

## THE DIPLOMATIC NEGOCIATION - A KEY FACTOR IN INTERNATIONAL RELATIONS

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### Abstract

The development of international relations has conjured states to appeal, for the treatment of foreign policy issues, to diplomatic negotiation regarding contacts and bilateral negotiations, and, also, to a broader framework represented by the multilateral diplomacy. In its general meaning, diplomatic negotiation is a key factor in international relations, representing the way of maintaining peaceful relations, cooperation and understanding among all states, while respecting individual personality in order to reach a consensus. On resolving disputes, diplomacy is required, by negotiation, to help identify ways in which to restore confidence among states, turning off some contingent disputes and removing or alleviating the causes that led it. Diplomatic negotiation ultimately represents a tool, a technique in the service performed by certain organs of state specifically designed for this purpose.

**Keywords:** *Negotiation, Diplomacy, Immunity, Tactics, State, Diplomatic Relationship*

### 1. INTRODUCTION POLICIES TOOLS - DIPLOMATIC NEGOCIATION

In their attempt to accomplish their goals, confirm values and protect interests, the governments must communicate with those whose ideas want to change, transform or enhance. Today there are lots of ways and means of communication that could be involved in expressing the states' requests and hopes or in fighting against external threats. The majority of the official declarations addressed to other countries are generated by formal diplomatic means or by direct communication between the Foreign Ministries and the state's leaders, but the government holders may give declarations for the audience in their own country as well as for foreign peoples and governments, within the press conferences and political meetings.

The topic of interstate communication includes establishing and managing a

government's objectives, dealing with threats and promises, presenting possibilities of agreeing over litigations. The diplomats are only partially considered successful when they can determine a government to which they are accredited, to hold, on a specific circumstance, the same perspective as the government whose interests they represent; the success becomes full when they can change or maintain the actions of a foreign government in a way which is favourable to the interests of the government they serve. During the process of communication, those who formulate policies will usually revise their objectives in the light of the changing circumstances and in relation to the foreign government's feed-back; and the whole procedure goes on until the consensus is reached, imposed, or until one of the governments abandons or withdraws their requests if they are faced with an external resistance. But, before any negotiations or any usual exchanges of opinions and information take place, the states, through their governments, must acknowledge one another. This represents a formal expression necessary for joining a club of states. Without a formal acknowledgement the political entities cannot benefit by any of the rights and guarantees ensured by international law.

### 2. THE DIPLOMATIC ACKNOWLEDGEMENT

In the XX-ieth century, the practice concerning **diplomatic acknowledgement** has become more disputed, more political and less automatic. The diplomatic acknowledgement grants the political unit a form of external official recognition and support.

The governments may refuse to grant the acknowledgement to a new state, even if it did fulfill the minimal requirements. This means the exclusion of the political unit from the international community and may represent a well calculated step to annihilation.

When it comes to a state's acknowledgement, there's also the problem of acknowledging the new leader of the government by an already existing state. Where governments change by settled procedures, such as presidential and parliamentary elections, the acknowledgement is granted automatically. But where a government gets to power by means of a revolution, coup d'état or assassination, the decision of granting or not the acknowledgement becomes a matter of diplomatic and strategic policy. Without having undergone the acknowledgement procedure, the formal diplomatic communication was difficult and even impossible. Not being acknowledged is a distinct sign of disapproval and if enough governments do the same, the not acknowledged state may have difficulties in maintaining normal business, diplomatic and commercial relations with the other states. If the diplomatic relations are formally settled by means of acknowledgement policies they can even be cut off. This is just a model from a series of forms of diplomatic pressure designed for changing the "target"'s behaviour or for expressing a state's requests. Where two states have ceased the formal ways of communication by cutting off the diplomatic relations, they can ask a third country to use its institutions for maintaining minimum relations between the two countries. A variation on the same topic is represented by second level relations.

These different ways of diplomatic practice manipulation, including the acknowledgement issue, are means of guiding a conflict and trying to influence other governments. But in most of the cases, once the acknowledgement is granted, the advantages of maintaining the diplomatic relations on the whole overcome the often symbolic realities of their cessation or decrease.

Today, diplomats search to extend the national interest in foreign territories, to protect

the national society from an impending danger, to increase the volume of transactions, to solve a conflict over a disputed territory or to control the drugs traffic.

The bilateral models of diplomatic communication of the XVIII-th century gave way to ad-hoc multilateral conferences and more recently to the permanent diplomatic and technical organizations - and firstly the UNO.

Today, the multilateral **diplomatic conference** concept is institutionalized by the UNO and the specialized agencies. These are well known organizations, but the multilateral diplomacy is constantly performed in thousands of ad-hoc conferences, as well as within less formal meetings between diplomats and government representatives.

The majority of nowadays great multilateral conferences also includes other important meetings: the meetings of the non-governmental organizations that conduct their own negotiations and give their own resolutions. These are shown to the official diplomats.

Whether conducted by experienced diplomats or states leaders, the governments' communication, representing a wide range of economic and political social systems, is normally vulnerable to a series of distortions owed to cultural differences, social cleavages and superficial misunderstandings.

The **diplomatic protocol** represents an important support for diplomats regarding the efficient accomplishment of their assignments.

### **3. THE IMMUNITIES**

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If the governments try to influence other governments' policies and actions by means of an efficient communication, it is necessary they suppose that their diplomatic agents abroad will not be abused or put in situations forbidding them to engage themselves in free ways of persuasion and negotiations.

The law according to which the diplomats and their embassies must be treated as if on their home land is still a general rule of international legislation. They have immunity regarding criminal suing, in accordance with the laws,

customs and regulations of the government they are accredited to. Those who have a diplomatic status (usually the entire foreign staff at the embassy) cannot be arrested by police officers from the country they have been accredited to, and the entrance for the government agents is forbidden. They can only enter at the diplomatic corps' invitation. However, if the diplomats commit serious offences then the host country may demand that the respective diplomats be withdrawn and they be charged and prosecuted by the courts of law of the host country.

In the majority of cases, the governments call back their diplomats when this is required but usually the designation of a diplomat as *persona non-grata* is triggered by the diplomat's political actions and not by violation of a local law. Ambassadors and other diplomatic magistrates are declared *persona non-grata* when their efficiency has been compromised by tactless political assertions, by implication in the internal affairs of the host country or by using one's status for espionage activities.

Diplomats enjoy their immunity regarding the laws of the country they are accredited to, yet there have also been formulated rules which limit the types of actions the diplomats are allowed to do in influencing the foreign governments policies. The main limitation is represented by the fact that they cannot get involved in the internal political affairs of the state they are accredited to. Normally, the diplomats should discuss official problems with the government representatives. Of course, they can protect their own government policies by addressing themselves to some private foreign groups, but they are not allowed to ask these people to urge their own government; they are also forbidden to get funds for political parties or to grant leading positions or other favours to rebels, to some political factions or economic organizations.

These non-involvement rules are well clarified and established in the legislative and customary practice, but since the internal problems of the countries have a growing external involvement, the rules are largely infringed.

#### 4. THE DIPLOMATS' FUNCTIONS

Beside the diplomats' main role in negotiations and in informational communication between governments, they have a series of other obligations to fulfill.

**Protection of the fellow-countrymen**, an obligation including protecting the life and promoting the interests of the national residents or of those traveling abroad, is a routine matter although during some incidents, the diplomats' role in this field may become very important. The fellow-countrymen must be protected or evacuated if necessary, they must be represented by a counselor if they are in prison and their properties or their interests in the foreign country must be protected if the foreign government doesn't do that. It is common practice among the great powers to appoint consular agents rather than personal agents from the embassy to fulfill these obligations. Consulates, which can be found in several cities of a country, are diplomatic subunits that help travelers who want to leave or come to the host country in visa-related problems or with other information, protect their own citizens' interests when abroad and facilitate commercial transactions.

In their role of **symbolic representatives**, the ambassadors, besides their attending ceremonies and other fashionable gatherings, must address the foreign groups and be present at all the events related to their country, however small this one may be.

As information and data are the raw materials of foreign policy, gathering and obtaining information - by official acts, at cocktail parties or by hidden means - is the most important task of a diplomat's activities in addition to negotiation. Accurate information must be available to those who formulate policies where there is a minimum discrepancy between the objective aspect of the environment and the environment image had by those who formulate policies. Data on military potential, personalities and trends, or economic problems may be provided by the security services from abroad; but when it comes to collecting information,

experts experience difficulties in knowing and understanding and certain trends, intentions, responses, attitudes and motivations. While diplomats may provide a significant amount of raw data in their reports, their main role in providing information is to use their skills and familiarity with the foreign society to interpret data and generate accurate reports and information on the foreign government responses to the policies of their own government.

Much of the **diplomatic communication** between governments consists in exchanges of views, statements of intentions and attempts to persuade other governments that certain actions, such as attending a conference, reducing customs duties or offering diplomatic support on a particular international problem, would act in their interest. In these areas negotiations are not difficult, as the diplomats or government officials are not making threats nor concessions. Most common diplomatic agreements, that take place between governments, belong to these areas and all visits of heads of states do not take place for negotiations, but merely for "exchanging views" and providing "advice".

The bilateral diplomatic meetings or multilateral conferences can be organized for creating and inducing the illusion that a government is seriously interested in negotiations although in fact it doesn't want to reach any agreement. If the respective government agrees to negotiate, the public opinion attention might be shifted from some of the respective government activities.

A government could participate in diplomatic negotiations just to make propaganda; it makes use of a conference not only to reach a compromise on a limited area of ??problems but also to transmit long shot calls to the public to undermine the position of its opponents in negotiations in a time when "secret diplomacy" is viewed with suspicion and many diplomatic negotiations are presented to the press and the public. This conference will surely benefit from an intensive advertising and provide an excellent opportunity to influence the attitudes of the public opinion. The Open Forum of the

UNO General Assembly provides an important opportunity to influence the non-diplomatic opinion. Many UNO problems observers note the fact that most discourses of this institution are directed to areas of internal and international interest and not so as to inform the other delegates.

Diplomacy has a particular role to conclude agreements, compromises and accords where the government's objectives conflict. Whether in private meetings or at conferences, diplomacy deals with attempts to change policies, actions, objectives and attitudes of other governments and other diplomats through persuasion, offering facilities, mutual concessions, or threatening.

In a time when technological innovations create all sorts of problems that surmount national borders, diplomacy however, may conclude agreements of cooperation and can also deal with issues such as marine pollution, nuclear proliferation, the price of coffee and wheat, different races of arms and so on. Although the diplomatic target is to change behavior through persuasion, on the other hand it presents itself as a highly technical, bureaucratized and mutual learning opportunity, where governments try to form rules and formulas for the allocation of costs that will bring stability, caution and reduced costs and risks for a wide variety of international "problems". Diplomacy, in these contexts, is much more than negotiating concessions until a deal is reached that is accepted by both parties. It is also mutual learning about important issues and it helps develop general principles by means of which specific agreements can be formulated.

## 5. DIPLOMACY IN THE NEGOTIATION GAME

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Talks on contentious issues can be started by a series of signals made by the parties to show their willingness to have formal discussions. But even when the parties have agreed to undertake negotiations, there are still a number of preliminary issues to be resolved before any significant discussion take place.



The table shows some preliminary facts that occur during the negotiation process. First it is decided where discussions will take place. If negotiations take place between enemies, then the prevalent rule in the last two decades was to choose a city from a neutral state. If negotiations take place between countries that maintain friendly relations then they will be held in the capital of one of the parties.

**Table. Formal Negotiation Process**

FRAMEWORK	PROCESS	RESULTS
1. Open meetings vs. closed meetings.	1. Preparations of the rules of the game (discussions about negotiations):	1. The objectives of the parties.
2. Bilateral meetings vs. multilateral meetings.	a. Location (city) b. The parties and the size of delegations.	2. Newly created alternatives or revised maximum and minimum conditions.
3. Stress or crisis situations or more normal circumstances.	c. Languages to be used, placement at the negotiations table. d. Representatives of the press etc.	3. Possible results: a. treaty or "agreement". b. Postponement of negotiations. c. Conclusion of negotiations and leaving problems unresolved.
4. Current time (available or not, eg. Ultimatum)	2. Ongoing negotiations:	
5. The mediator's role vs. the direct participants.	a. Statement of positions. b. Statement of demands and conditions. c. Symbolic behaviours and signals d. Persuasion e. Promiss f. Threats g. Liabilities h. Concessions	

Parties taking part in the negotiations also raise a number of problems. The usual criterion is "Who is involved in the matter at issue?". Those who are as little involved are actually the necessary guests for completing the issues in question; still, there often arises the problem of the parties that have no diplomatic status.

The range of **diplomatic techniques and tactics** that need to be taken in diplomatic negotiation depends, in general, on the degree of incompatibility between the interests and objectives of two or more nations, on up to where the nations are willing to defend their interests

as well as on the degree of the parties' availability to conclude an agreement. Diplomatic negotiations between friends and allies have seldom the same characteristics as those between hostile governments. Where there is already an agreement on the principles of an issue, negotiation is only an indication of details, or a deduction of consequences from principles. When governments are responsive to mutual interests, in most cases these ones represent a well-founded basis for compromise and mutual concessions. Within the UE negotiations framework, for example, the parties agree with the objectives of the organization and are very well aware of their mutual economic needs and interests. In a more general framework, they can negotiate on some key technical problems without having to comply to match the basic principles. The general desire to reach an agreement may determine the negotiating agents to make concessions. The alternative is an inflexible position, avoiding the agreement and accepting adverse publicity for adopting such a position.

Where objectives are fundamentally incompatible and both sides maintain their positions strongly, the problem of influencing the behavior, actions and goals through diplomatic negotiation becomes much more complex. In such circumstances there are two stages to reach an agreement. First, a party will have to determine the other to want an agreement of any kind; it will somehow have to persuade the other party that any understanding or agreement is preferable to the status quo, residing in incompatible positions or in the lack of agreement or, conversely, that the consequences of a lack of agreement are worse than the consequences of an agreement. Secondly, once the phase "agreement on an agreement" was made, both parties need to negotiate the specific terms of the final agreement.

Of the two phases, the first is more difficult when one's attachment to incompatible objectives is strong; as long as one of the parties believes it can achieve its objectives by actions other than negotiations, the diplomatic

negotiation will not lead to an agreement.

If both parties have made decisions that the agreement is more desirable than its absence or the maintaining of the status quo, it remains at the discretion of the parties to negotiate the specific details of the agreement. Diplomats can use a wide variety of negotiation techniques. In fact, they present their conditions, clarify their objectives, and use persuasion by bringing new arguments or by presenting data showing the accuracy of their views or their requirements degree. In brief, they engage themselves in a dispute. Occasionally they can use threats or provide rewards to try to obtain agreement on their proposals and if they fail, they reassess their positions in terms of possible concessions, hoping to reach a favorable agreement or a change in the objectives of the other party. They must simultaneously show all the time their commitment to the negotiating position, because if they do not do that, the other party assumes they are not very attached to their conditions and are willing to compromise without significant compensations. The promise of a reward provides an advantage in the case of certain future terms that are to be disputed. This can range from promises of "soft" peace terms, money loans or diplomatic support at a future conference to symbolic acts such as unilateral release of prisoners of war or a cease of hostilities.

The effectiveness of some threat actions depends especially on their reliability. State B must believe that the threat will materialize if it doesn't agree to state A's requests. Credibility will be set when B realizes that A is able to materialize the threat and thus affect B, A's interests not being threatened. If, for example, state A's diplomats threaten with leaving a conference, and B knows that such a fact would seriously jeopardize the chances of obtaining a favorable agreement, state B could very well make last minute concessions to prevent the interruption of negotiations.

For threats to be credible they must affect only one of the parties. State A must show that if the threat materializes, this will not affect its interests; in other words, the costs of the object

threatened will be much greater threat than those of the party that will materialize the threat. If state A threatens to leave a conference (usually after a certain given signal, such as sending home the chief negotiator for "consultations"), but state B knows that A will have to suffer from the public's condemnation that it "ruined" the conference, then, the threat is hardly credible. Indeed, state B would be tempted not to believe A's threat to be true, case in which A would be put in a very difficult situation. In some cases, those who threaten must do certain things that show they are perfectly capable of materializing their threats. This could involve the mobilization of troops, withdrawal of foreign aid or trade for a short period of time, reduction of the embassy staff or mimicking leaving a conference - all these indicating that the threat will become reality if necessary.

Finally, it might be advantageous to make deliberate, vague threats, or, as it were, an ominous warning. Although these might not be credible, they could put an advantage on the threatening party by providing it with a number of alternative forms of punishment by action or inaction - should the other party not take the threat seriously. Usual diplomatic phrases like: "we will not sit still doing nothing, while State B is doing something", or state B "must assume full responsibility for the consequences of its actions" are threats of the kind mentioned above. They do not involve the man who threatens in committing specific actions, but indicate the fact that state B's actions are perceived as dangerous and could lead to a counter action or retaliation. A vague threat avoids placing state A in a position where it can not make any moves. There is an inherent conflict between the desire to make a credible threat, and the desire to preserve freedom of action.

The problem with carrying out threats in diplomatic negotiations is the following: even if they are quite reliable, the other party could verify them. In this case, the threatening party must act and thus affect its own interests or it will retire and earn the reputation of demagogue. In other words, if the threat is verified, it loses its meaning.

In addition to sharing concessions - even completely uneven - negotiators are often forced to state terms that will not jeopardize the future disruption or damaging of an agreement. Most agreements include notions of exchange and reciprocity, but there must be some trust that the requirements and the exchanges inherent to these agreements be met, and in the case where they are overloaded, there should exist a mechanism for the resolution of disputes or for granting sanctions. It can be seen especially in the history of arms control negotiations that the parties have often refused certain proposals on the grounds that they did not include verifiable means to detect violations. Over the years, governments have had at their disposal a number of methods to prevent risks. These included the exchange of hostages (their detention until all provisions of the agreement were implemented), obtaining guarantees from a third party, making immediate sanctions, and getting the costs of the potentially defeated state through many other ways of negative influencing.

Persuasion by argument and presentation of information by offering rewards, threats, commitments and risks provision are the main techniques used in the diplomatic negotiation process between the nations. This is a normal pattern, but there are other possibilities. In a completely unequal balance of power, one party would be in a position to achieve a diktat. It provides the conditions to be necessarily accepted. Compromises may be made on certain details, but the pattern is that the weaker party give legal basis for a capitulation.

Another type of negotiation includes the search for a general formula or a set of principles accepted by both parties. The negotiation process is minimal in the context of using threats and/or rewards; it's more likely that one or both parties (often a mediator) search for alternative solutions which are presented for evaluation as a plan of measures. Once a formula is accepted, then negotiations will be centered on clarifying the details.

## **6. NEGOTIATING TACTICS**

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Most of the tactics presented are mainly used in situations where a government tries to change the other's actions and policies - that is, to persuade it to do something that it would not otherwise have done. Unlike these tactics, the solving of problems is a process where two or more parties try to create rules for solving some problems arising in the physical or diplomatic environment. In the circumstances open for negotiation there are very few conditions that prevail - one's gain is seen as the other's loss - and in the solving of problems the parties note that the study of a situation, the finding of resources and general cooperation could lead to mutual benefits and no greater value will have to be sacrificed to reach an agreement. Differences may appear between the exact specifications of rights, duties and costs but these are details that are above the general consensus on objectives.

Thousands of treaties and institutions of communication, as well as scientific, cultural, technical and economic institutions are the results of trying to solve problems together, when all acknowledge that a unilateral action will not succeed.

Negotiators in problem-solving situations present in the beginning the data and technical studies of the problem. These form the basis of proposals submitted as a treaty draft or constitution for a new international organization. The technical research, data analysis and interpretation are often performed by specialists from several countries, working together. Problems-solving focuses on gains to be obtained by mutual concessions; and diplomacy argues that the nation's interest is to make short term sacrifices for long-term gains. The meaning of this statement is that from all diplomatic contacts between governments and between governments and international organizations, problems-solving prevails. But beyond issues of war and peace, and diplomatic exchanges that deal with these issues, there is a vast network of contacts between the governments that deal primarily with the

coordination and framing in a treaty of those provisions that have been clarified by the silent procedures of problems-solving.

In some negotiations delegations may become so divided that no unanimous position can be sustained, in which case becoming necessary a staff change to achieve a consensus. Diplomats resign rather than comply with instructions that they can not agree with. So diplomacy is a negotiation exercise with many sides, and not just the negotiation of concessions between opponents.

**Diplomatic and negotiating processes** are subjected to a variety of backstage games, attention distractions and symbolic actions that serve not only as a barometer of friendship or hostility of two or more governments, but can be used to create a favorable or unfavorable context for the more formal aspects of the negotiations.

Anyone who watches television or reads newspapers is familiar with some of the diplomatic tactics. Using a metaphor from the theater, Raymond Cohen presented a series of "stage effects" that government leaders and heads of state use as "signal" devices and as devices of prestige argumentation. Meetings between heads of state, for example, are carefully arranged to make a maximum impression on those who are watching television.

The heads of state or government visits can also be a good barometer of diplomatic relations and the level of public exposure through the media could bring new advantages in increasing diplomatic prestige. The red carpet, the cannon blows, the range of government representatives and other diplomats, the flags along the streets leaving the airport and the great luxury of the guest's reception, all these are more than kindness, they show the status and degree of goodwill or hostility.

Drama elements are not used only for preparing a scenario or for protocol. The costumes and gestures are also designed so as to present some pictures, messages and signals. Smiles and expressions of emotion were used to express an exceptional friendship while sadness, indifference, or, during the meetings of world

communist parties, the lack of applause in a speech, showed varying degrees of hostility.

Since political leaders are very sensitive to details, the presentations affecting their personal prestige as well as that of their country, the general tone of the reception ceremonies as well as the hospitality degree can trigger changes on the discussions. In several cases, discussions were interrupted because a state's leader felt neglected by his host.

**The art of diplomatic theater** was intended to impress - or to send signals to - the Court representatives and professional diplomats. Today, the audience is much wider and it is important if those audiences have a role in formulating and implementing foreign policy.

## 7. CONCLUSION THE NEGOCIATOR'S IMPORTANCE IN DIPLOMATIC RELATIONS

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Throughout times, experience has shown that in the complex and difficult field of diplomatic negotiations - the wisest option is to choose the professionals, because "a wise ruler will use skilled negotiators to whom the bargaining is a profession, perhaps one of the most difficult professions".

Given that "the main function of diplomacy is negotiation, the qualities of a good diplomat largely overlap those claimed by a good negotiator". In many cases - may it be in peacetime or in war - the fate of a nation depends on the skill, talent, perseverance and brilliance of the negotiator; because, as Cardinal Richelieu said: "talks lead with skill and perseverance can determine ... major options in the life of nations and influence the course of events." This brilliant diplomat has proven throughout his diplomatic activity "toughness ... to get influence and power, and authoritarian spirit" - qualities he used with wisdom and moderation, with the sole purpose of serving his country.

Over time, numerous clashes between nations have shown that the most difficult position is that of the defeated party: "When weapons have lost their edge, when ardor will subside, when the forces will be exhausted and the treasury will



be drained, the neighboring rulers will take advantage of your weakness to act ..." If the defeated nation benefited from the skill and persuasiveness of a Talleyrand, then it should not fear too much the truce and peace treaty settlements.

One of the most intelligent political thinkers of the Renaissance was Niccolo Machiavelli - who, in his "Prince", a true principality management manual - made the following assessment: "He who has the power to insure himself against enemies, to win friends, to prevail by force or by fraud, to be loved and feared by the people, - followed and respected by soldiers ... to renew the old order with new rulings ... to keep the friendship of kings and princes, so that they gladly do him favours or do him the harm in fear". This portrait fits quite well a prince, a leader, but it also meets the qualities required by a negotiator, a successful diplomat.

In an ideal vision, the chief qualities of a negotiator should be: calm, patience, perseverance, intelligence, flexibility, ability to handle negotiation techniques and use appropriate language - all these in addition to a number of professional obligations such as: discipline, thorough preparation of the negotiation, further training in the negotiation-related fields, participating in training sessions and taking exchanges of experience. The

theoretical approach to depict as close to the ideal the portrait of a negotiator and diplomat would surely display the following qualities: Richelieu's patriotism, professionalism and perseverance, Talleyrand's skill and ability, Mettenich's balance, organizational talent and persuasiveness, Lord Palmerston's consistency, Mazarin's patience and firmness and Louis XIV's elegance.

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