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The Government Policy

The merging of business and politics in Ukraine poses a serious threat to the country's domestic security and undermines the authorities' capacity for effective democratic governance, as, in most cases economic interests define political behavior and relations between political players depend on agreements between oligarchs. In order to mitigate the influence of oligarchs on Ukrainian politics, it is necessary to maintain a strong control over the financing of political parties and to adopt both the law on the disclosing of the final beneficiaries of mass media and the law on lobbying.

Having adopted the anticorruption legislation in October 2014, the government does not as yet invest enough in its actual implementation, where-

as efforts toward the communication of these innovations to the public are non-existent. While the number of new anticorruption bodies grows, they will not be able to present the first results of their work until the end of the year. Meanwhile, current law enforcement bodies are entirely incapable of efficiently stopping corruption schemes, no matter whether they are associated with the current government or the former. Taking into account the negative influence of corruption on economic and political stability in the country, the Ukrainian government cannot afford further delays in the formation of new institutions, and all actions in this sphere should be transparent and effectively communicated to the greater public.

How to separate business from politics?



«The war of all against all». This phrase by Thomas Hobbes may be used to describe the current situation among Ukrainian financial and political elite in spring 2015. Under external military aggression and the degradation of the state mechanism, the current crisis in the financial-political environment may become the harbinger of a loss of statehood by Ukraine and/or territorial losses. On the other hand, this

The conflict between oligarchs as a threat to the Ukrainian statehood

crisis provides an opportunity to establish new, more transparent and democratic rules of the game as well as to advance the modernization of the country. As regards the process of modernization, the assistance of Ukraine's Western partners will prove to be essential.

The reasons behind the intra-elite conflict in Ukraine can be traced back to 2011-2012, when the so-called Family began the redistribution of state budget financial flows and the privatization of state assets. The main beneficiaries were the three financial-industrial groups of Oleksandr Ya-

nukovych, Rinat Akhmetov and Dmytro Firtash. These three groups became the main pillars of Yanukovych's presidency and parliamentary majority, which supported the president.

A significant downturn in the national economy in 2010-2013 increased competition within the «coalition triad» for dwindling economic resources. It is worth mentioning that in spring 2013, there was a high-profile scandal between Rinat Akhmetov and Oleksandr Yanukovych concerning the purchase of energy coal. On the other hand, the economic slowdown forced Yanukovych to look for additional sources of budget revenues. After an unsuccessful attempt to borrow from the IMF, the Azarov-Yanukovych government tried to impose strong control over the Funds Transfer Pricing (FTP), which was used by all financial-industrial groups (FIGs) to optimize their taxes and redirect their FX revenues to tax havens and offshore companies.

The conflict is rooted in the law on transfer pricing

The Yanukovych government succeeded only in July 2013, when the corresponding law was adopted by the Verkhovna Rada of Ukraine. Naturally, big businessmen from the opposition as well as Yanukovych's team, which earlier had been presented with certain economic benefits from the president, were outraged. The intra-elite stability was disrupted, and the first indications of its decay emerged. In October 2013, Viktor Pinchuk brought a lawsuit against Ihor Kolomoisky in the London High Court, with the case revolving around Kolomoisky-owned Kryvy Rih iron ore mining combine.

The ensuing Revolution of Dignity and the escape of then-president Yanukovych allowed Ukrainian FIGs to change the unsatisfying rules of the game regarding: (a) "Family-privatized" state budget financial flows; (b) the law on transfer pricing discriminating against FIGs (in their opinion); and (c) the results of an "unfair" privatization during the presidency of Kuchma and Yanukovych.

The Revolution of Dignity made it possible to change the rules of the game.

In light of the aforementioned changes, it is not surprising that, when the law on transfer pricing was about to come into force, in April 2014 the

Verkhovna Rada of Ukraine adopted amendments actually nullifying the law. This was the first item on the Ukrainian elites' agenda after the Maidan. They had easily fulfilled it, as there was a tacit consensus between elites on this issue. Subsequently, this helped stabilize the political situation before the presidential elections and form a parliamentary majority loyal to the new government. As a result of a return to the 2004 Constitution, a pluralist oligarchic republic was restored, which had existed before the election of Viktor Yanukovych as the president of Ukraine. The budget deficit, which arose from the revocation of the transfer pricing law, was covered through currency emissions by the NBU and IMF loans.

As regards "family-privatized" state budget financial flows and an "unfair" privatization during the presidency of Kuchma and Yanukovych, Ukrainian FIGs began acting before the parliamentary elections, which took place in October 2014. Dmytro Firtash was ousted by Ihor Kolomoisky from two titanium ore combines. Russian oligarch Oleh Derypaska lost his right of ownership of the Zaporizhia aluminum ore combine. At the same time, oligarchs began a fight for control over state monopolies. Leonid Yurushev placed his top manager with Ukrzaliznytsia (the State Administration of Railroad Transportation in Ukraine).

An open conflict between Ihor Kolomoisky and Ihor Yeremeyev over the two state-run oil companies in March 2015 was only the tip of the iceberg, showing only a part of the latent processes related to property redistribution in Ukraine. In April 2015, these latent processes will go public alongside the first results of investigations launched by the special parliamentary commission on privatization in the energy sector, the mining and metallurgy complex and the agricultural-industrial complex as well as the expected bankruptcy of Rinat Akhmetov's company DTEK.

The conflict between Ihor Kolomoisky and Ihor Yeremeyev over oil companies is only the tip of the iceberg.

The fight between large FIGs is very dangerous for the Ukrainian state – actually the second oligarchic republic, which is based on a shaky intra-elite consensus on transfer pricing law and situational assignment of jobs in the government.

At present, the weak points of the oligarchic republic are as follows:

1. The current competition between sponsors of political parties for assets and financial flows destabilizes the parliamentary coalition and impedes the adoption of reformist laws by the parliament, as was the case with the law on public joint-stock companies, which was passed only on the fifth attempt.
2. The inner circle of Ukrainian top officials has been also dragged into the conflict (e.g. Ihor Kononenko, Andriy Ivanchuk, Mykola Martynenko and Leonid Yurushev). The political and economic patronage between big businessmen and policymakers casts a shadow on the president and prime minister and discredits them in the eyes of their Western partners.
3. The revocation of the law on transfer pricing and the use of financial flows and profits of state-run companies to the benefit of certain FIGs increases the budget deficit, while leaving the government no other choice but to search for additional sources of budget financing through IMF loans and currency emissions by the NBU.

Ukraine's Western partners are entirely aware of the latter. They put pressure on the president to coopt him into eliminating corruption and lobbying schemes in the Ukrainian economy. On March 2, 2015, Ukrainian President Petro Poroshenko held a meeting with major businessmen, during which he once again demanded that they weed out shady schemes that they have been using to minimize taxes and divert exporters' FX revenues and profits of state companies, in which they had a stake, offshore. The recent conflict over "Ukrnaf-ta" and "Ukrtransnafta" proved the inefficiency of such an approach to the problem.

Multiple meetings between Western diplomats and leaders of Ukrainian FIGs have not yielded any results either. Last year, a desire to protect his assets made Rinat Akhmetov play into the separatists' hands at the beginning of the conflict. This happened even despite an unprecedented lift-

ing of anti-dumping quotas for Ukrainian steel exports, which was done by the US government. Even Ihor Kolomoiskyi, who positions himself as a pro-Ukrainian businessman and maintains contacts with the US State Department, disregarded the rules of the game in his desire to retain control over oil companies.

At this stage, informal ways of influencing FIGs from within and outside Ukraine are not effective enough. The process of democratic transition in Eastern Europe and Asia in the 20th century and democratic revolutions in Europe in the 16-19th centuries show that successful political transformations have to be accompanied with a new "elite pact". In this case, a set of new rules of the game, which would be the same for all political and economic players irrespective of their close ties with top officials, should be adopted.

In Ukraine, the new rules of the game should provide, first and foremost, for guarantees of the inviolability of property rights and the resolution of all property disputes solely in courts. The continuous revision of privatization results should be ended. Otherwise, "the war of all against all" will go on forever and will continue destabilizing the country.

Immediate measures to reduce the influence of FIGs on the state apparatus might be as follows:

1. The demonopolization of key economic sectors through increasing the competencies of the Anti-Monopoly Committee and the adoption of special laws on competition in the electricity, oil and gas sectors, which are dominated by Rinat Akhmetov, Ihor Yermeyev and Ihor Kolomoiskyi. In doing so, the South Korean methods of dealing with chaebols (family-controlled business conglomerates, similar to Ukrainian FIGs) in the 2000s may be used. South Korea adopted legislation limiting the number of economic sectors in which one

The conflict between Ihor Kolomoiskyi and Ihor Yermeyev over oil companies is only the tip of the iceberg.

Successful political transformations should be accompanied with an "elite pact".

To reduce the influence of business on politics, there should be guarantees of the inviolability of private property and demonopolization

holding (a maximum of 2 or 3 sectors) could operate at the same time. There were also other restrictions, in particular regarding investment and corporate acquisitions.

2. The revocation of amendments to the law on transfer pricing, which would facilitate the stabilization of public finances and the hryvnia's value.
3. The reduction of the influence of FIGs on the political system and decision-making mechanism, which includes: (a) the adoption of the law on public financing of political parties (size and forms of public financing are open to discussion; however, most Ukrainian experts believe that it is necessary to establish state financing of party funds while also imposing a greater financial discipline in the parties); (b) the adoption of laws on obligatory disclosure of media owners as well laws as on the prohibition of commercial political adverts; and (c) the adoption of the law on lobbying.

These changes should be implemented by the next election in 2018-2019 to allow for the rotation of political elites to replace old corrupt MPs and civil servants associated with FIGs with representatives of civil society and young MPs, a limited number of which entered parliament in 2014.

The aforementioned measures need to be supported by Ukraine's Western partners. This in-

cludes not only support for civil society institutions, NGOs, independent media and the allocation of loans to the Ukrainian government, but also:

1. Direct methodological, HR and technical support for public institutions, especially including the Ministry of Internal Affairs and the Armed Forces of Ukraine.
2. The entry of large foreign investors into the Ukrainian market, which would compete with FIGs in the domestic market. In this regard, the agricultural-industrial complex seems promising, where multinational corporations such as American Cargill and German HAKA are now operating.
3. The facilitation of court hearings of major property disputes between Ukrainian FIGs in British and American courts.

However, it is only the Ukrainian government that can separate politics from business. It will take the collective political will of the president, prime minister and parliamentary coalition to make this happen. In this regard, the "foreign loans in exchange for Ukrainian reforms" logic seems effective. It is necessary to maintain political and socio-economic stability in the country during the most difficult period of reforms implementation, which Ukraine is about to enter.

It will take assistance of Western partners and a collective will of Ukrainian government officials to separate politics from business.

To reduce the influence of business on politics, there should be guarantees of the inviolability of private property and demonopolization

A major fighter against corruption "wanted"

The increasing number of institutional links in the anticorruption chain has not influenced the quality of the fight. New agencies such as the National Anticorruption Bureau (NAB) and the National Agency on Prevention of Corruption are only at the initial stages of their creation (the selection of the head and the definition of the selection procedure, respectively), so the first specific

results of their work may be evaluated only at the end of the year.

Meanwhile, the Prosecutor-General's Office, the Ministry of Internal Affairs (MIA) and the Security Service of Ukraine (SBU), which have been

The anticorruption agencies may present the first results of their work only at the end of the year.

in charge of these issues in Ukraine, are unable to clearly delineate their respective authorities and coordinate their efforts. All in all, this results in the fact that corruption schemes – should they be linked to the current or former government – are not duly investigated and are not transferred to the court system. However, even if there is a due and complete investigation, a fair punishment of the guilty is doubtful in view of the lack of changes in the judicial branch.

The appointment of the NAB head has been delayed due to the authorities' desire to prolong the competition and acquire more loyal candidates for such an important position. The results of a special check of the four candidates who were selected by the commission were expected to be released on March 24, 2015. As this check is rather a formal procedure, several days would be enough for the selection commission to choose two-three candidates to present to the president. The latter would have ten days to look through their files and hold interviews if needed. With all this in mind, the presidential decree on the appointment of the NAB head would be issued by April 7-10, 2015, at the latest. However, the results of the special check have not been announced yet.

Meanwhile, Viktor Chumak, one of the candidates for the position, claims that the appointment of the head does not necessarily signify the launch of full-scale activities by the agency. It is necessary to choose the bureau staff, elaborate specific procedures of their work, train them to follow these procedures and form territorial units of the bureau. Therefore, according to Viktor Chumak, the first cases completed by the NAB may appear only in nine or ten months after the head is appointed.

With its recent decree, the Cabinet of Ministers established the National Agency on Prevention of Corruption and defined the procedure for the selection of its head. As was the case with the NAB, the candidates for the position will be selected by the jury, which will consist of the

The appointment of the NAB head is delayed.

The National Agency on Prevention of Corruption and specialized anticorruption prosecution office will play an important role in the fight against corruption.

representatives of the Verkhovna Rada, the presidential administration, the Cabinet of Ministers, the National Agency on Public Service and four NGOs, which deal with the fight against corruption.

The same road – from the procedure of the selection commission formation to the training of respective human resources – is required to launch the activities of the specialized anticorruption prosecution office.

The system of state anticorruption institutions is extremely complicated. Beside the NAB, the National Agency on Prevention of Corruption and the specialized anticorruption prosecution office, there are plans to create the State Bureau of Investigations (SBI). The accompanying bill No. 3042 was registered on February 12, 2015.

The SBI will prevent and investigate organized crimes, terrorism and other grave crimes, torture by law enforcement officers, military crimes and corruption cases done by employees of the NAB and the specialized anticorruption prosecution office. At the same time, the SBI management is appointed by the Cabinet of Ministers under the proposal of the prime minister. The proposal is based on the work of a selection commission, which will include three members delegated by the Verkhovna Rada, the presidential administration and the Cabinet of Ministers (a total of nine members).

The SBI, the head of which is appointed by the Cabinet of Ministers, will investigate corruption in the NAB, the head of which is appointed by the President. It lays the groundwork for institutional conflict between the presidential administration and the government, simultaneously showing the lack of officials' trust in the new institutions they have just created. The experts who promote the establishment of the SBI claim that "the chain of control" is needed: corruption by the NAB detectives will be investigated by the SBI detectives; corruption by the SBI officers will be investigated by the SBU; corruption by the SBU will be investigated by the police.

The SBI duplicates some of the SBU functions and may be used by the government to exert pressure on the NAB.

At the same time, such a complicated chain does not ensure due control over the whole system; the SBI and police remain under the influence of the government, whereas heads of the NAB and SBU

are appointed by the president.

The need for the SBI has been explained by the logic that the NAB will deal with corruption among high officials, while the SBI will be preoccupied with corruption among the lower levels, substituting police administrations on organized crime, which were recently abolished.

On the other hand, investigating crimes related to terrorism, the SBI will work in the field which was always perceived as the SBU's domain. Recently, Valentyn Nalyvaichenko, the SBU head, even proposed to deprive the SBU of some functions, such as in investigations and the fight against corruption. In his mind, the SBU has to deal exclusively with counterintelligence and the fight against terrorism.

The complicated nature of the new anticorruption bodies is aggravated by the recent statements of Arseniy Yatseniuk, who said that the MAI should become a driver in the fight against corruption.

The officials do not explain the authorities of each anticorruption body and do not provide citizens with the tools how they can contribute to this fight.

Nevertheless, for the last year, neither the SBU, nor the MAI, nor the prosecutors have put up a real fight against corruption. The public did not find out about any investigation on corruption schemes of the previous government, although there were a number of journalistic investigations devoted to these topics in 2010-2014. Mykola Hordiyenko, the former head of the State Fiscal Service, recently made claims regarding financial abuses of the current government worth UAH 7.58 bln. The Prosecutor-General's Office promised to hold respective investigations within the next month.

Meanwhile, most Ukrainians want a real fight against corruption, rather than empty declarations and show arrests (for instance, last week, the head and deputy head of the State Emergency Service were arrested at the session of the Cabinet of Ministers). According to the results of a sociological survey held in terms of "The National Dialogue" project, 57.2% of respondents believe that anticorruption reform is the top priority for Ukraine.

The topic of the fight against corruption unites most Ukrainians.

Economic situation

On March 5, 2015, the draft law No. 2250 on the natural gas market passed its first reading. The adoption of this law, which may take place next

week, will lead to the elimination of certain oligarchic structures.

The energy policy



The law on the natural gas market is now a top priority, alongside the laws on investment protection and public debt restructuring.

The main purpose of the draft law is to create an effective and competitive natural gas market in compliance with EU legislation. The latter includes Directive No.2009/73/EC of the European Parliament and the Council concerning common rules for the domestic natural gas market as well as Regulation No.715/2009 of the European Parliament and the Council with regards to conditions for access to the natural gas transmission networks.

In order to ensure competition in the gas market, the draft law provides for the mechanism to separate activities associated with the management of gas infrastructure from activities of vertically integrated organizations specializing in gas production and gas deliveries in accordance with the Third Energy Package. The transportation, distribution and stor-

The draft law is aimed at ensuring competition in the gas market.

age of natural gas, as well as a range of LNG-related services, remain under state control.

As a result of the adoption of the draft law, both wholesale and retail natural gas markets will be created. The free-pricing principle will be applied, and consumers will be able to freely choose a natural gas supplier. The intervention of the state in the activity of such economic entities is minimal, strictly determined and aimed at the protection of consumer interests. The supply of gas to households will be provided in accordance with a standard contract approved by the regulator. As regards other gas consumers, gas deliveries to them will be made under terms and conditions that are freely determined by the parties themselves. The main provisions of the draft law will facilitate the demonopolization of “Naftogaz” and promote the European model for the natural gas market, allowing all market players access to the gas market, which ultimately will enhance the competitiveness of the Ukrainian energy sector.

A special category for a gas supplier – the so-called “supplier of last resort” (a guaranteed sup-

plier) – is introduced in the draft law and entitles it to supply natural gas in special cases (bankruptcy or the cancellation or suspension of a license from another supplier). However, certain conditions have been introduced under which natural gas prices should not harm competition in the market, and gas suppliers are obliged to maintain a predetermined gas reserve, which would enable them to supply gas for as long as 45 days.

The adoption of the draft law will directly affect the interests of certain oligarchic structures. Amendment No.213 was also introduced and was considered during the first reading of the draft law. In particular, “the state-owned gas distribution system cannot be in use of a gas distribution system operator under full economic jurisdiction, except for cases when an operator belongs to the public sector”. The state thus secures its status as a top manager for distribution companies. First and foremost, this amendment hits the commercial interests of Dmytro Firtash, who now controls 70% of regional gas distribution companies. According to the new rules, a company that owns the electrical

The law will hit the interests of certain oligarchs

grids and is engaged in retail trade has to split up its business by choosing one of the options: either sell a part of a company or delegate operational management of the grids to an independent operator.

It is expected that the restructuring and attempts to ensure the transparency and liberalization of the gas market will trigger a new wave of intra-elite conflicts. The first steps in implementing the law will exacerbate current conflicts between the business groups of Dmytro Firtash, Ihor Kolomoiskyi and Rinat Akhmetov on the one hand and Yatsenyuk’s government on the other. In general, it appears that at this point the adoption of the law on the natural gas market is viewed by the authorities as a way to improve their public image and keep their reputation as ardent reformers and fighters against corruption.

The adoption of this law will make the Ukrainian natural gas market competitive, transparent and attractive for investors. The law on the natural gas market is absolutely compliant with the Third Energy Package and provides for a real, not declarative, integration of Ukraine into the EU.

The draft law is absolutely compliant with the Third Energy Package.

Political Competition

“Bloc of Petro Poroshenko” and “People’s Front” are not interested in the local elections in autumn 2015. In the context of the economic crisis, the ratings of these ruling parties continue to fall, and the regional network is virtually absent. Therefore, pro-government parties are reconsidering viable options and are looking for the legal preconditions for the postponement of local elections.

However, local elections are advantageous to the regional elites, “Samopomich”, the Radical Party

and “Batkivshchyna”, especially given the prospects that decentralization offers at the local level. This is also a common topic for “Opposition bloc” of Serhii Liovochkin and for many party projects being prepared by Ihor Kolomoiskyi. To strengthen their positions, these oligarchs will strive to cement their influence in the regions. In view of the local elections “Opposition bloc” is intensifying its work, for instance they have recently presented shadow government to the public.

“Opposition bloc” has presented the shadow government’s program



The decision to form an opposition government aims to show the public that the Party of Regions retained a team willing to come to power. The leadership of “Opposition bloc” will employ this project as an indispensable tool for informational events before the local elections. However, the shadow governments of the Party of Regions (2009), the Yulia Tymoshenko Bloc (2010) and “Svoboda” (2013) were mere PR instruments and limited their activities to the

A shadow government as PR tool of “Opposition bloc”.

destructive criticism of opponents and populist statements.

On March 31, 2015, Yuri Boiko, a chairman of the parliamentary faction “Opposition bloc”, presented an opposition government headed by Borys Kolesnikov to the public.

The size of the parliamentary faction “Opposition bloc” will not allow them to significantly influence the vote in the parliament. On the other hand, the socioeconomic situation in the country is critical and promotes the growth of opposition sentiment. In reality, the program of the opposition

government is not very different from the election program of Viktor Yanukovich in 2010 and the campaign program of the Party of Regions, “From stability to prosperity”, in 2012.

The presented program is based on leftist and populist slogans, decentralization and peace rhetoric. “Opposition bloc” will go to the local elections with this program. Serhii Liovochkin’s recent statement that the war party in the parliament should be replaced by the party of peace implies that “Opposition bloc” supports the synchronization of local elections with parliamentary ones.

“Opposition bloc” seeks to hold parliamentary elections simultaneously with local ones.

A particular emphasis is placed on the problems of currency devaluation, the growth of tariffs and the fall in purchasing power. By the end of May 2015, the draft of a new constitution and the concept of a bicameral parliament will be proposed.

The shadow government is represented by the Party of Regions’ members and the Yanukovich regime’s senior officials with dubious reputations. “Opposition bloc” has not managed to go beyond a “close corporation” or a club of interests. The lack of new faces in the opposition government demonstrates its isolation from the regional party structures and public opinion in general.

Ihor Kolomoiskyi's political investments

Ihor Kolomoiskyi has now been actively involved in pushing forward the idea of expanding the financial powers of the regions. After the mobilization rally in Dnipropetrovsk, the oligarch’s team focused on regional political projects.

Ihor Kolomoiskyi is an active supporter of decentralization.

In their pursuit of political influence, Dnipropetrovsk, Zaporizhia, Kharkiv and Odessa regions are their focal points.

First of all, the party “Ukraine of the future”, headed by Kolomoiskyi’s associate Sviatoslav Oliynyk, is one of such projects. The party’s main activities and human resources are concentrated in Dnipropetrovsk and Zaporizhia regions. Sviatoslav Oliynyk, a leader of the party, will run for the position of mayor of Dnipropetrovsk. There have already been occurrences in the Ukrainian party history when the party “Hromada” (its leader was former Prime Minister Pavlo Lazarenko) was introduced in the parliament solely due to high support in Dnipropetrovsk region.

Secondly, the parliamentary group “Renaissance” of Vitalii Khomutynnik is considered to be close to Ihor Kolomoiskyi. The “Renaissance” party will

compete with “Opposition bloc” in Kharkiv and Odessa regions.

Thirdly, the oligarch controls some independent MPs and certain members of “People’s Front” and “Samopomich” factions. Obviously, these parties are likely to cooperate with the Dnipropetrovsk team while forming a majority in local councils.

Finally, the Pryvat Group has good relations with “Right Sector”. Although the national ranking of the party fluctuates between 1% and 3%, it may obtain representation in some of the local councils. This is evidenced by the success of some of its representatives in majoritarian districts in the 2014 parliamentary elections.

Thus, Ihor Kolomoiskyi and his associates are painstakingly preparing for local elections and assisting their political allies in doing so. The results of previous election campaigns show that the media is the crucial factor that shapes voters’ opinions. This instrument of political struggle left Anatolii Hrytsenko outside the parliament and significantly

Ihor Kolomoiskyi’s main forces in the south and east are the parties “Renaissance” and “Ukraine of the future”.

reduced electoral support for the Radical Party of Oleh Liashko in the 2014 parliamentary elections.

Ukraine's party system is thus regressing toward the system of the 1990s, when political competition

focused on temporary regional projects, parties of leadership types and media advertising.

Ukrainian politics focuses again on regional projects and media advertising.

The aim of the publication is to provide objective information on current political events in Ukraine and thorough analysis of major tendencies in domestic politics. Such analysis will assist in setting priorities in the process of implementing reforms in Ukraine and in evaluating quality of state decisions from the viewpoint of their impact and sustainability. Special attention is paid to evaluation of political competition in Ukraine and ability of key political players to address challenges.

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