The Sub-regional Dialogue on Labour, Migration and Fisheries Management was organized at Chulalongkorn University, Bangkok, Thailand, from 11 to 13 December 2013 as a collaborative event between the Sustainable Development Foundation (SDF), Chulalongkorn University (CU), the International Collective in Support of Fishworkers (ICSF), and the Bay of Bengal Large Marine Ecosystem project (BOBLME) of the FAO. It was attended by intergovernmental organizations (IGOs) such as the International Labour Organization (ILO), the International Organization for Migration (IOM), the Southeast Asian Fisheries Development Center (SEAFDEC), academia, labour unions, civil society organizations (CSOs), non-governmental organizations (NGOs), industry representatives of vessel owners and fish processors, and the Thai Ministry of Labour (MOL) and the Thai Department of Fisheries (DOF).

Day 1 dealt with the experiences and issues of migrant workers. It started with the testimonies of two Burmese fishers on Thai trawlers. Surachai Meanthun, Volunteer, Labour Rights Promotion Network Foundation (LPN) shared his experience on board Thai trawlers for six years in Thai and Indonesian maritime zones. The work on board involved releasing, retrieving and repairing trawl gear, and removing and sorting fish or shrimp, and storing them in fish holds. Healthcare on board was almost non-existent. There were instances of physical punishment. The safety of fishers at work was poor. Sometimes they were dragged into the sea when they got entangled in trawl gear.

The hours of work were long, up to 19 hours a day. There were several cases of fatigue-induced fights. Fishers on board, other than the skipper, the assistant skipper, the engine driver and the cook, were not paid well. There was no written agreement regarding payment. The verbal agreement was that fishers would be paid five to 10 per cent of the value of the catch, after making deductions for fuel expenses.

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A migrant fisher is defined in the Migrant Workers’ Convention, 1990, as a fisher employed on board a vessel registered in a State of which he or she is not a national.
the fishing boat for transport to the market—and return to port, but in lieu of payment.

In the second testimony, Ko Ko Aung, a Burmese fisherman and Vice-President, Myanmar Maritime Trade Union (MMTU), said migrant fishers were under intense pressure while at work. Their working conditions were far worse than those of migrant workers on land. There were cases of migrant workers, recruited by brokers under the Memorandum of Understanding (MoU) between Thailand and Myanmar to work in Thai factories, being trafficked to fish at sea.

Although seaman books were issued to individual fishers, they were often counterfeit, with no proper, identifiable photograph of the fisher and with no information regarding the compensation the fisher was entitled to in case of an accident on board. Even the sick were forced to work. Migrant fishers on board Thai vessels were transferred at sea, Aung alleged. The number of migrant fishers returning to the Thai port after a fishing trip to adjacent maritime zones would be fewer than those embarking on the same trip.

Bandit Thanachaisetavuth, Director, Arompongpangan Foundation, said general labour laws in Thailand did not apply to fishers, agriculture workers, seafarers, transport workers and domestic workers, and that there were special regulations to protect them. Rights to a minimum wage did not extend to fishers. The 1998 Thai Ministerial Regulation No. 10 was enacted to provide protection to marine fishers, including migrant fishers, who received remuneration, or a share of the catch value. But the regulation applied only to vessels operating from Thailand and only if the number of fishers on board exceeded 20.

It did not thus apply to vessels operating continuously outside Thai maritime zones for not less than a year, or employing fewer than 20 fishers. The remuneration arrangement was in favour of employers, not fishers, since fishers were unable to ascertain the real value of their fish catch. Fishers did not have the power to negotiate and were being exploited, Thanachaisetavuth said.

The Thai Ministerial Regulation No. 10 provides details of age of work, manner of payment, holidays and annual leave and the records that have to be maintained by the employer and kept ready for inspection. But in reality there might be no such documents, Thanachaisetavuth feared. Fishers held the right to file a complaint with the Department of Labour Protection and Welfare, (DLPW) of MOL when such measures were not followed.

Employees who were Thai nationals enjoyed the right to establish labour unions under the Thai Labour Relations Act, 1975. While documented or registered migrant fishers could join these unions, they were not eligible for election or appointment as office-bearers. Migrant fisher members of these unions had the right to strike work against discriminatory regulations. Undocumented or unregistered migrant fishers, however, could not be made members of these unions nor could they form any association or labour union. As for social security, the rights guaranteed under the Thai social security legislation did not apply to those in farming, fishing and livestock rearing, Thanachaisetavuth pointed out.

Fishing vessel at Ban Nam Khem village, Thailand. The 1998 Thai Ministerial Regulation No. 10 was enacted to provide protection to marine fishers, including migrant fishers.
Satian Tunprom, Committee Member, Action Network for Migrants (ANM), said labour unions divided migrant workers into two sections: migrant workers in non-fishery business and migrant workers in fishery business. Labour unions engaged only with factory workers. There was hardly any labour union in fishing in Thailand since there are not many Thai workers in fishing. Thai labour unions and federations, however, have now begun to look at sectors such as fishing, especially to support migrant workers who are unprotected or abused.

Tunprom pointed to the need for a comprehensive understanding of the labour dimension of fishing in Thai national waters and in the high seas, as well as in land-based fish-processing activities. Often health protection and welfare of migrant fishers were overlooked. There were no MoUs with countries like Myanmar, Cambodia and Lao PDR that supply labour for fishing. Hence, it is important to invest in training migrant fishers in fishing operations and sea safety in a labour-receiving country such as Thailand.

Currently, there is no training for fishers before they start work on a vessel; they had to learn by doing. There is no survival training or inspection of fishing vessels at sea to verify compliance with sea-safety measures or onboard hygiene standards, Tunprom observed.

Thai fisheries rules and regulations should be translated, for example, from Thai to Burmese or Khmer. Migrant fishers should be told whom to contact in an emergency. Crew lists must be maintained to allow expeditious contact with family members of accident victims.

It is important that legal protection mechanisms be operational, and communication with migrant fishers be improved to enhance their protection, especially on matters of health and legal aid.

Tunprom emphasized that terms such as ‘remuneration’, ‘wages’, ‘social security’, ‘Social Security Fund’ and ‘Workmen’s Compensation Fund’ should be more clearly defined in the context of Thailand. Only workers under a wage system are insured under the Thai Social Security Act, 1990. Since fishers, including migrant fishers, are remunerated, or paid a share of the value of the catch, they are not insured. They are not entitled to contribute to the Social Security Fund, either. As a result, they cannot draw on social-security benefits from the Fund, unlike insured wage workers.

Unlike the Social Security Fund, to which employers, workers and the government make contributions, the Workmen’s Compensation Fund, which is used to pay workers in the event of occupational accidents and diseases, is entirely based on contributions from the employers. Although the migrant fishers are entitled to benefit from the Workmen’s Compensation Fund, the compensation is often meagre, Tunprom said, adding that social security provisions ought to benefit migrant fishers as well.

Thanachaïsetavuth said that although Thailand is dependent on the labour of migrants and despite the Thai union leaders understanding the discriminatory practices against migrant labour, the rank and file of labour unions were biased against migrant workers as they believed the migrants took away their jobs, posed a threat to national and social security, and that they spread diseases and hence do not deserve the same level of protection as Thai workers.

Labour unions

However, some factories provide protection and welfare, and allow migrant workers to be part of their unions but not as members of the management committees. Legislation must be improved to recognize the rights of migrant fishers to form their own labour unions, which would enhance their negotiation power, Thanachaïsetavuth observed.
Sompong Srakaew, Labour Migration and Counter Trafficking Director, LPN, said information was scanty on the actual number of Thai fishing vessels, the number of tour boats transferring catch, provisions and fishers at sea, and the types of fishing vessels. There were cases of forced labour on board Thai vessels in their entire range of operations. There was no reliable estimate regarding the total number of migrant workers in Thailand and on Thai vessels— in transit on tour boats and on board fishing vessels—since many use fake documents and forged passports to establish false identity as Thai citizens. Some of them also fake documents from their own country to establish a national identity.

Even if there were MoUs between Thailand and Myanmar and between Thailand and Cambodia to procure migrant workers, irregular migration into fishing would covertly be encouraged by some Thai vessel owners who cannot afford to pay normal wages or remuneration to Thai fishers and migrant fishers, Srakaew said. They would be forced to quit fishing if they had to pay prevailing wages. The problems of migrant fishers could be solved only if vessel owners cooperated; over two-thirds of fishing vessels were, however, unregistered, and many vessel owners were not interested in solving the problems of migrant fishers, he noted.

Satian Tunprom of ANM called for the enhancement of the capabilities of migrant fishers to make them confident in negotiations with employers. The Work in Fishing Convention, 2007 (C188) could help them negotiate for better working and repatriation conditions. He urged Thai national fishers and migrant fishers to work together for the ratification of C188.

Day 2 of the Dialogue commenced with an interactive session between all the departments and institutions that, in one way or the other, relate to the issue of labour in the fishing industry. Inaugurating the proceedings, Sunee Chaiyaros, Vice-President, Law Reform Commission Thailand (LRCT), said it is necessary to ensure that Thai national...
and migrant fishers are not subject to human trafficking and forced labour. Work in fishing should not be seen as atypical, and the labour protection enjoyed by workers under Thai law should be extended to fishers as well, especially when entering into a contract or work agreement, and to ensure the benefit of a minimum wage of at least THB300 (US$10) per day. Employers should pay at least the minimum wage. Chaiyaros also informed participants that an amendment is being proposed to the Labour Relations Act, 1975, to allow migrant workers to form their own labour unions.

Max Tuñón, Senior Programme Officer/Project Co-ordinator, Tripartite Action to Protect Migrant Workers from Labour Exploitation (TRIANGLE Project), ILO, said several provisions of C188 provide reference points for the development of national labour standards, including revision of the Thai Ministerial Regulation No. 10. At least five provisions—on minimum age, hours of rest on board a fishing vessel, work agreement of a fisher, crew list, and payment of fishers under C188—are relevant.

They relate to the kind of activities that should, and should not, be carried out by children between the ages of 15 and 18. The kind of work children can do on board a fishing vessel in Thailand needs to be defined, Tuñón said, drawing attention to the list of hazardous activities for children jointly developed by ILO and FAO, which include night work, fishing in inclement weather, fishing in offshore waters, and diving.

Minimum hours of rest as prescribed under C188 for those vessels remaining at sea for over three days could be considered while revising the Thai Ministerial Regulation No. 10, to protect both national and migrant fishers. Work agreements based on C188 can provide fishers greater protection in terms of setting norms for working hours, wages and deductions, and regularity of payment.

The crew list provision of C188 is relevant for migrant fishers traded to other fishing vessels at sea; it can maintain a link between the vessel, the skipper and the fisher, Tuñón said. The Thai Ministerial Regulation No. 10 requires vessel owners with 20 or more fishers to provide a crew list to DLPW; however, in practice, this provision is not enforced. It should be strengthened to ensure greater protection of fishers, he added.

Tuñón pointed out that both C188 and the Thai Ministerial Regulation No. 10 stipulate that fishers be made a basic payment, on a monthly or regular basis, and compensation be provided for workers affected by occupational diseases. A pay slip summarizing key points, such as the rate and amount of remuneration, should also be kept by employers for inspection by labour inspectors.

Magnus Torell, Senior Adviser, SEAFDEC, pointed out a perception prevailing in southeast Asia that there is no need to talk about the labour dimension of fishing. Increasingly, migrant fishers and fishworkers are being contracted to take up different types of work in fisheries. In Thailand, for example, the total number of migrant fishers and fishworkers combined would probably be over a million, although there is no comprehensive assessment of the actual number of people directly or indirectly involved, full-time or part-time, as owner-operators or as contract labourers in fishing in southeast Asia.

The total number of fishers and fishworkers, including migrant fishers (mostly men) and fishworkers (mostly women), is hugely underestimated in the region. For a socially sound fisheries-management regime, it is pertinent to know how dependent domestic and migrant workers are on fishing, he observed.

Fishers’ rights
The rights of fishers, including migrant fishers and fishworkers,
are defined not only in international legal instruments but are also implicit in regional policy documents such as the 2009 ASEAN Socio-Cultural Community Blueprint and the 2009 ASEAN Political-Security Community Blueprint. The 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers and the 2012 ASEAN Human Rights Declaration are also relevant for the protection of the rights of migrant fishers. There are thus several expressions at the highest political level on protecting migrant workers, Torell pointed out.

Since fisheries agencies in the ASEAN region are not equipped to
directly deal with labour issues, they should be strengthened to do so in co-operation with the institutions responsible for labour. Fisheries management and labour protection could be inter-linked as in the Philippines, where the issue of a fishing licence is contingent upon demonstrating compliance with relevant national labour laws for the crew on board.

Torell noted that collecting and sharing information must be encouraged in order to assist bilateral and multilateral arrangements for training and capacity-building. An effort should be made to identify the type of data needed to provide baseline information on the movement of migrant workers and on their living and working conditions, in line with national and international standards.

Sitthichai Wareechananon of the Department of Employment (DOE), MOL, said his department pays particular attention to the fishing industry since it allegedly engages victims of human trafficking in fishing. Thailand, which used to be a net migrant-sending country, has now turned into a net migrant-receiving country, and there is shortage of labour in the fishing industry. Following the Cabinet Resolution of 9 October 2012 to prevent and suppress human trafficking of fishers, the DOE is setting up provincial labour co-ordination centres (LCCs) for marine fishers in seven provinces to streamline recruiting procedures and the registration of migrant fishers on board fishing vessels in all 22 coastal provinces.

Wilaivan Koykaewpring, Senior Technical Labour Officer, Labour Protection Bureau, DLPW, MOL, said there are six agencies responsible for employment, working conditions, labour protection and sea safety in fishing in Thailand. These are: (i) DLPW, which undertakes inspections—on shore and on board—to prevent child labour, trafficking and forced labour; (ii) the Thai Immigration Bureau, which checks the legal status of the fishers on board, and detains undocumented migrant fishers; (iii) DOE, which registers migrant fishers, and checks and extends their work permits; (iv) the Marine Department of the Ministry of Transportation, which inspects fishing vessels, and issues licences and registration certificates to seaworthy vessels as well as licences to skippers; (v) DOF, which licences fishing gear; and (vi) the provincial public health office, which checks for epidemics and sanitation conditions on board fishing vessels.

On behalf of DLPW, the marine police and the Thai Navy check employment practices, and working and safety conditions on board vessels, crew lists and work permits, and whether the boat meets the requirements of a standard workplace. Inspections are also undertaken in partnership with the employers’ organizations such as the Thai Frozen Food Association (TFFA), the Thai Shrimp Association (TSA) and the National Fisheries Association of Thailand (NFAT), a vessel owners’ association.

DLPW, together with ILO, LRCT and NFAT, is revising the Thai Ministerial Regulation No. 10, in keeping with C188 and other international conventions, while also developing guidelines for good labour practices in fisheries.

Waraporn Prompoj, Senior Expert on International Fisheries Affairs, DOF, Government of Thailand, said there are about 400,000 fishers and fishworkers in the fisheries and aquaculture industries in Thailand. Although there are currently 45,000 registered commercial fishing vessels, all are not in operation. About 20,000 fishing gear licences have been issued.

**Working conditions**

DOF has developed a ten-step Action Plan to address labour issues and promote better working conditions in...
Thai fisheries. DOF is working towards legalizing irregular migrant fishers in collaboration with the MOL and the private sector since it realizes the dependence of the fishery industry on migrant workers. Registration of migrant workers is now on and will continue until May 2014. Registered migrant fishers are entitled to welfare and social-security benefits. Identity cards will be issued to registered migrant fishers for a period of one year from the date of registration. Under bilateral MoUs, the MOL is also considering the import of workers into fishing through LCCs, she said.

Professor Surichai Wun’gaeo of Chulalongkorn University said human trafficking has become a serious issue in fishing. What was discussed at the Bangkok Dialogue amounted to only the tip of the iceberg, he feared. Although the line agencies are understaffed and overworked, the problems of human trafficking demand inter-agency collaboration. The issue demands new ways of collaboration, and the matter had to move from the periphery to the centre, he added.

Satian Tunprom of ANM said in order to meet the shortage of labour in the fishing industry, Thailand should grant amnesty to all migrant fishers. It should change their status from ‘undocumented’ to ‘documented’, after undertaking nationality verification. It is necessary to have binding written work agreements between employers and fishers for greater labour protection. MoUs indicating the kind of work that can be undertaken and the conditions of work should be initiated on recruitment of migrant workers. The sending country could thus prepare the workers accordingly.

Tunprom proposed that fishing vessel owners should contribute to the Workmen’s Compensation Fund as they are presently exempted, and that the Labour Relations Act, 1975, should revoke the ‘Thai nationality by birth’ clause and allow migrant workers, including migrant fishers, to found a labour union and become members of its board of directors. Thailand should ratify the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (C87) and the ILO Right to Organize and Collective Bargaining Convention, 1949 (C98), he said.

Waraporn Prompoj of DOF said she was keen on co-operation with neighbouring countries to create an action plan to provide education to workers who are potential fishers on board Thai fishing vessels, focusing on the Thai fishing industry and welfare schemes for migrant fishers, and to prevent them from being trafficked into fishing.

**It is necessary to have binding written work agreements between employers and fishers for greater labour protection.**

Magnus Torell, Senior Advisor of SEAFDEC, said although it was clear that something needed to be done, it was not clear how to go about issues identified so far in a coherent manner. Often new bodies were created to address new issues in a language not familiar to all. The issue of migrant fishers involves people, and in Thailand it should be viewed in the regional context of ASEAN community-building, and of transborder relations, among other things, involving fish processing and seafood trade. From the fisheries-sector perspective, existing standards should be implemented, and scope for illegal activities reduced. He suggested that it is important to move at the sub-regional level and across different national institutions.

**Current legislation**

Kamolsak Lertpaiboon of NFAT said it would be some time before the Thai fishing industry can talk about adopting international standards. Most Thai vessels and fishing operations are legal, he claimed. Current legislation, including immigration laws, need amendment to address all the problems. The industry has to adapt and apply good practices by improving the knowledge of employers and fishers on working conditions and sea-safety issues.
Day 3’s discussions centred on developing a plan of action for protecting migrant fishers on Thai vessels. Nalini Nayak, Member, ICSF, highlighted that sustainable fisheries and responsible labour practices are essential to improve the prospects of business, work, livelihood and food security related to fishing. While some of the Dialogue partners worked only in their own country, others worked at the regional or international level. While some had a specific fishery focus, others had a specific labour focus.

The Dialogue recognized the problems facing migrant fishers to be multidimensional, and highlighted the need to broaden the perspective of CSOs/NGOs as well as the fisheries and labour authorities. The Dialogue partners should see how each of them could contribute to improving both the labour and fisheries dimensions, she stressed. A fisheries person, concerned only with nets and fish, should consider how labour regulations could help fishing, and a labour person, usually concerned only with labour in fishing, should consider how fishing regulations could help address labour issues. Thailand is the southeast Asian hub for migrant fishers from across borders. It is important to build crossborder partnerships, she observed.

Sebastian Mathew, Programme Adviser, ICSF, pointed out that the provision for training in the handling of types of fishing gear under Article 31 of C188, for example, could be broadened to serve the dual purpose of training fishers to impart knowledge regarding their fishing grounds, and conservation and management obligations. It would help them gain a broader understanding not only of the safety of fishing vessels, gear operations and working conditions, but also of fisheries conservation and management measures.

Adisorn Kerdmongkol of ANM, said, from a Thai CSO perspective, based on discussions over Day 1 and Day 2, there was a seven-point action plan to be shared around three categories, namely, (i) recruitment and employment in fishing; (ii) labour protection; and (iii) regional mechanisms and collaboration with academic and research organizations.

1. **Recruitment and employment in fishing**

   Firstly, fishers, including migrant fishers, must be granted the protection of a contract or a written work agreement when being recruited to work on board fishing vessels.

   Secondly, networks must be built with the States of origin of migrant fishers/workers to provide them pre-departure preparation and assistance. Specific reference was made to MMTU and the Migrant Worker Rights Network (MWRN) in the context of Myanmar and Thailand. At the regional level, ILO, IOM and SEAFDEC may be involved.

2. **Labour protection**

   Thirdly, the Thai Ministerial Regulation No. 10 must be modified, based on the draft prepared by the MOL in collaboration with LRCT and ILO, which is currently in the process of public hearing.

   Fourthly, work with the LCCs must continue to protect labour in the fishing industry as well as to provide access to information on employment and labour protection in fishing.

   Fifthly, rather than drawing on an ad hoc basis from the marine police and the Thai Navy, a dedicated set of labour inspectors knowledgeable about fishing and fishing labour must be created to ensure labour protection on board fishing vessels. A training course must be developed for these inspectors.

3. **Regional mechanisms and collaboration with academic and research organizations**

   Sixthly, the fishing industry must be brought under the ASEAN Labour Standard, which is currently being developed by LRCT.

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The Dialogue recognized the problems facing migrant fishers to be multidimensional, and highlighted the need to broaden the perspective of CSOs/NGOs as well as the fisheries and labour authorities.
Finally, collaboration must be encouraged among organizations like SEAFDEC and academic and research groups to work on employment and labour issues in the fishing industry.

Ravadee Prasertcharoensuk, Executive Director, SDF, and Member, ICSF, wondered about the benefits for migrant fishers from amending the Thai Ministerial Regulation No. 10. Satian Tunprom of ANM clarified that the proposed amendments would remove the exemption clauses that often exclude migrant fishers from its scope, and would bring them direct benefits, especially by regularizing them, providing them access to labour protection and welfare, ensuring greater transparency in their remuneration, and by enforcing greater accountability of the fishing vessel owners. Adopting these measures could lead to better retention of workers on board fishing vessels, he said. It was proposed that the labour network in Thailand should be asked to support the amendment to the Thai Ministerial Regulation No. 10.

Prasertcharoensuk also proposed the encouragement of the MoU route between the State of origin and the State of employment of migrant fishers (such as Myanmar, Cambodia, Lao PDR and Thailand), in addition to transforming irregular migrant fishers into regular, documented migrant fishers in Thailand.

Sebastian Mathew of ICSF felt that a labour-destination country such as Thailand ought to be the starting point in addressing the problem of migrant fishers. Engagement of irregular migrants on board Thai fishing vessels can be prevented if NFAT and the Thailand Overseas Fisheries Association (TOFA), another vessel owners’ association, instruct their members to engage only regular migrant fishers on board their fishing vessels. If loopholes for illegal engagement in fishing are plugged, the labour conditions would then automatically improve.

Magnus Torell of SEAFDEC said that not only Thai labour laws but Thai fisheries laws also need to be amended to deal with the current reality in fisheries.

Ravadee Prasertcharoensuk of SDF/ICSF queried how CSOs can help LRCT in developing an ASEAN Labour Standard, including for fishing. Sarawut Pratoomraj, Law Reform Officer, LRCT, observed, that a subcommittee had been formed under LRCT to develop an ASEAN Labour Standard. Whatever was learnt from the Bangkok Dialogue would be used for defining fishing labour standards. Once the draft labour standard is developed, it would be circulated for feedback from the public.

In order to take the action forward, Adisorn Kerdmongkol of ANM said a small working group may be formed in Thailand, with Ploenpit Srisiri, Committee Member, Arompongpan Foundation, as co-ordinator. ANM would follow up the Dialogue through legal reforms, pilot projects, LCCs, training and capacity-building, and awareness-raising programmes. He requested SEAFDEC help follow up with the governments of Myanmar and Cambodia, especially to ensure that both civil society and the government collaborated in implementing the action plan.

Summarizing the discussions, Ravadee Prasertcharoensuk of SDF/ICSF said it was decided to initiate capacity-building to ensure migrant fishers are legalized and there are adequate labour-protection mechanisms in seven coastal provinces, four of which the Thai working group would engage with.

The working group would also facilitate access to information for migrant fishers, documenting and regularizing migrant workers, and reporting complaints to the authorities about poor working conditions. The activities of the working group should be reviewed after one year, to ascertain progress. The working group would engage with the LRCT to incorporate human-rights principles into the ASEAN Labour Standard.

Thanking everyone at the end of the Dialogue, Sebastian Mathew, on behalf of ICSF, observed, “Migrant fishers are the engine of Thai fishing; they should be treated with respect, as human beings with dignity”.

For more


Employment Practices and Working Conditions in Thailand’s Fishing Sector


Slavery at Sea: The Continued Plight of Trafficked Migrants in Thailand’s Fishing Industry

www.iom.int/cms/en/sites/iom/home.html

International Organization for Migration


International Labour Organization

MIGRANT LABOUR

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