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CONTENTS

Chairman: **Mr. Miguel Rafael URQUIA (El Salvador).**

Admission of new Members: report of the Special Committee on Admission of New Members (A/2400, A/AC.72/L.1, A/AC.72/L.2,A/AC.72/L.3) (*continued*)

[Item 22]*

1. Mr. SANDLER (Sweden) said that at every session of the General Assembly since its admission to the Organization, Sweden had declared itself in favour of the universality of the United Nations. Moreover, it had voted for the admission of practically every applicant State, except at the previous session of the General Assembly when it had abstained because of its decision to support the proposal to set up the Special Committee whose report (A/2400) was at present before the *Ad Hoc* Political Committee. In so doing, however, it had reserved its position in the future, while making it clear that it would continue to support the principle of universality.

2. The Special Committee having decided not to make any specific recommendations to the General Assembly, his delegation considered that in the circumstances it was free to vote, as it had done in the past, in favour of the Soviet draft resolution (A/AC.72/L.2). That meant, of course, that it considered the admission of the States mentioned therein to be compatible with the provisions of the Charter, but not that the Soviet draft resolution was in itself a final solution though it did indicate the direction in which a solution might be expected. His delegation therefore had little hesitation in supporting the Peruvian draft resolution (A/AC.72/L.1) proposing the creation of a committee of good offices to determine whether a gentlemen's agreement could be arranged among the permanent members of the Security Council for a partial solution of the problem. The Soviet draft resolution constituted a serious attempt to arrive at a compromise and, if the same spirit prevailed on the other side, the proposed committee might help to find a generally acceptable solution. Whatever its chances of success, the effort was worth making.

3. Mr. TAKIEDDINE (Lebanon) felt that the question of the admission of new Members could be solved only in a manner consistent with the provisions of the Charter, which were clearly set forth in Article 4. Any departure from those provisions would be a violation of the Charter which would be disastrous to the United Nations. Hence, the admission of a new Member was not a matter of expediency or convenience, nor of sympathy with or antipathy for a particular State or group of States. It was a matter of right and justice, and any State which fulfilled the conditions laid down in the Charter was entitled to take its place in the United Nations.

4. One of those conditions, however, was that admission to membership was subject to a favourable recommendation by the Security Council and that had been the opinion of the International Court of Justice.[1] The unanimity rule in the Council therefore applied, and it followed that the solution of the problem depended on the acquiescence of all five permanent members of the Council.

5. His delegation was unable to share the optimism of the many delegations which felt that the improved international situation might lead to an early agreement. It believed, on the contrary, that the statements made by the representatives of the Soviet Union, the United Kingdom and the United States indicated that their respective attitudes remained unchanged. However, it was still prepared to consider any proposal in keeping with the letter and the spirit of the Charter.

6. The Lebanese delegation would support the Peruvian draft resolution which was a praiseworthy effort prejudging neither the legal position taken by any delegation nor any further study of the issue by the General Assembly. It would be in favour of any other proposal that was compatible with the Charter and preserved its provisions from arbitrary interpretation.

7. Mr. MUNRO (New Zealand), speaking as member of a delegation which had been represented on the Special Committee, said that the fact that that committee had not submitted a recommendation to the General Assembly was no reflection on the committee because the problem before it was not one which could be solved by ingenious interpretation or the use of felicitous language.

8. The situation concerning admission to membership was the most harmful, least excusable and most frustating of all the situations facing the United Nations. The attitude of the Soviet Union, which was responsible for that situation, was not only in conflict with law, as had been confirmed by the International Court of Justice, but also went against reason and common sense. It would be natural to assume from the Soviet Union draft resolution that the USSR regarded as acceptable the candidatures of Finland, Italy, Portugal, Ireland, Jordan, Austria, Ceylon, Nepal and Libya. Or was it contended that it did not consider them fit to join, but was prepared to turn a blind eye to their defects? However, the Prime Minister of the Soviet Union himself had professed his country's friendship for a number of those States and had referred as well

* Indicates the item number on the agenda of the General Assembly.

[1] See "Competence of Assembly regarding admission to the United Nations", *Advisory Opinion: I.C.J. Reports 1950*, page 4.

to the importance of increasing the authority and role of the United Nations. One of the simplest and most obvious ways of attaining that laudable objective would be to admit those States which the Soviet Union and the vast majority of Member States regarded as fit candidates. Hitherto, however, their applications had been met with a volley of Soviet vetoes. It was clear, therefore, that the USSR policy in that matter was not only illogical but nonsensical, and it was to be hoped that it would be discarded.

9. Since, however, that might not happen immediately, there was a great temptation to interpret the provisions of the Charter on membership and on voting in such a way as to circumvent the veto. The New Zealand delegation was unable to join other delegations along that slippery road which ended in violation of the Charter. Faced with the manifestly illegal behaviour of the Soviet Union, the United Nations had hitherto refused to be provoked into committing something illegal itself and it was to be hoped that its patience would not be strained to the breaking point.

10. The provisions of the Charter on the admission of new Members were clear, but it was not unnatural to consider any possible improvements when the time came for the revision of the Charter itself. No amendment, however, could be forced through without the Soviet Union's consent and, therefore, the problem could be solved only if that country adopted a more accomodating attitude. If any Member had a special interest in the preservation of the principle of unanimity of the Great Powers, it should surely take special care to see that no one could have reasonable complaint as to the workability of the provisions which depended on that principle.

11. The best chance of agreement was to be found in private negotiation among the Powers most directly concerned. In that connexion the Peruvian draft resolution commended itself to his delegation. Such an agreement should of course be based on a liberal rather than a restrictive interpretation of Article 4 of the Charter. The agreement could perhaps proceed by stages. Nevertheless, there was no guarantee that even if it lead to a favourable recommendation by the Security Council on all the candidates concerned, the General Assembly would in every case accept the recommendation. There was, however, no reason as yet to abandon all hope of progress for the Assembly was swayed by a strong sentiment in favour of enlarging the membership of the United Nations. Every single candidate so far recommended by the Security Council had been admitted by an overwhelming majority in the General Assembly and there was no reason to expect any change in that respect in the future.

12. Mr. FERRER VIEYRA (Argentina) said that his delegation would have preferred the question of the admission of new Members to be considered at a later stage in the session. It feared that, despite the feeling that the atmosphere was at present more favourable to the solution of political problems, such a settlement would not be facilitated by the renewal of a debate in which marked differences about the interpretation of various articles of the Charter would receive additional emphasis as each delegation explained its position on the substance of the question. Even so, from a technical point of view, a discussion might assist in ultimately achieving a solution of the problem.

13. The Argentine delegation was more than ever convinced that its interpretation of Article 4 of the Charter was technically correct and that it was the only interpretation, barring a revision of the Charter, which would make it possible for the General Assembly to settle the question.

14. However, with some twenty States waiting to be admitted into the United Nations, his delegation did not object to a political solution; it had even submitted several proposals designed to further a solution of that type. One such proposal was contained in annex 6 of the Special Committee's report, That text might serve as a basis for a political solution, but that would be the task of the committee of good offices, if established. Political solutions, however, were temporary and incomplete, and an effort should be made to find a permanent solution which would not depend upon negotiations among the great Powers.

15. Such a technical solution might be found in the Charter itself. Its basic principles were: first, that admission of new Members was a corporative act, in which the Council and the Assembly took an equal share; secondly, that the function of the Security Council was to recommend admission, whereas that of the Assembly was to decide on it; that was to say, the last word lay with the Assembly; thirdly, that the recommendation could be either favourable or unfavourable; fourthly, that Article 4, Paragraph 2, of the Charter laid down the procedure governing admission, the substantive provisions being contained in paragraph 1; fifthly, that the only legal interpretation of Article 4, paragraph 2, was that adopted at the San Francisco Conference, namely: that the General Assembly could either accept or reject a favourable recommendation or could accept an unfavourable recommendation.

16. The Argentine delegation held that the admission of new Members was a corporative act because under Article 4, paragraph 1, of the Charter, it required the favourable "judgment of the Organization", that was to say, of both the Security Council and the General Assembly. If the decision on admission did not lie with the Assembly alone, no more did the decision that a State should not be admitted lie with the Council alone. Hence, the Council's opinion that it alone possessed the power of "judgment" and that it was the paramount and initiating authority had no legal basis in the Charter and conflicted with the rule of the balanced relationship between the principal organs of the United Nations. Had it been decided at the San Francisco Conference that the General Assembly could take part in the admission of a new Member only if it received a favourable recommendation from the Security Council, a general provision such as that in Article 4, paragraph 1, referring to the "judgment of the Organization" ought never to have been included in the Charter. That "judgment" was the first condition laid down in the Charter and it was in harmony with the character of the Organization.

17. A number of delegations contended that the power of decision was vested in the Security Council alone on the ground that the admission of a State to membership was a matter affecting international peace and security. That argument meant that the Council could prevent the Assembly from discharging its obligations and that the last word remained with the Council; that was incompatible with the terms of Article 4, paragraph 2. Moreover, he was entitled to ask wheter the General Assembly had no interest in the maintenance of peace and security. Article 10 of the Charter imposed no limits on its powers in that respect and the resolu-

tion 377 (V), "Uniting for peace", should suffice to remove all possible doubts.

18. So far he had dealt only with so-called "favourable recommendations". But, as reference to United Nations documents and practice would show, a recommendation could be either favourable or unfavourable, positive or negative. There was therefore no legal justification for interpreting the single word "recommendation" as implying a "favourable" recommendation.

19. The Argentine delegation therefore held that the Assembly was free to act on a recommendation of the Security Council irrespective of whether it was favourable or unfavourable. The legal position remained unchanged in either case. Moreover, the Assembly's right to reject a negative recommendation from the Security Council and to decide in favour of an applicant had been recognized in a number of documents of the San Francisco Conference, including the opinion of 16 June 1945 of the Advisory Committee of Jurists, the summary and verbatim records of the fifteenth meeting of Committee II/1 held on 18 June 1945, the second report of the Rapporteur of Committee II/1 and the verbatim record of the fourth meeting of Commission II. Moreover, the Co-ordination Committee of the Conference had been notified of the approval by Committee I/2 of a text on the admission of new Members which was identical with that of Article 4, paragraph 2, of the Charter.

20. Replying to the South African representative who, together with others, had put forward (3rd meeting) an argument of some weight bearing on the relationship between Articles 18 and 27 of the Charter, he said that although the admission of new Members was obviously an "important question", that did not necessarily mean that the concurring votes of the five permanent members of the Security Council were required, nor did all important questions require a two-thirds majority in the General Assembly. Under the Charter there were four different systems of voting on important questions and each system had its own requirements: first, that which required the concurring votes of the five permanent members of the Security Council and a two-thirds majority in the General Assembly, i.e., for the expulsion of a Member (Article 6); secondly, that calling for votes of any seven members of the Security Council and a two-thirds majority in the General Assembly (Article 109, paragraph 1); thirdly, that in which the concurring votes of the five permanent members of the Security Council and a simple majority in the General Assembly were needed, i.e., for the nomination of the Secretary-General (General Assembly resolution 11 (I); and fourthly, that requiring an absolute majority both in the Security Council and in the General Assembly, i.e., for the election of judges to the International Court of Justice (Article 10 of the Statute of the Court).

21. In the Argentine delegation's view the provisions of Article 109, paragraph 1, governed the voting procedure for the admission of new Members, so that any applicant could be admitted provided it received the votes of any seven members of the Security Council and a two-thirds majority in the General Assembly. There were many "important" questions that were decided by the same voting procedure as that used for procedural matters, as was shown by the list included in the statement by the delegations of the four sponsoring governments on voting procedure in the Security Council.[2] His delegation therefore shared the opinion given in 1948 by the Interim Committee[3] that an affirmative vote by any seven members of the Council was required for admission to the Organization.

22. In reply to the South African representative's further argument that the procedure governing admission should also be identical to that used for the suspension or expulsion of a Member, he would point out that Articles 5 and 6 of the Charter, while relating to undoubtedly "important" questions, also involved coercive action, which was a primary function to be discharged by the Security Council. At no time during the discussions on Article 4 at San Francisco had it been suggested that the admission of new Members should require the concurring votes of the five permanent members of the Security Council. That question had been raised only in connexion with the more serious subject matter of Articles 5 and 6, and even so, in those cases which affected peace and security, the power of decision had been vested in the Assembly alone, and it was only after long discussion that the Security Council had received authority to take part in such action.

23. Such was the Argentine delegation's position on the question of substance. It reserved the right to speak on that point again at a later stage, if necessary, and to state its views on the Peruvian and USSR draft resolutions.

24. Mr. RIBAS (Cuba) said that although his delegation, which had been a member of the Special Committee, had supported that Committee's decision to make no recommendations, two facts had emerged which could not be refuted by any kind of legal argument: first, that in the Security Council the admission of a new Member must be recommended by the votes of any seven members; and, secondly, that in cases where the General Assembly and the Council had concurrent competence, if the Council was prevented from acting owing to the exercise of the veto it was the General Assembly's right and duty to take any decisions that might be necessary to see that the obligations of the Charter were carried out and its purposes and principles observed.

25. Though his delegation had fully explained its view at previous sessions and in the Special Committee, he would recapitulate its main points. The statement by the delegations of the four sponsoring governments on voting procedure in the Security Council had been invoked by those who argued that the admission of new Members was not among the cases on which the decision was to be made by a procedural vote. But in part I, paragraph 1, of the statement the sponsoring Powers had stated that the veto would be applicable only to cases connected with the maintenance of peace, i.e., cases included in group I—and that the second group of decisions would be governed by a procedural vote.

26. To those who argued that under Article 27 of the Charter the right of veto did not apply to procedural matters but that the admission of new Members could not be included among those matters, he would point out that the examples of issues to be decided by a procedural vote contained in part I,

[2] See United Nations Conference on International Organization, III/1/37 (1).

[3] See *Official Records of the General Assembly, Third Session, Supplement No. 10.*

paragraph 2, of the statement included adoption and amendment of the Security Council's rules of procedure, the setting up of subsidiary organs, and invitations to States parties to a dispute to participate in the discussion on such disputes, none of which could be considered as purely procedural matters. In Article 27 the term "procedural matters" was therefore not used in a strictly technical sense but merely to cover those questions, procedural and otherwise, that could be decided by a procedural vote, that was to say, by an affirmative vote of any seven members. It was a convenient label to differentiate between questions not subject to the veto and those substantive issues which were subject thereto. As his delegation had already pointed out, the privilege created by the veto necessitated a definition of the fields covered by the terms "procedural" and "substantive", the latter being limited to those enumerated in part I, paragraph 1, of the statement.

27. That view was confirmed by part I, paragraph 4, of the same statement, from which it was clear that the sponsoring Powers had felt that the veto should be used only in the case of preventive or coercive measures, and that other issues were not subject to it. That being so, the admission of new Members must be classified as a procedural matter, for it could not give rise to the chain of events described in the statement as leading to or likely to lead to coercive action.

28. Further, it should be remembered that Article 27 had only been included in the Charter in the light of the interpretation thus afforded by the statement by the four sponsoring Powers and, if that did not suffice, that the Assembly had already pronounced its verdict in resolution 267 (III), by which it had endorsed the report of the Interim Committee on voting procedure in the Security Council, including the opinion that the decision as to admission could be adopted by the votes of any seven members of the Council. Unfortunately, the four permanent members of the Security Council represented on the Interim Committee had failed to uphold in the Council the view to which they had subscribed in the Committee, though it was only fair to add that the United States and, subsequently, the three other permanent members had promised to waive their right of veto, if the Assembly was in favour of the applicant.

29. But there was still the problem of who was to decide what was a procedural matter. If it was the Council, then the "double veto" arose. The position in that connexion was clearly set forth in the Cuban delegation's memorandum to the Special Committee (A/2400, annex 5), which pointed out that according to the statement decisions on the "previous" question should be subject to the unanimity rule. But the Security Council had never explicitly recognized the statement as having legal force and might at any time, as it had done more than once, refuse to comply with that requirement.

30. However that might be, the Cuban delegation, like many other delegations, had repeatedly maintained that, where the General Assembly and the Security Council had concurrent competence, it was the right and the duty of the Assembly to take the necessary decisions if the Security Council was prevented from exercising its functions by the use of the veto. There were already many precedents for such a course. For instance, General Assembly resolution 377 (V) "Uniting for peace", which was based on the thesis that the purport and scope of an organ's decisions were determined by its fundamental aims or objectives, clearly stated in its preamble that failure of the Security Council to act did not relieve the General Assembly of its responsibilities under the Charter with regard to the maintenance of international peace and security. That interpretation of the Assembly's functions could not be regarded as contrary to Article 12 since it referred only to action taken by the Assembly in a case where the application of Article 12 would prevent the Organization from fulfilling the purposes of the Charter. That thesis having been accepted by the Assembly in so serious an issue as the maintenance of international peace and security, it seemed impossible to refuse to accept its application to the admission of new Members, especially as in the latter case the Charter contained no express prohibition of the Assembly's right to act such as that contained in Article 12. The logical conclusion was that a request for admission could be acted upon by the General Assembly if approved by any seven or more members of the Security Council.

31. He reserved his delegation's right to speak on the Peruvian and USSR draft resolutions at a later stage.

32. Mr. SUMMERS (Canada) said that his delegation adhered to the view, expressed at previous sessions, that all States eligible for admission under the Charter should be admitted as soon as possible, but it remained convinced, in view of the advisory opinions of the International Court of Justice, that a recommendation of the Security Council was necessary before the Assembly could act.

33. It would be an important step forward if all the permanent members of the Security Council joined in the assurance already given by some of them that they would not exercise the veto on an application for admission. Believing that the deadlock was essentially a political one, he regretted to note that there had been no change in the position of the USSR: its draft resolution on the admission of new Members was identical with that submitted at the previous session.

34. Whether or not the applications were presented individually, and however liberal the interpretation of Article 4, the qualifications of individual countries could not be ignored. The Soviet Union delegation was aware that, although the founders of the Organization at San Francisco had assumed that it would ultimately achieve universality within the framework of the Charter, it would be well-nigh impossible to accept Outer Mongolia as a Member State while excluding other States fully qualified for membership. In view of the sins of both commission and omission contained in the USSR draft resolution, his delegation would once again have to vote against it.

35. He would support the Peruvian draft resolution since it would be entirely appropriate for a committee of good offices to seek a solution of the problem by some means or other. On the other hand, while he agreed that the sooner the solution could be found the better, in view of the known complexities of the problem it would be wrong to set a time-limit of four weeks for the committee's work as was suggested in the Argentine amendment (A/AC.72/L.3), and therefore he would vote against it.

36. Mr. PALAMARCHUK (Ukrainian Soviet Socialist Republic) observed that the solution of the important political question under discussion had been

postponed from session to session on various artificial pretexts. Some delegations paid lip-service to the concept of universality but, in practice, had placed obstacles in the way of the admission of a group of States which undoubtedly met the requirements of Article 4. To prevent the admission of peoples' democracies, attempts continued to be made to "interpret" the provisions of the Charter dealing with the admission of new Members although those provisions were drafted in clear terms.

37. At the previous session the Ukrainian delegation had opposed the creation of the Special Committee on the grounds that it was unnecessary, the question having been studied by the General Assembly and the Security Council over the past six years and the terms of Article 4 not being open to doubt. The Special Committee's report showed that his delegation's attitude had been well-founded. The Committee had wound up its futile discussions by recording certain long-established truths: in particular, that the unanimity rule in the Security Council applied to the admission of new Members and that the provisions of Article 4 did not allow the General Assembly to admit new Members in the absence of a favourable recommendation by the Council.

38. The simultaneous admission of fourteen States to membership of the United Nations would represent an important step towards the relaxation of international tension and would help to bolster up the authority and prestige of the United Nations in the crisis through which it was passing. The reason for the continued exclusion of those States must be sought in the policy, practiced by certain Members, of favouring certain States and discriminating against the people's democracies. The deadlock would be broken if the States applying that policy would agree to be guided by the Charter.

39. The USSR draft resolution was fair and accorded with the interests of the United Nations and the cause of peace. His delegation accordingly supported it. It was well to remember that the rights and interests of States with a total population of 112 million people were involved. The Charter, did not preclude simultaneous admissions, and to refer to the USSR draft resolution as "a bargain" was only an attempt to camouflage the political game of those States which supported the policy of favouritism and discrimination.

40. If there was any question of bargaining, it was the latter States which preferred political bargaining to the principle of equal rights and equal treatment for all candidates. The repeated lies and insults hurled at the peoples' democracies were an expression of that preference and were due to the fact that the internal structure of the peoples' democracies did not please some Members of the United Nations.

41. The conditions for admission to the United Nations were clearly defined in Article 4. They were that applicants should be peace-loving, should accept the obligations of the Charter and be able and willing to carry out those obligations.

42. No one could say truthfully that the peoples' democracies were not peace-loving. Bulgaria, Hungary and Romania had overthrown their fascist governments and had taken part in the war on the side of the anti-Hitler coalition, whereas Portugal, for example, had sympathized with Hitler's henchmen. Albania and the Mongolian People's Republic had waged an active struggle against the Axis Powers, the last mentioned against Japan ever since 1931. In their foreign policy the peoples' democracies were unquestionably peace-loving and passed the crucial test, that they had not engaged in aggression against any other State and were not members of any aggressive *bloc*. Moreover, propaganda in favour of war and hatred was prohibited in those countries, which certainly could not be said of some of the other applicants or even of some of the Members of the United Nations. The written applications which the peoples' democracies had submitted to the Secretary-General contained a formal acceptance of their obligations under the Charter.

43. With regard to the third and fourth conditions, it should be emphasized that the political and economic structure of the applicant peoples' democracies not only revealed their ability to carry out the obligations of the Charter but had created all the necessary prerequisites for strict adherence to the purposes and principles of the Charter. Mighty forces of peaceful development in accordance with their vital interests were inherent in them.

44. The very question whether one State was more peace-loving than another when raised in certain conditions or in a certain political context might be the result of arbitrary criteria and was bound to lead to discrimination. The USSR draft resolution, on the other hand, was based on the principle of respect for the national sovereignty and equal rights of peoples. The time had come to abandon the illusion that the problem could be solved by circumventing or violating the Charter; the solution could only be found by adopting the Soviet Union draft resolution. The Ukrainian delegation reserved the right to state its views on the Peruvian draft resolution at a later stage.

45. Mr. DOZY (Netherlands) observed that study of the Special Committee's report revealed the reasons why it had not made any specific recommendations and had been unable to reach any generally agreed conclusions. Juridical approaches had not revealed a way out of the deadlock, and political approaches had failed because of the use made by one State of the right to impose its decisions on the great majority of other States, thereby frustrating the provisions of Article 4 of the Charter.

46. The USSR representative had defended his Government's attitude by accusing the majority of Member States of having violated the Charter by seeking to transform the United Nations into an alliance of politically like-minded States. He seemed to disregard the advisory opinion[4] of the International Court of Justice of 28 May 1948 that a Member State was not juridically entitled to make its consent to admission dependent on conditions not expressly laid down in Article 4, paragraph 1. Under the Charter that consent had to be given by each Member State according to its own conscience and knowledge.

47. Failure to break the deadlock threatened some of the fundamental principles on which agreement had been reached at San Francisco, including that of the universality of the United Nations, which, with due regard for Article 4, had been the Organization's lodestar in 1945. Did it accord with the solemn pledge given eight years ago that many States who were, in the opinion of Members, fully qualified to join it were debarred? Among them were a number of States

[4] See "Admission of a State to the United Nations (Charter, Art. 4)", *Advisory Opinion: I.C.J. Reports 1948*, p. 57.

which might need the assistance of the United Nations to consolidate their independence.

48. His delegation could not share the view that the provisions of the Charter might, in one way or another, be circumvented by practical approaches to the problem, such as the "package deal" offered by the Soviet Union delegation. The International Court of Justice, in its advisory opinion of 1948, had expressly held that a Member could not "subject its affirmative vote to the additional condition that other States be admitted . . . together with that State". The "package deal" proposed by the Soviet Union was therefore in absolute contradiction with the opinion of the Court, as was its use of the veto, particularly in cases where it had admitted that certain States were eligible by including them in its "package" proposal, while vetoing their individual admission.

49. Hope that a solution could be found should not be abandoned, and the Peruvian draft resolution had the advantage of leaving the door open. Under that text the proposed committee of good offices would be instructed to explore the possibilities of reaching an understanding that would "facilitate the admission of qualified new Members in accordance with Article 4 of the Charter". Hence the qualifications for membership laid down in Article 4 remained as they were at present. That, in his delegation's opinion, was the main point in the Peruvian draft resolution. Every Member must cast its vote with full regard to its sovereign rights and in complete independence. With that consideration in mind, his delegation would support the Peruvian draft resolution.

The meeting rose at 5.25 p.m.

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