

Making the Forest Sector Transparent Ghana VPA Transparency Gap Assessment 2012



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Prepared by the Rural Environmental Care Association (RECA) and Global Witness, October 2012

Introduction

As part of the Forest Law Enforcement Governance and Trade (FLEGT) process, Ghana was the first country to conclude and ratify a Voluntary Partnership Agreement (VPA) with the European Union (EU) on 19 March 2010. The VPA governs trade in legal timber products between the two parties. It is seen as a driver for tackling illegal logging, which robs Ghana of development capital, fuels land conflicts and causes environmental degradation.

This assessment was carried out by RECA and coordinated by Global Witness and Forest Watch Ghana. It aims to support implementation of the VPA by identifying what information on the forest sector should be published and assessing its current availability. Recommendations are made for improving forest sector transparency and strengthening the participation of all stakeholders, especially civil society and forest-dependent communities, in forest management.

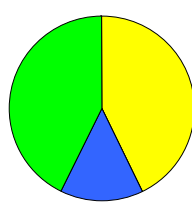
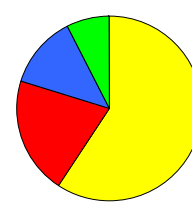
Unlike the VPAs with Cameroon and Liberia, the agreement with Ghana does not include a specific annex on public information, and the country has no general freedom of information law or forest-specific norm that obligates authorities to publish information (a Right to Information Bill was introduced in 2009 but had not yet passed into law at the time of this assessment). Nonetheless, transparency is highlighted in the VPA as an important principle in the implementation of the Legality Assurance System (LAS).

Some elements for implementing the VPA are in place or under development: the Forestry Commission (FC) has set up the VPA Secretariat and the Timber Validation Department (TVD); a Legislative Instrument for FLEGT licensing has been drafted; and a contract for rolling out the Wood Tracking System (WTS) has been awarded. These are positive steps, but further work is necessary to realise improvements in transparency and governance.

Summary Findings

A total of 68 types of information that should be published were identified by studying the text of the VPA, in particular the outputs of the seven principles of the LAS. Each one was then assessed using yes/partial/no 'traffic light' for whether the information currently exists (i.e. it is collected by the relevant authorities) and whether this information is publicly available. Some indicators were not applicable because the relevant process had not yet been implemented.

The pie charts below show the results for Framework indicators, which relate to legal documents, procedures or institutional set-ups that should be published once they are agreed; and Data indicators, which relate to reports, plans, maps and other information on forest activities that need to be regularly published over time.

Framework (14 Indicators)			Data (54 Indicators)		
					
Yes	6	43%	Yes	4	7%
Partial	6	43%	Partial	32	59%
No		0%	No	11	20%
N/A	2	14%	N/A	7	13%
Total	14		Total	54	

In summary, some key parts of the framework still need to be finalised, and the majority of data is only available on request, which was assessed as 'partial' since access is at the discretion of the authorities. The following table presents each of the 68 indicators together with notes and details of where relevant information can be accessed. Analysis and recommendations then highlight actions that need to be prioritised.

The *Making the Forest Sector Transparent* programme is coordinated by Global Witness and works with a coalition of leading local NGOs in Cameroon, the Democratic Republic of Congo, Ecuador, Ghana, Liberia and Peru to engage policymakers and advocate for capable, responsive and accountable forest sector governance. Each partner has administered a mini-grants fund to support grassroots advocacy in their country.



Ghana 2012 VPA Transparency Gap Assessment Indicators

- Key:**
- Yes - information exists and is published
 - Partial - the information is incomplete, drafted and/or only available on request
 - No - the information does not exist or is not published
 - Not Applicable - the information in question is not applicable because the process or system has not yet been implemented

F/D: Framework (F) – legislation, procedure, structure or other norm applied to the forest sector that needs to be published once
Data (D) – report, map, statistics or other information on forest sector that needs to be published regularly over time

Glossary and Abbreviations

CEPS	Customs Excise and Preventive Service
CO2/CO3	Pre-felling inspection form CO2 and the felling permit form CO3 are part of Annual Logging Operations Plans
EPA	Environmental Protection Agency
FC	Forestry Commission
FSD	Forest Services Division of the FC
GCnet	Ghana Community Network Services Limited, a customized electronic system for processing trade and customs documents
IM	Independent Monitor
JMRM	Joint Monitoring Review Mechanism between the European Union and Government of Ghana
LAS	Legality Assurance System
LIF	Log Information Form, part of the paper-based chain of custody
MLNR	Ministry of Lands and Natural Resources
M-SIC	Multi-Stakeholder Implementation Committee
RMSC	Resource Management Support Centre, a FC centre based in Kumasi
SP	Salvage Permit, issued by the FC for salvage of trees from an area of land undergoing development such as road construction
SRA	Social Responsibility Agreements between logging companies and communities
TIDD	Timber Industry Development Division of the FC
TIF	Tree Information Form, part of the paper-based chain of custody
TREC	Timber Rights Evaluation Committee, responsible for evaluating applications for granting of timber rights
TUC	Timber Utilisation Contract, the main long-term logging contract
TVC	Timber Validation Council, which oversees the TVD
TVD	Timber Validation Department
WTS	Wood Tracking System

Specified information and relevant section of VPA Text	F/D	Exists?	Public?	Notes on Information	Sources of Information
1. Source of Timber (Production) - LAS Principle 1					
<i>Forest Reserve - Annex V, Principle 1, Criterion 1.1</i>					
Forest Management Documents	D	●	●	Operational forest management documents are not published, but can be obtained on request from district and regional offices.	FSD
Forest Maps	D	●	●	Forest reserves are demarcated on maps. This information is not published, but hard copies can be found at district FSD offices and some digital maps of reserves are also available from the RMSC.	FSD, RMSC
Forest Survey Reports (stock enumeration and yield data)	D	●	●	Survey reports can be requested from district FSD offices or RMSC, but whether the authorities make them available depends on who is requesting the information and for what purpose.	FSD, RMSC
Maps of Forest Types (habitats critical areas, genetic hot spots, Globally Significant Biodiversity Areas, protection areas);	D	●	●	Maps with coordinates are produced, which can be requested from the RMSC, but whether the authorities make them available depends on who is requesting the information and for what purpose.	FSD, RMSC
Reserve Management Plan (strategic management plans)	D	●	●	Reserve management plans are prepared in consultation with local communities. Some traditional authorities hold copies of them, and they may be provided upon request at district FSD offices.	Traditional Authorities, FSD
<i>Off-Reserve - Annex V, Principle 1, Criterion 1.1</i>					
Operational Plans	D	●	●	Plans are available on request from district FSD offices and the RMSC.	FSD, RMSC
TUC Maps	D	●	●	Off-reserve TUC maps can be requested from the FSD or RMSC, but whether the authorities make them available depends on who is requesting the information and for what purpose.	FSD, RMSC
Off-Reserve Inventory Report	D	●	●	Information is available on request from district FSD offices	FSD
Felling Inspection Form CO2	D	●	●	Information is available on request from district FSD offices	FSD
Felling Permit Form CO3/Letter of approval.	D	●	●	Information is available on request from district FSD offices	District FSD offices

Specified information and relevant section of VPA Text	F/D	Exists?	Public?	Notes on Information	Sources of Information
<i>Plantation - Annex V, Principle 1, Criterion 1.1</i>					
Plantation Map	D			Maps can be requested from the FC, but whether the authorities make them available depends on who is requesting the information and for what purpose.	Plantation Department of the FC
Enumeration report (of harvestable trees)	D			Reports can be requested from the FC, but whether the authorities make them available depends on who is requesting the information and for what purpose.	Plantation Department of the FC
Payment receipt (proof of purchase/allocation of land)	D			Details of payments can be requested from the FC, but whether the authorities make them available on who is requesting the information and for what purpose.	Plantation Department of the FC
Entry permit (access to land to fell trees)	D			Entry permits are not public documents and they are not available on request.	Plantation Department of the FC
<i>Underwater - Annex V, principle 1, criterion 1.1</i>					
Block Report	D			This relates to pre-defined blocks or locations of underwater logging rights in the Volta Lake (which flooded trees when the dam was built). A company has been granted the contract to undertake the project, but plans have not been published.	TIDD
<i>Imported Wood - Annex V, Principle 1, Criterion 1.1</i>					
Declaration to customs of timber imports by country of origin.	D			Timber imported for processing should be declared through CEPS and data added to the GCnet platform and TVD database to ensure legality. This is a new approach which is not yet fully operational.	GCNet, CEPS, shipping lines and shipping council
<i>Consent to timber rights by concerned individuals/group and owners - Annex V, principle 1, criterion 1.2</i>					
District Notices	D			Notices are posted in District Assemblies and copies sent to the traditional authorities	District Assemblies, Traditional Authorities
Written Consent	D			A letter of consent should be signed by landowners, typically the chief who represents people, and submitted to the district manager for approval prior to logging. It is posted on notice boards.	FSD, District Assemblies, Traditional Authorities
Consultation Minutes	D			Consultation with landowners and affected farmers is usually carried out locally without FSD involvement. In some cases, minutes are added to monthly reports	FSD, District Assemblies, Traditional Authorities
Records Arbitration of Proceedings	D			When necessary, the FSD may be brought on board to arbitrate on consent issues and records kept on proceedings.	FSD, District Assemblies, Traditional Authorities
2. Timber Rights Allocation - LAS Principle 2					
<i>TUCs - Annex V, Principle 2, Criterion 2.1</i>					
Procedures for allocating TUCs	F			The procedures for allocating TUCs are available from the FC website.	www.fcghana.org/library.php
TREC pre-qualification reports	D			Notices inviting applications to the TREC for pre-qualification to bid for timber rights are posted on the FC website. Reports on its decisions may be requested, but whether they are made available depends on the authorities.	FC
Notices of invitations to bid for TUCs	D			Some notices inviting bidders for TUCs are posted in national newspapers, for example an invitation was advertised for plantation TUCs in 2011.	Newspapers
TREC bidding reports	D			Although the role of the TREC in validating bids for timber rights is established in law, this process has not been consistently followed in practice. Limited information on bidding rounds in 2003 and 2004 is publicly available, but reports are not public.	FC; details of earlier bidding rounds at www.fcghana.org/page.php?page=334&section=25&typ=1
List of TUCs issued	D			A list of all TUCs issued is available on request from the FC	FC
TUC contract documents	D			According to law, all contracts for the use of natural resources including timber are supposed to be ratified by parliament, which will place the document in the public domain. However, no TUCs have been ratified for several years. The contract documents may be requested from the FC, but further work is necessary to determine whether they are publicly available in practice.	FC

Specified information and relevant section of VPA Text	F/D	Exists?	Public?	Notes on Information	Sources of Information
Salvage Permits - Annex V, Principle 2, Criterion 2.2					
Applications for SP	D			Applications for salvage permits are meant to be submitted to the FSD, but they are not publicly available	FC
Inspection reports	D			The FSD is meant to conduct inspections and submit reports on the justification for commercial trees to be salvaged in a defined location, but they are not publicly available.	FC
Salvage permits	D			Permit documents are not publicly available. Lists obtained by civil society revealed that a very large number of permits were issued in 2010 and 2011. There have been concerns about such permits being excessively granted at the discretion of the authorities instead of going through transparent processes.	FC
Confiscated Timber - Annex II, Principle 2, Criterion 2.3					
Auction of Confiscated Timber	D			The VPA states that information on purchase of confiscated timber from public auctions is meant to be registered in a central database. Some information can be obtained from district FSD offices.	FSD
3. Timber Harvesting Operations - LAS Principle 3					
Post Harvest Audit Reports	D			RMSC post harvest reports may be requested, but whether the authorities make them available depends on who is requesting the information and for what purpose.	FSD, TIDD, RMSC
Lists of Tree Information Forms (TIFs) and Log Information Forms (LIFs) issued	D			The data on these forms on tree species, harvesting and company name can be accessed on request from district FSD offices.	FSD, TIDD, RMSC
Manual of Proceedings A-F relating to timber production	F			The manual of procedures is widely available from libraries and on websites.	FSD, TIDD, RMSC
Social Responsibility Agreements (SRAs) documents	D			SRAs are typically negotiated with communities and not available in the public domain. The FSD and District Assembly are supposed to be part of the negotiation processes and ensure compliance, but that has happened in few areas.	FSD, District Assemblies
List of Forestry Offences	D			An offence file is kept in every district office, but there is no published list of offences apart from what appears in newspapers on arrests.	District Offices
List of Fines for Offences	F			The Information on fines imposed for forestry offences exists at the district level, but it is not published.	District Offices
Compensation paid to affected farmers	D			The logging manual states that the FSD should assess damage and ensure that compensation is paid. In practice, compensation is usually arranged by the farmers themselves, but reports are made to district offices when problems arise. Minutes are added to monthly reports.	District Offices
4. Transportation - LAS Principle 4					
Log transportation standards	F			Transportation standards are available in the Timber Resource Management Act 547 and Timber Resources Management Regulations LI 1649. The details on TIFs and LIFs provide relevant information.	www.fcghana.org/library.php
5. Processing - LAS Principle 5					
List of processing companies with valid licenses	D			Available upon written request from the TIDD. Some information can also be found in export reports.	TIDD, RMSC, FC, FSD
Industrial Health and Safety Monitoring Reports	D			The EPA and Factory Inspectorate Division are responsible for checking health and safety requirements, but there is no published information.	EPA
6. Trade - LAS Principle 6					
List of all Licensed/Registered Domestic Vendors (Domestic Market)	D			Domestic vendors are meant to be registered, but many do not carry it out. The TIDD has limited capacity to conduct national registration and pursue defaulters. At the time of this assessment, there were plans to establish a legal mandate and process for registration, but this was under consultation.	FC

Specified information and relevant section of VPA Text	F/D	Exists?	Public?	Notes on Information	Sources of Information
List of all Licensed/Registered Exporters	D			The monthly TIDD reports on export of wood products list exporters by product, value and volume.	Export reports are available from http://www.fcghana.org/library.php?id=16
List of valid export licences issued.	D			Information can be made available following a written request, but this depends on the decision of the FC on who is requesting the information and for what purpose.	TIDD, TVD, CEPS
TVD Audit Reports	D			TVD activities are yet to become fully operational since the LAS procedures are still being developed and the WTS is yet to be rolled out.	
7. Fiscal Obligations - LAS Principle 7					
List of loggers and vendors in default of stumpage fee	D			Information is collected in regional and district FSD offices. There are occasional press notices, but details on defaulters are not made published. Records could be requested but further analysis is necessary on what information is made available.	FSD
List of vendors in default of ground rent (fees, rents or taxes)	D			Information is collected in regional and district FSD offices, but it is not published. Some details may be available on request.	FSD
List of vendors in default of export levies	D			This information can be made available by the TIDD on request.	TIDD, CEPS
List of loggers and vendors in default of Corporate Income Tax	D			This information can be made available by the TIDD on request.	TIDD
TVD Financial Audit Reports	D			TVD activities are yet to become fully operational since the LAS procedures are still being developed and the wood tracking system is yet to be rolled out.	
8. Legal Information - Annex II, Section 4					
Texts of all laws and regulations referenced in the VPA as primary and subsidiary legislation applicable to the forest sector.	F			All of the legal documents are publicly available from the Ghana Publishing Corporation. Some can be accessed from public and university libraries and from the FC website	www.fcghana.org/library.php
9. LAS and Independent Monitoring - Annex V and Annex VI					
Final description of the Wood Tracking System	F			Following a WTS pilot, Ghana tendered for a service provider and signed a contract in April 2012. Full deployment is planned for December 2012 and documentation on the final system needs to be published.	FC
Structure and functioning of the designated licensing authority - TIDD	F			The role of the TIDD is set out in the VPA and this department is operational, but final details on its structure and how it issues licences needs to be published.	TIDD www.fcghana.com/vpa
System to verify compliance with the legality definition	F			Guidance for the verification of legality has been drafted. The system has not yet been finalised, but the JMRRM aide memoire for March 2012 states that a workable system will be ready by September 2012.	TVD
Structure and functioning of designated verification authority - TVD	F			The role of the TVD is set out in the VPA. This department has been established and is operational. Further details on its structure and functioning will need to be published as the VPA systems roll out.	TVD www.fcghana.com/vpa
TVD Annual Monitoring Reports on Critical Control Points (harvesting, transporting, processing, export)	D			Annual reports have not yet been prepared since the wood tracking system and verification system have not been established.	
Structure and functioning of the Timber Validation Council	F			The TVC will have oversight of the transparency and independence of the TVD and deal with complaints. It has not yet been established, but it is planned to be operational by December 2012.	
FLEGT licenses issued (EU countries)	D			Not applicable since FLEGT licenses are not in operation yet	
Exports Permits issued (Non- EU Countries)	D			Permits exist but are not in the public domain	TIDD, FC
Terms of reference for IM	F			The terms of reference are stipulated in the VPA agreement, which is available online.	FC www.fcghana.com/vpa

Specified information and relevant section of VPA Text	F/D	Exists?	Public?	Notes on Information	Sources of Information
Appointment of IM	F	●	●	The IM has been advertised and bids received, but it has not yet been appointed at the time of this assessment	MLNR, FC
IM reports	D	●	●	Not applicable since the IM has not yet been appointed at the time of this assessment.	MLNR, FC
Complaints arising from work of the IM	D	●	●	Not applicable since IM has not been appointed yet	MLNR, FC
10. JMRM Reporting and Institutional Set Up - Article 4, 5, 10 and 19, and Annex VI					
Structure and functioning of the Joint Monitoring and Review Mechanism	F	●	●	The responsibilities of the JMRM are set out in the VPA, and the fourth mission took place from 13 to 16 March 2012. It has agreed a final version of its rules of procedures and arbitration, but they had not yet been published at the time of this assessment.	www.fcghana.com/vpa
JMRM Mission Reports and Aide Memoires	D	●	●	Aide memoires on the four missions to date are publicly available, but they lack information on the efforts made by Ghana to be transparent on the forestry activities, which is required in the VPA text.	Latest aide memoire available at http://www.fcghana.com/vpa
JMRM Annual Reports	D	●	●	The 2009/10 annual progress report was published in May/June 2012. The 2010/11 report has been drafted and is due for publication.	2009/10 report http://www.euflegt.efi.int/files/attachments/euflegt/ghana_annualp rogressreport_vpaimpl ementation_09-10_lores.pdf
Structure and functioning of the Multi-Stakeholder Implementation Committee (M-SIC)	F	●	●	This committee was constituted in 2010 to oversee and coordinate implementation of the VPA. Terms of reference are available, but full procedures on its functioning have not been formalised to date.	M-SIC terms of reference http://www.fcghana.org/VPA_2/assets/file/im plementation_committ ee/tor_multi_stakehol der_implementation_c ommittee.pdf
Details of EU competent authorities	F	●	●	A list of nominated competent authorities for implementation of the FLEGT regulation has been published.	EU http://ec.europa.eu/en vironment/forests/fleg t.htm
Reports of competent authorities	D	●	●	Reports have not yet been produced because there is not FLEGT timber yet.	

Methodology

The list of indicators was drawn up by carefully studying the text of the VPA and then consulting key stakeholders in FC departments and civil society organisations on them. The investigator then assessed what information exists and is publicly available on each one by desk research and searches of the websites of the FC, the Environmental Protection Agency and international resources such as www.loggingoff.info. Key stakeholders from FC departments (including the FSD, TVD, TIDD, and RMSC) and civil society organisations provided further details and feedback on what information is available and how it can be accessed. Data were collected in June 2012 with further consultation and validation through July 2012.



Unmarked logs waiting to be transported. Photo © CIKOD

Analysis

Implementation of the VPA has made gradual progress since the agreement was ratified in 2010. Regarding 'Framework' indicators, although the forest sector legislation and related norms referred to in the VPA are in the public domain, key requirements for implementing the VPA such as guidance for the legality verification system have only been drafted to date. The structure and functioning of the main bodies responsible for implementing and monitoring the VPA (e.g. the TVD) also remained to be finalised and published at the time of this assessment. There have also been lengthy delays in some documents being released; for example, the 2009/10 JMRM progress report was only published in June 2012. The draft and final versions of systems and procedures should be published as soon as they are produced so that civil society and citizens can understand what is being implemented and how it is being monitored.

For the 'Data' indicators, the information was reported to exist in some shape or format, in most cases within the systems administered by the FC. However in many cases it was difficult to assess whether this data covers all forest activities across Ghana. Very little is published regularly online or in FSD offices and local media. The only data that were found to be consistently posted on the FC website were monthly TIDD reports on timber exports and six-monthly reports on royalties' distribution to different stakeholders.

For the majority of indicators, the informants from the FC reported that the necessary data and documents could be requested from district and regional FSD offices, the RMSC, or other sections of the FC. The willingness of the authorities to disclose information was a positive sign, but this assessment also found that whether information was made available may depend on who is requesting it, who they know in the authority, how they prepare the request, and what purpose they state for wanting the information. There was also a fee for some items, such as maps. Civil society informants reported cases where communities had successfully received this information following a request, but this had tended to follow NGO work to build their capacity to negotiate with the authorities. Overall, these findings suggest that access to information on request may be at the authorities' discretion and difficult to negotiate. Access should not rely on established contacts and NGO support.

The assessment found that data on some key indicators were not available at all. For example, TREC reports on the bids for TUCs are not made public (and this process has not been consistently followed in practice) despite it being a key part of timber rights allocation. Another worrying example is how exposés in 2010 and 2011 revealed that the FC had excessively allocated salvage permits through administrative processes. Although this practice has now reportedly been suspended, it is important that the FC releases information on applications, inspections and permits issued. Other data that is not made public includes entry permits held by logging companies to off-reserve areas and details of registered domestic vendors, which is essential information for knowing who is felling trees and selling them locally. No evidence was found of comprehensive lists of forest offences and fines issued being released. Finally, documentation on social responsibility agreements was not available, which means that local people may not know what services and infrastructure the company is meant to provide.

In general, the lack of regular, proactive publication of information online and through local offices and media seriously limits transparency and accountability. Just making information available on request is inadequate in practice. Key documents such as forest management plans and maps may not be accessed, which limits the ability of people to know where and when legal timber production activities are happening. Currently, there is insufficient published information to monitor the legality of timber products. More positively, the FC reported that a committee is in the process of re-constructing its website so that more information is made available. This is a potential advance and an opportunity for civil society and NGOs to play a greater role in synthesising, analysing and disseminating key information.



A Queen Mother (traditional community leader) makes a point during an awareness raising meeting. Photo © New Generation Concern

Recommendations

In order to meet the commitments to transparency made in the VPA, improve forest governance, and combat illegal activities in the sector, the following steps are recommended:

1. Ghana's forest sector does not need to wait for Freedom of Information legislation to be passed; within the FLEGT process a binding obligation on forest authorities to publish information would set a framework for improving transparency and accountability, similar to the annexes in other VPAs. Through consultation with the public, and using the list of indicators prepared for this assessment, it is recommended that the government and civil society determines what information should be routinely published and what needs to be made available on request.
2. To end the culture of discretion that currently prevails, the FC needs to develop an information strategy that specifies how it will regularly publish information through different channels and methods (e.g. websites, public meetings, media) and how it will respond to requests for information (e.g. minimum requirements, responsibilities, time periods, exceptions). In particular, it should address how it will ensure that local communities are able to access and understand information on activities that affect them.
3. All existing forest sector information held by local and regional bodies and different ministries needs to be centralised and stored in an information management system, and a nominated unit in the FC needs to be charged with collating and improving data so that it provides accurate and up to date statistics on forest sector activities. To facilitate this, cross-division information sharing within the FC needs to improve
4. As part of the on-going implementation of the VPA, the JMRR and M-SIC need to establish clear processes and records to monitor the necessary improvements in transparency in the forest sector. They should establish procedures to arbitrate on disputes over access to information and take appropriate actions where obligations are not being met.
5. Civil society organisations should work further to put communities in the driving seat of demands for information and develop shared expectations with the authorities on the proposed public information obligation and strategy. They should lead further analysis on whether information can be accessed across different regions of the country. This assessment should be repeated annually to highlight progress and gaps.
6. NGOs in Ghana need to consider their role in collating, interpreting and disseminating complex information whenever it is provided by the state. Websites in particular are not accessible to all, and may become a depository for large volumes of data. Information needs to be appropriately summarised and circulated in local meetings and media for people to be able to hold the state accountable day-to-day, and NGOs are well placed to do this.

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RECA assists Ghanaians to harness their potential and their environment toward a sustainable improvement in their livelihoods.

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Forest Watch Ghana is a coalition of about 40 NGOs and individuals working in the forest and environment sector.



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