

Research Paper

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International Security | May 2015

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# Disarmament as Politics: Lessons From the Negotiation of NPT Article VI

## Summary

- The Non-Proliferation Treaty (NPT) was negotiated with the expectation that future progress on nuclear disarmament would be necessary to ensure the treaty's sustainability.
- The security benefits of the NPT meant that states were not willing to make the non-proliferation obligation conditional on the achievement of specific disarmament measures, which explains the vague language of Article VI. This calculation likely remains true today.
- Anxiety about disarmament during the NPT's negotiation was fundamentally a matter of politics, and was not confined to non-aligned states. This also appears to be true today.
- The NPT review process was partly designed to encourage states to debate progress on nuclear disarmament, but review conferences lack the ability to resolve those debates.
- Some states that pressed hard for disarmament concessions in the NPT negotiations also harboured nuclear weapons aspirations; today, disarmament advocacy can sometimes provide political cover for those seeking to undermine non-proliferation. However, the perceived injustice of the NPT bargain is acute, and 'calling the bluff' of non-nuclear weapons states dissatisfied with progress on disarmament risks generating political momentum that can also damage the treaty.

## Introduction

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

– Treaty on the Non-Proliferation of Nuclear Weapons, Article VI

Article VI of the Non-Proliferation Treaty (NPT) is one of the most contested treaty provisions in international politics. Its combination of vague language and lofty aspiration, along with the fact that the NPT is an intrinsically political – and hence constantly evolving – document, has made debates over the meaning of Article VI a central feature of the NPT review process from the start.

Article VI is the product of a collision between two political realities that exist at the heart of the NPT ‘bargain’. First, allowing some states to possess nuclear weapons while preventing others from doing so is inherently unjust. Second, this injustice is – for most countries most of the time – a far lesser threat to their interests than the further proliferation of nuclear weapons. These two realities were present at the treaty’s creation, and they remain true today.

The implication of these twin realities is that a commitment to nuclear disarmament is necessary for the NPT’s political bargain to work, but that even in the absence of actual progress in disarmament, the NPT remains (for most countries, most of the time) a great deal better than nothing. As many have pointed out, without the introduction of Article VI it would have been exceptionally difficult, and perhaps impossible, successfully to negotiate a non-proliferation treaty that a sufficient number of non-nuclear weapons states would have signed.<sup>1</sup> Yet the article itself is very limited: it does not specify measures to be taken, nor does it set a clear timeframe within which any actions must be completed – aside from the broad aspiration to end the arms race ‘at an early date’.

To point this out is not to engage in historical revisionism with the aim of minimizing the importance of disarmament. Rather, a nuanced understanding of the political context in which Article VI was negotiated is essential in order to grasp the role it played, and still plays, within the NPT bargain – a role that is fundamentally a matter of politics. Article VI is both essential and deeply flawed. As Jorge Castañeda, Mexico’s ambassador to the Eighteen-Nation Disarmament Committee (ENDC – the disarmament forum that was a precursor of today’s Conference on Disarmament), put it in September 1967, when introducing the wording of what was to become Article VI, it is an ‘imperfect obligation’.<sup>2</sup>

The mandate for a multilateral treaty on non-proliferation was enshrined in a UN General Assembly resolution sponsored by Ireland in 1961, envisioning a simple agreement

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<sup>1</sup> See, for example, Lewis A. Dunn, ‘The NPT: Assessing the Past, Building the Future’, *Nonproliferation Review* 16:2 (July 2009), p. 160.

<sup>2</sup> Verbatim records of the Eighteen Nation Disarmament Committee, ENDC/PV.331, para. 19.

between nuclear-armed states (which would promise not to pass their weapons on, or help others to build them) and non-nuclear-armed states (which would promise not to receive weapons, or build their own).<sup>3</sup> In practice, however, serious negotiations on a non-proliferation treaty could not begin until the superpowers were committed to pursuing one. This required bilateral US–USSR negotiations to kill off plans for a NATO multilateral nuclear force (MLF), while leaving in place NATO’s existing nuclear arrangements – a highly sensitive process which was not completed until late 1966.<sup>4</sup>

Once the superpowers were on board (with the United Kingdom playing a supporting role), the next task was to craft a treaty that would be acceptable in basic terms to their respective blocs – a much harder task for the United States than for the Soviet Union, for obvious reasons. These private consultations started in late 1966; by August 1967 they had made it possible for the superpowers to introduce identical drafts of a non-proliferation treaty to the ENDC. With private allied consultations continuing in the background, the non-aligned members of the ENDC now had a formal opportunity to influence the treaty text, having previously sponsored a resolution in the General Assembly on the desired shape of a treaty and authored memorandums to the ENDC along similar lines.

Although there was no language resembling Article VI in the superpowers’ first identical drafts, the article that appeared in the final treaty (which opened for signature on 1 July 1968) was the product of political concerns about the relationship between non-proliferation and disarmament that had been aired at all stages of this negotiating process. This paper does not seek to provide a comprehensive history of the negotiations, but instead makes a set of observations about the way in which the disarmament issue was treated as the NPT took shape, and draws lessons from this for today’s diplomacy.

## **An expectation of disarmament**

A common theme throughout the negotiation of the NPT was that parallel progress on arms control and disarmament would be a necessary condition for the success of non-proliferation. This was not simply a demand made by the non-nuclear weapons states. As William Foster, head of the US Arms Control and Disarmament Agency and leader of the US delegation, put it in his concluding remarks to the ENDC in March 1968:

There has been at least one theme on which all have been agreed. The non-proliferation treaty should be a step towards achieving further measures of nuclear disarmament and, indeed, a step towards our ultimate goal of general disarmament.<sup>5</sup>

Similarly, UK foreign office minister Fred Mulley told the ENDC that Article VI was ‘certainly the most important by-product of the treaty and one of its most important

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<sup>3</sup> UN General Assembly Resolution 1665(XVI), 4 December 1961.

<sup>4</sup> For a detailed exploration of this process, see Hal Brands, ‘Non-Proliferation and the Dynamics of the Middle Cold War: The Superpowers, the MLF, and the NPT’, *Cold War History*, 7:3 (2007).

<sup>5</sup> ENDC/PV.376, para. 37

provisions,’ on the basis that ‘if it is fair to describe the danger of proliferation as an obstacle to disarmament, it is equally fair to say that without some progress in disarmament the non-proliferation treaty will not last’.<sup>6</sup>

Simply put, it is reasonable for non-nuclear weapons states to regard the commitment to progress on disarmament as a fundamental element of NPT politics. The corollary of this is that it is unwise for nuclear weapons states to regard discussion of the disarmament issue as simply a distraction from the core business of the treaty. This dynamic appears relevant today: the attempt to characterize recent conferences on the humanitarian impacts of nuclear weapons as a distraction from the NPT has provided fodder for the more hard-line attendees of the conferences – where focus has been directed towards the total elimination of nuclear weapons – to claim that the nuclear weapons states are not interested in serious engagement in the disarmament process, and has thus allowed them to challenge the continued relevance of the NPT.

The decision of the United States and the United Kingdom to attend the 2014 Vienna Conference on the Humanitarian Impact of Nuclear Weapons<sup>7</sup> – though also not without its tactical risks – seems to have shown that these two nuclear weapons states at least accept the legitimacy of disarmament-related discussions, providing firmer ground from which to argue that such discussions are best conducted within the framework of the NPT itself, and not in pursuit of a separate treaty on the straightforward prohibition of nuclear weapons.

## No conditionality

If there was an inherent expectation that disarmament progress would affect the health of the NPT, however, it was also accepted during the treaty negotiations that the non-proliferation obligation could not be made conditional on the achievement of specific disarmament measures. As Christopher Ford, among others, has rightly pointed out, such ‘linkage’ was attempted and explicitly rejected.<sup>8</sup> Both India and Sweden (among others) proposed versions of a ‘package deal’ in which non-proliferation commitments would be tied to agreement on specific arms control and disarmament measures, including the negotiation of a fissile material cut-off treaty (FMCT) and a comprehensive test-ban treaty (the CTBT), as well as bilateral arms reductions.<sup>9</sup> The United States, the United Kingdom and the USSR made it clear, however, that insistence on these measures would make a non-proliferation treaty impossible to negotiate. This was a matter of political reality evident to all players in the negotiations whether they liked it or not. Jorge Castañeda put it bluntly:

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<sup>6</sup> ENDC/PV.358, para. 23.

<sup>7</sup> Vienna Conference on the Humanitarian Impact of Nuclear Weapons, <http://www.bmeia.gv.at/en/european-foreign-policy/disarmament/weapons-of-mass-destruction/nuclear-weapons-and-nuclear-terrorism/vienna-conference-on-the-humanitarian-impact-of-nuclear-weapons/>

<sup>8</sup> Christopher Ford, ‘Debating Disarmament: Interpreting Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons’, *Nonproliferation Review* 14:3 (November 2007), pp. 405–6.

<sup>9</sup> *Ibid.*, p. 406.

to stipulate that the non-proliferation treaty should include specific disarmament measures to be implemented by the nuclear powers in the immediate future would be tantamount to opposing the very existence of a nonproliferation treaty.<sup>10</sup>

India, which by the mid-1960s was already moving down the path to weaponization, maintained its insistence to the last and rejected the NPT outright. But Sweden, a key non-aligned player in multilateral disarmament and led by the influential ambassador Alva Myrdal, conceded in the latter stages of the ENDC negotiations that it would ‘hardly be feasible in legal terms to enter into obligations to arrive at agreements,’ and that ‘to enumerate some specific measures would be counterproductive’.<sup>11</sup> The Swedish delegation then introduced amendments to tighten the language of Article VI – but, overall, this was a key concession. From this point onwards, negotiations on the text of Article VI centred on making its non-specific political commitment credible, rather than on including a commitment to concrete measures of disarmament.

Accepting the NPT, in other words, meant accepting that the value of non-proliferation was such that it was not worth holding the treaty hostage to the agreement of specific measures of arms control and disarmament. Again, this is a calculation that appears to hold true today. Non-nuclear weapons states without weapons aspirations of their own are unlikely to seek active harm to the NPT, given the widespread security benefits of continued non-proliferation. The more pressing question, however, is whether dissatisfaction at the slow pace of disarmament will create political momentum that cannot be contained, with detrimental side-effects for the NPT.

## The NPT in context

The preceding two features of the NPT – an expectation of disarmament, but unwillingness to scupper the treaty if the expectation is unfulfilled – generate tension. One of the ways in which this tension was addressed during the negotiation of the treaty was to make clear that the treaty was meant to form part of a wider arms-control framework, and that the inequality at the heart of the treaty was not intended to be permanent. A common refrain during the ENDC negotiations, heard from nuclear and non-nuclear weapons states alike, was that the NPT was ‘not an end in itself’.<sup>12</sup>

In part, this was related to the question of disarmament: progress towards nuclear disarmament would mean that the NPT’s division of the world into nuclear and non-nuclear would not last forever. But it also helps to explain the fact that the NPT was negotiated to have an initial duration of only 25 years. Several non-nuclear states, including influential Western allies, objected strongly to a permanent treaty on political grounds. German chancellor Kurt Georg Kiesinger, for example, framed his opposition to

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<sup>10</sup> ENDC/PV.331, paras.18.

<sup>11</sup> ENDC/PV.363, para. 11.

<sup>12</sup> E.g. United Kingdom (ENDC/PV.326, para.54); USSR (ENDC/PV.325, para.43); Burma (ENDC/PV.337, para.15), Ethiopia (ENDC/PV.323, para.13).

an indefinite treaty duration as a matter of his responsibility ‘to the younger generation of Germans’.<sup>13</sup> The Italian ambassador to the ENDC, Roberto Caracciolo, termed a permanent treaty an ‘iron corset’, and declared the Italian preference to be a corset made of steel, ‘which, being more flexible, could more effectively assure the continuation of the treaty’.<sup>14</sup>

The initial limitation of the NPT’s duration to 25 years was thus in one sense a political pressure valve, allowing the ‘sacrifice’ of the non-nuclear weapons states in forswearing nuclear weapons programmes to appear at least somewhat conditional.<sup>15</sup> This valve was closed with the indefinite extension of the treaty in 1995, further heightening the NPT’s inherent tensions. To be clear, indefinite extension of the treaty was of inarguable security benefit (allowing non-nuclear weapons states to maintain confidence in perpetuity that their neighbours would not proliferate) as well as of normative benefit (reinforcing the international taboo against nuclear proliferation). But it also had the effect of converting what had been an uneasy political compromise into the foundation of a permanent regime.

In political terms, this makes it especially important that the nuclear weapons states find ways to avoid reinforcing the impression that the NPT is a device to entrench permanently the division of the world into nuclear and non-nuclear weapons states. The political process around the NPT can only function if the basic principle of the goal of a nuclear weapons-free world is upheld – hence the importance of reaffirming the ‘unequivocal undertaking’ to achieve nuclear abolition first declared at the 2000 Review Conference. For the goal to remain credible, moreover, it is critical that progress stalled does not appear to be progress permanently halted. If ratification of the CTBT were to be defeated again in the US Senate, ruling out entry into force for another generation, or if negotiations on the proposed FMCT were to appear permanently blocked without hope of movement, it would become extremely difficult to make the long-term goal of nuclear abolition appear credible.

## Disarmament as status politics

In March 1967, at a critical stage in the NPT negotiations, when the United States and the USSR had reached broad agreement on the parameters of a treaty but it had yet to be sold to their respective allies, the Soviet ambassador to the United States, Anatoly Dobrynin, asked Walt Rostow, national security adviser to President Lyndon Johnson, how the American consultations were going. Rostow said that they were working on the problem,

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<sup>13</sup> Status of Negotiations on the Non-Proliferation Treaty, CIA Intelligence Memorandum No. 1111/67, 8 May 1967, Lyndon Baines Johnson Presidential Library, National Security Files [hereafter LBJL, NSF], Subject File – Non-Proliferation Treaty, Box 26, Vol.1, No.71a, p.4.

<sup>14</sup> ENDC/PV.341, paras.9-11. Also quoted in Mohamed Shaker, *The Nuclear Non-Proliferation Treaty: Origin and Implementation, 1959-1979* (3 volumes. London: Oceana, 1980), Vol. II, p. 860.

<sup>15</sup> As Mohamed Shaker rightly points out, the questions of the treaty’s duration, the ability to withdraw, and the procedure for amendment were closely linked to each other and to the review process. Shaker, *The Non-Proliferation Treaty*, Vol. II, p. 858.

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but that ‘it was not easy to create a political environment in which nations appeared to sign on to third-class nuclear status’.<sup>16</sup>

Because of the overwhelming benefit to states’ security of a stable non-proliferation regime, it is easy to forget quite how unusual the act of signing the NPT as a non-nuclear weapons state is in political terms. Forswearing an option that others have exercised, while accepting obligations different from and more onerous than those taken on by other states, is not a typical feature of multilateral regimes. Demanding progress on nuclear disarmament, and framing the treaty as a step towards that goal, is a predictable political response.<sup>17</sup>

For a variety of reasons, vocal disarmament advocacy within the NPT review process has long been the preserve of Non-Aligned Movement (NAM) states. But it is worth remembering that the status dilemma attached to signing the NPT as a non-nuclear weapons state was felt acutely by Western allies at the time of the treaty’s negotiation. West Germany’s Franz Josef Strauss, for example – a charismatic, powerful and troublesome voice on the right wing of Kiesinger’s coalition in the late 1960s – made much of this fact. Strauss, who had something of a knack for melodramatic analogy, called the NPT a ‘second Yalta’,<sup>18</sup> and ‘a new Versailles ... of cosmic dimensions’.<sup>19</sup>

This ‘status anxiety’ was echoed, albeit in more moderate terms, by Japan, Italy and other Western allies, which, in consultations with the United States, accepted the difficulty of agreeing disarmament measures as part of the NPT itself, but still demanded an overall political commitment to disarmament in recognition of the sacrifice on the part of the non-nuclear weapons states. One way of understanding the prominence of disarmament debates in the NPT arena, then, is pure politics. The only politically tenable framing for an arrangement in which states forswear the nuclear option – whether or not they have any intention to pursue it – is one based around a commitment to the future goal of nuclear disarmament.

A fascinating feature of today’s debate is that it is the increased anxiety of Western states, rather than the NAM, that appears to have lent momentum to the humanitarian impacts initiative, echoing the political squabbles of the 1960s. Yet, in that decade, even while Western states were lamenting the inequality of the NPT hierarchy, and seeking political redress through a rhetorical commitment to disarmament, they were pushing the United States to provide nuclear guarantees.

Then, the political demands of the treaty bargain clashed with the hard demands of strategy. West Germany, for example, was simultaneously agitating for disarmament

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<sup>16</sup> Memorandum of Conversation between Rostow and Dobrynin on 27 March, 28 March 1967, LBJL, NSF, Papers of Francis M. Bator – Subject File – Non-Proliferation, Box 31, Vol.1, No.12, p. 1.

<sup>17</sup> As Harald Müller puts it, this is essentially a matter of ‘justice’: the discriminatory nature of the regime ‘can be overcome only by disarmament and universalization.’ Harald Müller, ‘Conclusion’, in Harald Müller and Carmen Wunderlich, eds., *Norm Dynamics in Multilateral Arms Control: Interests, Conflict and Justice* (Athens, GA: University of Georgia Press, 2013), p. 341.

<sup>18</sup> Memorandum, German views on Non-Proliferation, 21 February 1967, UK National Archives [UKNA], PREM 13/2440, No.7c.

<sup>19</sup> Quoted in Matthias Küntzel, *Bonn & the Bomb: German Politics and the Nuclear Option* (London: Pluto, 1995), p. 90.

commitments while pressing the United States into allowing it a greater say in the nuclear defence of NATO. Japan, similarly, while pushing the superpowers to make clear their commitment to disarmament in the text of the NPT, was negotiating with the United States over the parameters of extended deterrence. The same tension exists today, as NATO members confront the dilemma of an NPT process in which the political dynamic leads them to push for alternative routes to nuclear disarmament, while in the realm of security policy they are engaged in NATO discussion over the appropriate mix of conventional and nuclear forces required to deter an increasingly assertive Russia.

## Disarmament in the review process

The *'raison d'être'* of the NPT, as Mohamed Shaker put it in his seminal work on the treaty, is non-proliferation.<sup>20</sup> But the mechanism by which the treaty is reviewed is a different beast. Its existence cannot be explained without reference to the need, during the NPT's negotiation, to compensate the non-nuclear weapons states for their perceived sacrifice. Specifically, the review conference process was pitched as, among other things, an opportunity to apply pressure over disarmament. UK talking points for consultations with the West Germans, for example, give an impression of how the review process was depicted:

This would in fact be a very great concession by the nuclear states, because in effect it would enable the non-nuclear states to hold a pistol to the heads of the nuclear, since they would be called to account if after five years they had made no progress towards our real goal of nuclear disarmament.<sup>21</sup>

This function was made explicit by an amendment linking the review not only to the provisions of the treaty but also to the 'purposes of the preamble', which included expansive language on disarmament, and was embedded as a lasting feature of NPT diplomacy by an amendment to make the review conference a five-yearly, rather than one-off, event. Yet, if there was to be an opportunity every five years to 'hold a pistol' to the heads of the nuclear weapons states, it did not escape the notice of the negotiating parties that there seemed to be no obvious way to pull the trigger. 'What action is supposed to follow,' asked Alva Myrdal, 'if the verdict of a review turns out to be "unsatisfactory"?'<sup>22</sup>

Sweden's answer to this question was to try to make lack of disarmament progress explicit grounds for withdrawal from the treaty – but this effort was rebuffed, and the review process was given no concrete power of redress. This outcome ensured, first, that disarmament would be a central topic for discussion at every review conference starting with the first in 1975, but, second, that there would be little practical leverage available to dissatisfied states at those review conferences, other than to block agreement on a consensus final document.

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<sup>20</sup> Shaker, *The Non-Proliferation Treaty*, Vol. I, p. 214.

<sup>21</sup> Brief for the Visit of Herr Schütz on non-proliferation, UK National Archives, FCO 10/75, General – briefs and papers, no. 2, 20 January 1967.

<sup>22</sup> ENDC/PV.363, para.15.

Today it remains ambiguous what pulling the trigger on that pistol would mean. The most significant indication of a willingness to do so would be any sign that the basic premise of the bargain between non-proliferation and disarmament – that the NPT's security benefits are more important to the interests of most states than is the injustice of its division between nuclear and non-nuclear – was being reversed.

Two potential symptoms of such a reversal can be identified. The first would be a large-scale withdrawal of states from the review process. A large-scale withdrawal from the treaty itself on the grounds of stalled disarmament is essentially out of the question, on both political and legal grounds, but a withdrawal from the review process – i.e. a refusal to attend further meetings of the preparatory committee or the review conferences – is theoretically conceivable. This would be a sign that non-nuclear weapons states were no longer willing to engage in the political process surrounding the treaty. A second symptom, more probable than the first, would be a refusal by traditional supporters of the treaty to reiterate the NPT's continued value, aligning themselves instead with those who claim the treaty is a 'busted flush', and incapable of producing further meaningful outcomes.

### **Conclusion: the supremacy of politics**

There has always been an uneasy overlap between those states that objected (privately) to the NPT because they wanted a nuclear weapons option, and those that objected on the grounds that the treaty lacked concrete disarmament provisions. The widely shared objection to the NPT on the grounds of its division of the world into nuclear and non-nuclear was a hybrid of these two critiques. Those states that objected in the 1960s but none the less ended up supporting the treaty did so on the basis that non-proliferation was a shared interest, with security benefits that outweighed the injustice involved (and, in the case of NATO and the United States' East Asian allies, because the sacrifice was offset by extended deterrence guarantees).

Given this history, it is legitimate to ask those states pushing hardest on the disarmament issue – even to the point of pursuing a treaty to ban nuclear weapons outright – whether they are not only risking that shared interest, but also providing a useful rhetorical shield for those states that wish the NPT harm for other, less benign, reasons. It also seems likely that, if a direct choice is presented, especially to those states under extended deterrence guarantees, the continued functioning of the NPT will remain more important than the single-minded pursuit of nuclear disarmament.

Yet seemingly non-rational outcomes are seen all the time in international politics. The political injustice of the NPT's basic bargain is acute, and the lack of progress on disarmament – especially today, as the CTBT waits to enter into force, negotiations on an FMCT are yet to begin, prospects for bilateral arms control wither, and modernization programmes continue apace worldwide – is undeniable. If the political dynamics of the review process become unbearable, the treaty may be damaged, whether or not non-proliferation remains a shared interest. In other words, the nuclear weapons states should think twice before calling the bluff of the non-nuclear weapons states. Achieving an NPT in

the first place took a great deal of diplomatic effort, and sensitivity to the political predicament of non-nuclear weapons state signatories. Maintaining the treaty beyond its 50th anniversary, in five years' time, will take a similarly deft touch.

Article VI was, in essence, a holding note. It identified the basic injustice in the NPT's establishment of a nuclear hierarchy, and acknowledged that an unequal world of non-proliferation was a lesser evil than was a world in which states were equally free to pursue their own nuclear arms. Its central political contribution to the NPT bargain was to make clear that this inequality was intended to be temporary. But the negotiators of Article VI could not spell out either how a route to a disarmed world was to be found, or how quickly the route was to be followed. These may be questions to which a negotiated answer simply cannot be reached. If so, the challenge of NPT diplomacy in the coming years will be once again to find a way to keep alive the hope that the unsatisfactory bargain remains temporary, and that the imperfect obligation of Article VI can somehow be fulfilled.

### About the author

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ISBN 978 1 78413 062 6

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