

China's Innovative Dispute Resolution under the "Belt and Road" Initiative

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Abstract

This article explores China's significant initiatives in innovative dispute resolution under the "Belt and Road" initiative. It highlights China's establishment of institutions such as the International Commercial Court, the Supreme People's Court's "one-stop" resolution platform, and the International Mediation Institute, offering novel avenues for resolving commercial disputes within the "Belt and Road" projects. These innovative mechanisms not only promote the development of international rules and the rule of law but also contribute to maintaining the stability of global trade and investment cooperation, fostering legal pluralism, and enhancing global governance. China's practical experiences are closely observed worldwide, providing valuable insights for addressing global challenges and advancing the construction of a peaceful, stable, and prosperous international order.

Keywords: Belt and Road; dispute resolution; Chinese innovation

Introduction

With the deepening of global economic integration, the interconnection between countries in economic, trade and other fields has become increasingly close.

In 2015, China proposed the "Belt and Road Initiative" aiming to promote in-depth connectivity between Asia, Europe and Africa, and neighboring countries in various fields such as policies, infrastructure, trade, capital and personnel flows through the construction of the land and maritime Silk Roads, and promote regional economic integration.

In recent years, the scale of "Belt and Road" construction has continued to expand, with related projects spanning more than one hundred countries and regions in Asia, Europe and Africa.

However, with the growth of the scale and influence of the "Belt and Road" construction, there are bound to be some differences and disputes in political, economic, cultural and other fields between different countries and projects. For example, cultural differences in legal norms and business practices between countries increase the possibility of disputes. Some large infrastructure projects may also have some impact on the local environment and communities, thus triggering related disputes.

At the same time, existing international and regional dispute resolution mechanisms also have certain problems and deficiencies in adapting to "Belt and Road" disputes. International multilateral mechanisms such as the WTO dispute settlement mechanism do not fully match the goal of regional economic integration of the "Belt and Road". Regional organizations such as the Shanghai Cooperation Organization mainly focus on national security issues rather than economic integration. The dispute resolution clauses in bilateral trade agreements signed between China and other countries vary in content and degree.

Given the grand goal of the "Belt and Road" Initiative, it is particularly important to establish an efficient and fair dispute resolution mechanism. This not only requires improving existing international rules, but also exploring innovative models to better meet the special needs of "Belt and Road" construction. Only by establishing a comprehensive and efficient dispute governance system can strong legal guarantees be provided for "Belt and Road" construction, and promote related countries to achieve win-win cooperation at a higher level.

1. Challenges in Dispute Resolution under the "Belt and Road" Initiative

1.1 Applicability and Challenges of Domestic Dispute Resolution Resources

Under the "Belt and Road" initiative, dispute resolution faces multiple challenges, particularly for cross-border disputes. This section will delve into the applicability and challenges of domestic dispute resolution resources, including differences in legal systems and their applicability, as well as limitations of various dispute resolution methods.

1.1.1 Challenges in the Application of Litigation

Differences in Legal Systems and Issues of Legal Applicability:

The "Belt and Road" initiative involves numerous countries with significant differences in legal systems, adding complexity to dispute resolution. This complexity makes it difficult to provide a unified and universally accepted legal service. Foreign investors may find it challenging to accurately understand and apply local laws, leading to difficulties in protecting their legal rights.

Cross-border disputes may involve multiple countries and different legal systems. Parties involved may need to

navigate the application of various legal rules, including international, domestic, and foreign laws, increasing the legal complexity. Additionally, differences in legal cultures and systems among the countries along the "Belt and Road" can make it challenging for foreign investors to adapt to local legal requirements, potentially endangering their legal rights.

Unfair Treatment: Some countries may exhibit differential treatment in their judicial processes, favoring their own nationals over foreign investors. This not only results in unfair treatment but can also prolong the dispute resolution process. Foreign investors may sometimes be perceived as outsiders and subjected to unjust treatment within the judicial proceedings. Moreover, courts in certain countries may be influenced by political factors, which can introduce uncertainty for foreign investors.

Varying Levels of the Rule of Law:

Among countries along the "Belt and Road," some may have less developed legal systems, unable to provide sufficient legal protection for investors. When disputes arise, it may be challenging to find clear legal bases in domestic law, and conflicts between laws might create difficulties in achieving timely and effective dispute resolution.

The legal systems of some countries along the "Belt and Road" may be relatively underdeveloped, and their legal regulations may lack clarity. This can lead to legal uncertainties in the dispute resolution process, as investors may struggle to determine which legal rules apply in specific dispute scenarios. Additionally, some countries' legal systems may be relatively closed, making it difficult for foreign investors to understand and apply local laws.

Issues with Judicial Procedures:

Litigation can have inherent flaws, including lengthy and cumbersome procedures that may not meet the demand for a quick resolution of disputes, enabling a return to regular business and investment activities. Legal proceedings typically involve multiple stages, including filing, trial, and appeals, which slow down the dispute resolution process. This can lead to prolonged unresolved disputes, increasing costs and delaying commercial activities. Moreover, some countries' courts may have difficulties with enforcement, resulting in a severe problem for foreign investors. If arbitration or litigation awards cannot be enforced promptly, the entire dispute resolution process loses practical effectiveness.

1.1.2 Applicability and Challenges of Arbitration

Imperfections in Arbitration Rules:

Although most countries along the "Belt and Road" have domestic arbitration laws, these rules are often imperfect. Some international arbitration mechanisms, like ad hoc arbitration or friendly arbitration, may not be universally recognized in certain countries. This presents constraints when opting for domestic arbitration to resolve cross-border disputes.

Cross-border disputes may require the involvement of international arbitration institutions, such as the International Chamber of Commerce (ICC) or the United Nations Commission on International Trade Law (UNCITRAL). However, the applicability of these institutions' arbitration rules may vary from country to country, limiting their use. Some international arbitration rules might not meet the requirements of certain countries or dispute scenarios, which can complicate the agreement of dispute resolution and slow down the process.

Uncertainty Regarding Arbitration

Institutions: When disputes involve foreign arbitration institutions, it is often unclear which domestic arbitration institution should handle the dispute. In countries where international trade and investment are prominent, several

international arbitration institutions might have branch offices to resolve international trade disputes domestically. However, whether these foreign arbitration institutions have jurisdiction and provide legal services within a specific range is often uncertain.

International arbitration institutions typically establish branch offices in multiple countries to facilitate the resolution of international disputes. However, dispute parties may choose different arbitration institutions based on their interests, which can result in inconsistent dispute resolution solutions. Additionally, due to differences in the nature of each arbitration institution, the outcomes of different institutions might vary, introducing uncertainty for foreign investors and dispute parties.

Issues with Recognizing and Enforcing Arbitral Awards: Even when arbitration awards are achieved, their recognition and enforcement can still be problematic. While the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards is specifically designed to address issues related to non-domestic arbitration awards, some countries along the "Belt and Road" have not joined this international convention. Some member states may even have "reciprocity" reservations, making the

recognition and enforcement of foreign arbitral awards in these countries challenging.

1.2 Applicability and Challenges of International, Multilateral, and Regional Dispute Resolution Resources

In addition to domestic dispute resolution methods, the "Belt and Road" initiative involves international, multilateral, and regional dispute resolution approaches that face their own set of challenges. These include the World Trade Organization (WTO) dispute resolution mechanism and the International Centre for Settlement of Investment Disputes (ICSID) mechanism. Moreover, regional dispute resolution mechanisms also have their own complexities.

1.2.1 Applicability and Challenges of the WTO Dispute Resolution Mechanism

Despite its significance in trade dispute resolution, the WTO dispute resolution mechanism encounters challenges in addressing trade disputes under the "Belt and Road" initiative:

Limited Coverage: The WTO dispute resolution mechanism only applies to disputes arising between WTO member countries concerning the application of WTO rules. However, among countries along the "Belt and Road," some are not WTO member countries, meaning that

disputes involving these countries cannot be resolved through the WTO dispute resolution mechanism.

Low Utilization: Among countries along the "Belt and Road," some WTO member countries have never brought a dispute to the WTO dispute resolution mechanism, numbering as high as 23 countries and regions. This indicates a relatively low utilization of the WTO dispute resolution mechanism among countries along the "Belt and Road." This could be due to the inability of the WTO dispute resolution mechanism to meet the needs of some dispute parties in certain situations or other reasons causing some countries to prefer alternative methods for dispute resolution.

Limited Applicability: According to WTO rules, the WTO dispute resolution mechanism only applies to disputes between member country governments, not to disputes between private investors and host country governments. However, in the context of the "Belt and Road" development, many disputes involve private investors, rather than disputes between government officials of member countries. This limitation means that the WTO dispute resolution mechanism cannot address all dispute resolution needs of countries along the "Belt and Road."

1.2.2 Applicability and Challenges of

the ICSID Dispute Resolution Mechanism
The International Centre for Settlement of Investment Disputes (ICSID)

plays a significant role in resolving international investment disputes, but it faces its own set of challenges:

Membership Limitations: Although the ICSID Convention has more than 160 member countries, some countries along the "Belt and Road" have not joined the ICSID Convention, while others have signed the convention but have yet to ratify it. As a result, around a quarter of countries along the "Belt and Road" do not fully benefit from the ICSID dispute resolution mechanism.

Investor-Centric Tendency: The ICSID mechanism tends to prioritize the protection of investors' rights over the development rights of host countries, which can negatively affect the economic interests of countries along the "Belt and Road." In particular, developing countries in this region often prioritize national development interests, while the ICSID mechanism leans toward safeguarding foreign investors, potentially undermining the economic and public interests of host countries.

High Compensation Issues: The ICSID mechanism can lead to high compensation awards, sometimes

exceeding the capacity of host countries to pay. Especially in developing countries with relatively lower economic levels, substantial compensation awards can create fiscal pressures and negatively impact the national economy.

1.2.3 Applicability and Challenges of Regional Dispute Resolution Mechanisms

Regional dispute resolution mechanisms under regional trade agreements (RTAs) also face applicability and challenges in the context of the "Belt and Road" initiative:

Unclear Dispute Resolution Rules:

Dispute resolution rules in most RTAs are relatively simple and lack clear institutional arrangements. This makes the rules less operational. Dispute resolution in RTAs is often considered an ancillary agreement rather than a core part of the RTAs. This can result in a lack of clear provisions, unclear dispute resolution processes, and less-than-satisfactory dispute resolution outcomes.

Varying Member Requirements and Acceptance: Regional dispute resolution rules within RTAs require member countries to approve and accept these rules, but different countries have varying levels of acceptance for different RTAs. Some

countries may not recognize the dispute resolution rules of any RTAs or may not have joined any RTAs, limiting the applicability of regional dispute resolution mechanisms.

Regional Characteristics: Existing

regional dispute resolution mechanisms often have strong regional characteristics, designed based on the actual conditions of specific countries and regions. However, the "Belt and Road" initiative spans multiple regions, involves a wide range of disputes, and makes existing regional dispute resolution mechanisms challenging to apply to all countries along the "Belt and Road."

The above discussion provides a more detailed analysis of the challenges faced in dispute resolution under the "Belt and Road" initiative. Understanding these challenges is essential for comprehending China's innovative approaches and the emergence of a Chinese model within this framework. Next, we will delve deeper into the innovative dispute resolution methods adopted by China under the "Belt and Road" initiative and their advantages and characteristics.

2. Innovative Practices for Dispute Resolution within the Framework of China's "Belt and Road" Initiative

In the current context, addressing disputes arising from the "Belt and Road" initiative holds significant theoretical and practical significance. Existing dispute resolution mechanisms, including domestic law and arbitration, as well as a range of international dispute resolution mechanisms such as the WTO dispute settlement mechanism, ICSID dispute resolution mechanism, and dispute resolution mechanisms within regional trade agreements, provide a legal framework and viable avenues for addressing disputes stemming from the "Belt and Road" initiative.

However, despite the effectiveness of these existing mechanisms in certain situations, they come with notable limitations, particularly concerning the diversity and complexity of disputes arising from the "Belt and Road" initiative.

These limitations encompass the complexity of dispute resolution procedures, high costs, and a certain degree of limitation on national sovereignty. Therefore, it is imperative for countries along the "Belt and Road" to actively seek innovation in dispute resolution systems to better facilitate the progress of the initiative.

China, as the initiator of the "Belt and

Road" initiative, has made significant advancements in resolving disputes arising from the initiative. These endeavors include the establishment of the International Commercial Court, the introduction of the Supreme People's Court's "One-Stop" dispute resolution platform, and the establishment of the International Mediation Institute. These institutions offer fresh avenues for resolving disputes within the "Belt and Road" initiative and have spearheaded innovation in dispute resolution.

2.1 International Commercial Court

On January 23, 2018, the second meeting of the Central Comprehensive Deepening Reform Leading Group of the Communist Party of China approved the "Opinions on Establishing Dispute Resolution Mechanisms and Institutions for the 'Belt and Road' Initiative." This marked a significant breakthrough in the field of dispute resolution under China's "Belt and Road" Initiative. The document emphasized the importance of establishing dedicated dispute resolution mechanisms to promote the stability and fairness of trade and investment activities under the initiative.

The International Commercial Court plays a crucial role and holds significant value in dispute resolution within the "Belt

and Road" Initiative. This mechanism aims to provide effective, fair, and legally oriented dispute resolution services for commercial disputes, bearing profound significance for promoting international trade and investment cooperation and safeguarding the rights of all parties involved.

First, the International Commercial Court offers a reliable dispute resolution mechanism for commercial cooperation under the "Belt and Road" Initiative. In complex and diverse commercial disputes, this mechanism provides various avenues for resolution, including litigation, mediation, and arbitration, enabling parties to choose the most appropriate method based on the nature of the dispute. This enhances legal certainty in business activities and attracts more domestic and foreign investments, thus promoting economic growth.

Second, the International Commercial Court contributes to the creation of a legal-oriented business environment. By providing a legally protected business environment, this mechanism offers a more stable, fair, and transparent setting for domestic and foreign enterprises, reducing business risks and encouraging more commercial activities.

Additionally, the establishment of the International Commercial Court helps build the international image of Chinese courts. This mechanism elevates China's status in the field of international legal

governance, providing a beneficial case study for the international community on how to address transnational commercial disputes and promote legal cooperation.

This contributes to upholding the international legal order and improving global governance.

In summary, the International Commercial Court provides a reliable and diverse dispute resolution mechanism for the "Belt and Road" Initiative, contributing to the promotion of international trade and investment cooperation, enhancing the legal environment, establishing the international reputation of Chinese courts, and supporting the maintenance of the international legal order. Its establishment is crucial for the successful implementation of the "Belt and Road"

Initiative. The creation of the International Commercial Court not only meets the needs of resolving international commercial disputes within the initiative but also provides vital support for China's participation in global governance and international legal governance. This mechanism offers valuable experience and reference for future international dispute resolution.

2.2 Supreme People's Court "One-Stop" Resolution Platform

The creation of the "One-Stop" Resolution Platform signifies a strategic move by China under the "Belt and Road"

Initiative. It was established in response to the initiative's global infrastructure and trade cooperation, which led to a rapid increase in cross-border commercial collaborations and, consequently, more commercial disputes. The Supreme People's Court of China recognized that addressing this challenge required an innovative resolution mechanism to handle the growing number of commercial disputes.

The core feature of the "One-Stop" Resolution Platform is to provide diverse resolution paths, including litigation, mediation, and arbitration. This means that parties can choose the most suitable resolution method based on the nature and specific circumstances of the dispute. This diversity aims to better meet the needs of different commercial disputes while also reflecting the concept of legal pluralism. This is crucial because different types of commercial disputes may require different resolution methods. For example, some disputes may be best resolved through litigation, while others may be more suitable for mediation or arbitration. Offering multiple resolution avenues enhances the freedom of choice for the parties involved.

Within the "One-Stop" Resolution Platform, experts from various fields,

including courts, lawyers, arbitration institutions, and mediation organizations, collaborate to provide comprehensive case handling. This collaborative model helps ensure comprehensive and efficient solutions. When multiple specialized institutions are involved in dispute resolution, they can consider various legal and commercial factors more comprehensively, offering more sophisticated solutions. This collaborative approach also contributes to upholding the authority and credibility of the legal system as it involves experts and organizations from different domains, reflecting the practice of legal pluralism.

The platform can handle a wide range of cases, including contract disputes, intellectual property disputes, and investment disputes. This makes it a comprehensive tool for resolving commercial disputes, streamlining the resolution process without the need to transfer cases between different institutions. Additionally, the platform has the capacity to handle international and cross-border cases, which is crucial for resolving international commercial disputes within the "Belt and Road" projects. International trade and investment are transnational by nature, requiring an international perspective and the ability to address cross-border elements. The establishment of this platform contributes

to improving legal certainty in international commercial disputes, safeguarding the rights of all parties involved, and promoting global commercial cooperation.

In conclusion, the Supreme People's Court of China's "One-Stop" Resolution

Platform is a proactive measure for addressing international commercial disputes. The platform offers comprehensive support for dispute resolution, helps build a more legal-oriented business environment, and drives the development of domestic and international trade activities. Its

establishment reflects the leadership of Chinese courts in the field of international commerce, providing a beneficial case study for the international community on how to address transnational commercial

disputes and promote legal cooperation. By offering multiple resolution paths, facilitating institution collaboration, handling a wide range of cases, addressing international and cross-border cases, and

promoting a legal-oriented business

environment, China's "One-Stop" Resolution Platform plays a crucial role in dispute resolution within the "Belt and

Road" Initiative, providing a stable and reliable dispute resolution mechanism, safeguarding the rights of all parties involved, and enhancing the legal certainty

of commercial cooperation. Moreover, the platform offers a valuable example, showcasing China's experience in handling international commercial disputes and promoting legal cooperation, serving as a helpful reference for international dispute resolution worldwide.

2.3 International Mediation Institute

The establishment of the International Mediation Institute (IMI) is timely and significant in the context of the "Belt and

Road" Initiative. As the initiative continues to be implemented, the increasing number of commercial disputes has posed a challenge to international cooperation. The IMI's creation provides more options and opportunities for addressing this challenge.

The establishment of the IMI underscores the Chinese government's full recognition of the need for international mediation, making it a proactive step in response to the growing number of commercial disputes under the "Belt and Road"

Initiative.

As a government-to-government international organization, the IMI's openness and inclusivity are noteworthy. It is initiated and supported not only by the Chinese government but has also attracted participation from several nations, particularly those along the "Belt and

Road" route. This multilateral support reflects the international community's demand for mediation as a means of peaceful dispute resolution and establishes a solid foundation for the future development of the International Mediation Institute.

The International Mediation Institute will play a crucial role in dispute resolution under the "Belt and Road" Initiative. Firstly, it contributes to the peaceful resolution of disputes. The "Belt and Road" Initiative involves multiple countries and regions, leading to inevitable commercial, trade, and investment disputes. As a mediation institution, the IMI offers a mechanism for resolving disputes through negotiation and reconciliation. Compared to other dispute resolution methods, mediation emphasizes mutually reached agreements, helping prevent disputes from escalating into more significant conflicts. This promotes peace and stability among the countries along the "Belt and Road," which is positively significant for advancing common development.

Secondly, the International Mediation Institute offers economic benefits. Traditional dispute resolution mechanisms, such as court litigation and arbitration, often require more time and higher costs.

Mediation, as a more cost-effective and rapid dispute resolution method, reduces the cost and time of dispute resolution. This is particularly crucial for commercial cooperation under the "Belt and Road" Initiative, as it enhances project feasibility and provides more effective dispute resolution methods for enterprises from participating countries, thereby promoting cross-border business activities.

Furthermore, the International Mediation Institute promotes cooperation and friendly relations. Mediation, as a collaborative approach, focuses more on the mutual interests of both parties, helping maintain friendly relations. By resolving disputes through the International Mediation Institute, parties are more likely to reach a consensus, improve their cooperation, and foster friendly relationships. This is vital for the sustainable development of international cooperation projects under the "Belt and Road" Initiative, as friendly relations and close cooperation are essential for ensuring the successful implementation of projects.

Finally, the establishment of the International Mediation Institute contributes to the development of international legal governance. As a government-to-government international organization, the IMI is committed to

promoting the spirit of international legal governance, providing a more sustainable and stable legal foundation for international dispute resolution. This helps ensure that international dispute resolution conforms to the rules and principles of international law, enhancing the authority of international legal governance and providing more choices for future international dispute resolution.

In summary, as a government-to-government international organization, the International Mediation Institute will play a proactive role in dispute resolution under the "Belt and Road" Initiative. It facilitates peaceful dispute resolution, provides economic benefits, promotes friendly relations, advances international legal governance, and upholds the principles of consultation, joint construction, and shared benefits, offering support for the sustainable development of the "Belt and Road" Initiative and global governance. In today's world where mediation as a means of peaceful dispute resolution is increasingly valued by the international community, the establishment of the International Mediation Institute holds great practical significance.

3. Contribution of Innovative Dispute Resolution Mechanisms under the "Belt and Road" Initiative to Global Governance

3.1 Contribution to Global Governance

The innovative dispute resolution mechanisms under the "Belt and Road" Initiative, including the International Commercial Court, the Supreme People's Court's "One-Stop" Resolution Platform, and the International Mediation Institute, have not only played a pivotal role in facilitating the successful implementation of "Belt and Road" projects but have also made a positive impact on the global governance system. This section will explore how these innovative mechanisms contribute to global governance and their importance to the international community.

3.2 Advancing the Development of International Rules and the Rule of Law

The dispute resolution mechanisms under the "Belt and Road" Initiative have not only enhanced China's international image through their establishment but have also provided a valuable example for the global governance system. The creation and practice of these mechanisms offer new perspectives on international dispute resolution, showcasing the feasibility of cooperation, negotiation, and mediation in resolving transnational commercial

disputes. This not only enriches the toolbox for international dispute resolution but also encourages the global governance system to develop in a more diverse and inclusive direction. The international community can draw from the experience of these mechanisms to promote the development of international rules and the rule of law, strengthening international standards and practices for cross-border dispute resolution.

3.3Safeguarding the Stability of Global Trade and Investment Cooperation

The dispute resolution mechanisms under the "Belt and Road" Initiative provide crucial support for the stability of global trade and investment cooperation. With the continued expansion of "Belt and Road" projects, transnational commercial disputes are bound to increase. These mechanisms offer efficient and effective dispute resolution paths that help safeguard the legitimate rights and interests of all parties involved, reducing business risks. A stable business environment encourages both domestic and foreign investments, fostering global economic growth. Moreover, by emphasizing mediation and negotiation to resolve disputes, they help prevent disputes from escalating into international conflicts, thereby maintaining peace and stability among countries along the "Belt and Road."

3.4Promoting Legal Pluralism in the International Community

The dispute resolution mechanisms under the "Belt and Road" Initiative embody the concept of legal pluralism. These mechanisms provide multiple avenues for dispute resolution, including litigation, mediation, and arbitration, allowing parties to choose the most suitable method based on the nature of the dispute. This enhances the freedom of choice for the parties and reflects the diversity of international dispute resolution. It helps the international community recognize the differences between various cultures and legal systems and, while respecting national sovereignty, strengthens international legal cooperation and coordination through peaceful negotiations.

3.5 Improving the Global Governance System

The establishment and practice of dispute resolution mechanisms under the "Belt and Road" Initiative contribute to the improvement of the global governance system. These mechanisms' openness and inclusivity provide a valuable case study for the international community on how to address transnational commercial disputes and promote legal cooperation. They also help uphold the international rule of law, enhancing the credibility of the global governance system. By emphasizing

cooperation, negotiation, and multilateralism, these mechanisms complement traditional court litigation, contributing to the efficiency and feasibility of international dispute resolution.

4. Conclusion

The innovative dispute resolution mechanisms under the "Belt and Road" Initiative make a positive contribution to global governance. They advance the development of international rules and the rule of law, safeguard the stability of global trade and investment cooperation, promote legal pluralism in the international community, and improve the global governance system. The practice of these mechanisms offers valuable experience and examples for the international community to address global challenges and build a more peaceful, stable, and prosperous international order.

The establishment of the International Commercial Court, the Supreme People's

Court's "One-Stop" Resolution Platform, and the International Mediation Institute represents China's proactive efforts in addressing the growing commercial disputes under the "Belt and Road"

Initiative. These mechanisms offer innovative approaches that emphasize peace, negotiation, and cooperation, providing a beneficial model for the global community and showcasing China's practical experience in handling transnational commercial disputes and promoting legal cooperation. As the global emphasis on peaceful dispute resolution continues to grow, the establishment and practice of these dispute resolution mechanisms under the "Belt and Road" Initiative hold significant practical importance. These mechanisms are poised to continue playing a positive role in global governance, making a greater contribution to the peace, stability, and prosperity of the international community.

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