decision either way on the recusal.
25. Where the TEAP votes under paragraph 24, the person whose recusal is at issue may not vote.
26. Where the TEAP are unable to make a decision on recusal under paragraph 24, the final decision on recusal shall be made by the President of the Meeting of the Parties, who should immediately be alerted to the issue by the TEAP.
27. The ethics advisory body may be consulted by anyone considering whether to-
  - a. take the initiative to refer a recusal to a co-chair under paragraph 22;
  - b. propose that a co-chair should be recused under paragraph 24; or
  - c. recuse under paragraphs 21 to 26.
28. Where the ethics advisory body is consulted under paragraphs 15 or 27, they must always inform the person whose recusal is at issue when someone else consults them.

## The ethics advisory body

29. The ethics advisory body shall comprise three persons appointed by the TEAP by consensus.
30. Subject to paragraph 31, each of those persons shall be appointed for terms of three years.
31. When those persons are first appointed, the term of one of them shall be for one year, and the term of another will be for two years.
32. The term of any person appointed may be renewable once only for one further term.
33. The advice of the ethics advisory body shall be confidential, provided the person subject to the inquiry complies with the advice of the ethics advisory body on issues of critical importance to the reputation of TEAP.
34. The confidentiality provided for in paragraph 33 may be waived by the person subject to the inquiry.

## **Annex A**

### **Illustrative list of interests**

[To be completed between OEWG and MOP]

[Consider the current list in the TOR]

[Should include government employment/remuneration/salary]

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