



APEC Investment Facilitation Action Plan

Introduction – the benefits of investment

There is strong international consensus on the benefits of investment, across the spectrum of its activities: from tangible assets to intellectual property. Such investment drives economic productivity, builds jobs, raises incomes, strengthens trade flows and spreads international best technologies and practices. Investment bolsters economic growth for developed and developing economies alike.

APEC's member economies recognise the significant economic benefits of investment and are active in promoting investment and facilitating cross-border investment flows. Facilitating investment requires work: a concerted national and international effort to create and sustain the most conducive climate for investment

APEC has been instrumental in this effort in the Asia-Pacific region beginning with its adoption in 1994 of the non-binding investment principles. These are designed to improve and further liberalise investment regimes and they include measures on facilitation. To reinforce APEC's work in this area, in 2007 in Sydney APEC Leaders agreed to the development of an Investment Facilitation Action Plan (IFAP) aimed at further promotion of investment in APEC member economies. Effective investment facilitation can make a significant contribution to the sort of broader investment climate reform efforts widely practiced by APEC member economies.

What is investment facilitation?

To harness the advantages of foreign investment, it is critical that governments have investment procedures in place that do not unnecessarily increase the costs or risk of doing business, or constrain business competition (which individually or collectively lower productivity and growth). Investment facilitation refers to actions taken by governments designed to attract foreign investment and maximise the effectiveness and efficiency of its administration through all stages of the investment cycle.

Investment facilitation covers a wide range of areas, all with the ultimate focus on allowing investment to flow efficiently and for the greatest benefit. Transparency, simplicity and

predictability are among its most important principles. The costs of opacity far outweigh the costs of enhancing transparency. Investors look for an investment environment that is stable, and that offers international best practice standards of protection, including the swift and equitable resolution of investment disputes.

A sound investment facilitation strategy ensures that all investment applications are dealt with expeditiously, fairly and equitably. Investment facilitation also requires creating and maintaining transparent and sound administrative procedures that apply for the lifetime of the investment, including effective deterrents to corrupt practices. Finally, investment facilitation is enhanced by the availability of quality physical infrastructure, high-standard business services, talented and flexible labour forces, and the sound protection of property rights.

Multilateral Investment Facilitation

Several multilateral organisations have active programs in support of strengthening facilitation practices as part of broader investment promotion policies. The World Bank is at the forefront of these efforts, providing information services and diversified technical assistance to help governments and relevant intermediaries involved in promoting investment enhance their ability to respond effectively to investor needs.

UNCTAD analyses trends in FDI and their impact on development, compiles data on FDI, provides advisory services and training on international investment issues, helps developing countries improve policies and institutions that deal with FDI, and assists these countries to participate in international negotiations on investment. The OECD has developed investment policy instruments, such as the *Framework for Investment Policy Transparency* and the *Policy Framework for Investment*, to assist governments in developing frameworks for investment facilitation.

APEC's IFAP is designed constructively to complement these existing international efforts. It is a consensus plan on investment facilitation that reflects the specificities and priorities of APEC members. While it is non-binding, the IFAP reinforces APEC's commitment to significantly enhanced regional economic integration.



APEC and investment facilitation

Since its inception in 1989, APEC has emphasised the importance of investment facilitation through practical activities in its work program. In 1995, APEC Leaders adopted the Bogor Goals of free and open trade and investment in the Asia-Pacific region by 2020. At the same time they committed to accelerate APEC's trade and investment facilitation programs. Investment facilitation accordingly is one of the aims of the 1995 Osaka Action Agenda (OAA).

APEC member economies are continuing efforts to enhance transparency of investment regimes, improve investment climates and encourage and facilitate free and open investment in the region. The 2007 report on **Strengthening Regional Economic Integration** emphasises the need to improve further the investment climate in APEC member economies and refocuses APEC's investment liberalisation and facilitation agenda on concrete initiatives that accelerate regional economic integration and reduce behind-the-border barriers.

Among APEC's achievements that have included investment facilitation so far are:

- APEC Non-Binding Investment Principles (1994);
- Options for Investment Liberalisation and Business Facilitation to Strengthen APEC Economies (1997);
- Guide to the Investment Regimes of APEC Member Economies (6th edition, 2007); and
- Study on **Enhancing Investment Liberalisation and Facilitation in Economic Development in the Asia-Pacific Region**, which examined ways to reduce 'behind-the-border' barriers to domestic investment.

These initiatives were undertaken in recognition of the diversity that exists among APEC member economies, and they provide members with a broad range of policy choices suitable for different economic circumstances.

Aims of APEC's IFAP

The main aims of the IFAP are to:

- strengthen regional economic integration;
- strengthen the competitiveness and sustainability of economic growth of APEC's member economies;
- expand prosperity and employment opportunities in the APEC region; and
- make further progress toward achievement of the Bogor Goals.

APEC's investment facilitation principles

The following principles are not exhaustive. They provide a guide to the kind of provisions that would constitute better practice in investment facilitation. They will not prejudice the positions of APEC members in any of their current or future unilateral actions or negotiations with investment provisions.



A working framework

| <i>Principles</i> | <i>Government role</i> | <i>Business impact</i> |
|--|---|---|
| <ul style="list-style-type: none"> ▪ Promote accessibility and transparency in the formulation and administration of investment-related policies | <ul style="list-style-type: none"> ▪ Provide full, clear and up-to-date picture of investment regime, including advance notice of proposed changes ▪ Ensure readily available information, including through "one-stop" or special enquiry points and on-line services where appropriate ▪ Promote legislative simplification including plain language drafting ▪ Publicise outcomes of periodic reviews of investment regime | <ul style="list-style-type: none"> ▪ Encourages business interest and enables business decisions ▪ Allows business to include prospective changes in its planning decisions ▪ Gives business confidence that laws, regulations and policies are consistent across different areas and levels of government ▪ Promotes a perception in business that the government aims to maintain a good investment climate |

| <i>Principles</i> | <i>Government role</i> | <i>Business impact</i> |
|--|--|---|
| <ul style="list-style-type: none"> ▪ <i>Enhance stability of investment environments, security of property and protection of investments</i> | <ul style="list-style-type: none"> ▪ Provide an environment which is politically and economically stable. ▪ Provide secure property rights covering tangible and intangible assets including land use rights. ▪ Provide well-performing court systems. ▪ Facilitate effective contract enforcement. ▪ Limit and review the use of regulatory expropriation and guarantee prompt adequate and effective compensation. ▪ Encourage development of effective, reasonable cost mechanisms for resolving disputes including private arbitration services. ▪ Consider membership of recognised international arbitration bodies. ▪ Provide a mechanism for the enforcement of arbitral awards. | <ul style="list-style-type: none"> ▪ Reduces non-commercial risk associated with investment ▪ Links more appropriately effort and reward increasing incentive to invest. ▪ Increases business confidence in the domestic legal system ▪ Increases ability to raise finance especially for SMEs ▪ Provides investor guarantee of compensation for regulatory takings. ▪ Gives recourse to impartial channels of dispute settlement ▪ Gives an additional layer of protection in cases of disputes |
| <ul style="list-style-type: none"> ▪ <i>Enhance predictability and consistency in investment-related policies</i> | <ul style="list-style-type: none"> ▪ Systematise and institutionalise common application of investment regulations. ▪ Give equal treatment in the operation and application of domestic laws and regulations on investment. ▪ Avoid discriminatory use of bureaucratic discretion ▪ Establish clear criteria and transparent procedures for administrative decisions including with respect to investment approval mechanisms. | <ul style="list-style-type: none"> ▪ Ensures certainty to encourage business decisions ▪ Simplifies business transactions and builds business confidence ▪ Reassures investors that they are being given equal treatment ▪ Reduces cost of doing business and adds to competitiveness ▪ Reduces scope for corruption |
| <ul style="list-style-type: none"> ▪ <i>Improve the efficiency and effectiveness of investment procedures</i> | <ul style="list-style-type: none"> ▪ Simplify, streamline and quicken investment regime and processes . ▪ Provide timely, relevant and prompt advice. ▪ Encourage and foster institutional cooperation and coordination ▪ Where appropriate, establish “one-stop” approval authority – eg an active investment promotion agency with adequate funding ▪ Clarify policy roles and accountabilities between different levels of government. ▪ Keep the costs to the investor of the investment approval process to a minimum. | <ul style="list-style-type: none"> ▪ More attractive investment environment ▪ Speeds up investment processes ▪ Avoids duplication and double-handling at different levels of government ▪ Lowers the cost of doing business, especially for small and medium sized enterprises with higher barriers to entry |

| <i>Principles</i> | <i>Government role</i> | <i>Business impact</i> |
|---|---|--|
| <ul style="list-style-type: none"> ▪ <i>Build constructive stakeholder relationships</i> | <ul style="list-style-type: none"> ▪ Maintain mechanisms for regular consultation and dialogue with interested parties including investors. ▪ Provide framework to identify and address problems encountered by investors. ▪ Promote improved standards of corporate governance. ▪ Promote responsible business conduct. | <ul style="list-style-type: none"> ▪ Enables business to help shape productive investment environment ▪ Ensures problems can be dealt with expeditiously ▪ Strengthens private-public sector partnerships ▪ Enables business to operate in a more socially responsible manner |
| <ul style="list-style-type: none"> ▪ <i>Utilise new technology to improve investment environments</i> | <ul style="list-style-type: none"> ▪ Apply new technology to improve information, application and approval processes. ▪ Promote the adoption of new technology, including through training of officials at all levels of government in their use. ▪ Provide adequate and effective protection of technology and related intellectual property rights. ▪ Develop strategies to meet the intellectual property needs of SMEs. | <ul style="list-style-type: none"> ▪ Increased accessibility and reduced business costs ▪ Enhanced security through measures such as passwords and e-signatures ▪ Encourages business to invest in research and development and to train personnel in the use of new technologies ▪ Encourages business to invest in continuous improvement for new technologies and processes |
| <ul style="list-style-type: none"> ▪ <i>Establish monitoring and review mechanisms for investment policies</i> | <ul style="list-style-type: none"> ▪ Maintain mechanism for regular evaluation of investment regime. ▪ Benchmark and measure performance of institutions involved in facilitating investment. | <ul style="list-style-type: none"> ▪ Maximises effectiveness of investment regime, including in line with current international best practice ▪ Encourages business to be innovative and forthcoming with new ideas |
| <ul style="list-style-type: none"> ▪ <i>Enhance international cooperation</i> | <ul style="list-style-type: none"> ▪ Consider joining international instruments promoting international investment. ▪ Encourage investment facilitation through bilateral agreements, including free-trade agreements. ▪ Make use of international and regional initiatives aimed at building investment expertise, including information sharing. | <ul style="list-style-type: none"> ▪ Promotes international competitiveness of the economy ▪ Increases predictability of the investment environment through binding treaty action ▪ Especially relevant to companies with investments in more than one economy |

APEC's broader business facilitation agenda

APEC's investment facilitation work cannot be considered in isolation from APEC's broader business facilitation activities. APEC continues to be the regional leader in promoting trade and investment liberalisation and facilitation, which remains a cornerstone for strengthening regional economic growth and integration. APEC's agenda is also increasingly focused on structural economic reform, so-called 'behind the border' initiatives to bolster trade and investment in the region. This includes areas such as domestic regulatory reform, corporate and public governance, critical infrastructure and capacity building. Ongoing reform in these areas is integral to underpinning productivity growth, increasing economic growth and stability and boosting trade and investment flows. APEC also has a growing human security agenda in support of stronger trade and investment environments, such as countering the threat of terrorism, food security and emergency management.

IFAP is intended to complement and reinforce existing APEC work on investment facilitation (outlined at Attachment A). In the same way, it is intended to work hand in glove with business and industry stakeholders. An important partner in this work is the APEC Business Advisory Council (ABAC). Ongoing consultation with these stakeholders is a feature of the IFAP.

Capacity building

An important feature of IFAP is provision for capacity building and technical cooperation to assist lesser developed APEC member economies with implementation. Such capacity building may include activities such as

- APEC activities aimed at improving capacity in developing economies; and
- participation in activities including training and where appropriate use of other capacity building initiatives such as toolboxes offered bilaterally or organised by multilateral or regional organisations such as the World Bank, UNCTAD and OECD.

In the course of developing Key Performance Indicators (KPIs) for IFAP actions, sub-fora may consider to identify a minimum of one capacity building need and mechanism to address this. Such mechanisms may include assistance from individual APEC member economies, cooperative activities in APEC, and, on occasion, assistance from international and regional institutions.

Measurement and reporting

CTI has agreed to develop a work program on implementation of the actions in the IFAP including related to methodologies for reporting progress.

Critical dates

2008

MRT:

- CTI/SOM to finalise IFAP drafting for Ministers' endorsement
- Ministers to consider endorsement of the IFAP

SOM III:

- CTI to consider recommendations on KPIs and reporting methodologies for endorsement
- CTI to consider capacity building proposals for endorsement

Leaders: Report progress to Leaders

2009

SOM I:

- CTI to consider report by sub-fora and fora on implementation of IFAP

SOM III:

- CTI to consider report by sub-fora and fora on implementation of IFAP

Leaders: Report progress to Leaders

Investment facilitation - Menu of actions and measures

| <i>Specific actions</i> | <i>Timetable</i> |
|--|------------------|
| <i>Promote accessibility and transparency in the formulation and administration of investment-related policies</i> | |
| ▪ Publish laws, regulations, judicial decisions and administrative rulings of general application, including revisions and up-dates. | Continuing |
| ▪ Adopt centralised registry of laws and regulations and make this available electronically. | By 2010 |
| ▪ Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest | 2008 |
| ▪ Make available all investment-related regulations in clear simple language, preferably in languages commonly used by business | |
| ▪ Establish an Investment Promotion Agency (IPA), or similar body, and make its existence widely known | 2009 and beyond |
| ▪ Make available to investors all rules and other information relating to investment promotion and incentive schemes | |
| ▪ Allow investors to choose their form of establishment within legislative and legal frameworks. | |
| ▪ Ensure transparency and clarity in investment-related laws | |
| ▪ Establish an APEC-wide website or e-portal to replace the hard copy publication the APEC Investment Guidebook (IEG) | By end 2009 |
| ▪ Encourage on-line enquiries and on-line information on all foreign investment issues | Continuing |
| ▪ Publish and/or make widely available screening guidelines for assessing investment proposals | |
| ▪ Maintain a mechanism to provide timely and relevant advice of changes in procedures, applicable standards, technical regulations and conformance requirements | |
| ▪ To the extent possible, provide advance notice of proposed changes to laws and regulations and provide an opportunity for public comment | Continuing |
| ▪ Explore the possibility of using the international benchmarks on a voluntary basis as a reference point for peer dialogue and measuring progress | 2009 |
| <i>Enhance stability of investment environments, security of property and protection of investments</i> | |
| ▪ Establish timely, secure and effective systems of ownership registration and / or property use rights for land and other forms of property. | Continuing |
| ▪ Create and maintain an effective register of public or state owned property. | 2010 |
| ▪ Ensure costs associated with land transactions are kept to a minimum including by fostering competition. | Continuing |
| ▪ Explore the possibility of using the World Bank <i>Doing Business</i> indicator "Registering Property" as the basis for peer dialogue and benchmarking and measuring progress across APEC | 2010 |
| ▪ Foster the dissemination of accurate market reputation information including creditworthiness and reliability | Continuing |
| ▪ Explore the possibility of using the World Bank <i>Doing Business</i> indicator "Enforcing Contracts" as the basis for peer dialogue and benchmarking and measuring progress across APEC | 2009 |
| ▪ Encourage or establish effective formal mechanisms for resolving disputes between investors and host authorities and for enforcing solutions, such as judicial, arbitral or administrative tribunals or procedures | Continuing |

| <i>Specific actions</i> | <i>Timetable</i> |
|---|-------------------|
| <ul style="list-style-type: none"> Encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties | Continuing |
| <ul style="list-style-type: none"> Facilitate commercial dispute resolution for foreign investors by providing reasonable cost complaint-handling facilities, such as complaint service centres, and effective problem-solving mechanisms | |
| <ul style="list-style-type: none"> Encourage the adoption of a dispute settlement framework that reflects the <i>International Convention on the Settlement of Investment Disputes between States and Nationals of Other States</i> (ICSID) | 2008 and beyond |
| <ul style="list-style-type: none"> Take steps to accede to an arbitral convention | |
| <ul style="list-style-type: none"> Explore the possibility of using the World Bank <i>Doing Business</i> indicator "Protecting Investors" as the basis for peer dialogue and benchmarking and measuring progress across APEC | 2009 |
| <i>Enhance predictability and consistency in investment-related policies</i> | |
| <ul style="list-style-type: none"> Increase use of legislative simplification and restatement of laws to enhance clarity and identify and eliminate inconsistency. | |
| <ul style="list-style-type: none"> Provide equal treatment for all investors in the operation and application of domestic laws and principles on investment. | |
| <ul style="list-style-type: none"> Reduce the scope for discriminatory bureaucratic discretion in interpreting investment-related regulations | Beginning in 2008 |
| <ul style="list-style-type: none"> Maintain clear demarcation of agency responsibilities where an economy has more than one agency screening or authorising investment proposals or where an agency has regulatory and commercial functions | |
| <ul style="list-style-type: none"> Establish and disseminate widely clear definitions of criteria for the assessment of investment proposals | |
| <ul style="list-style-type: none"> Establish accessible and effective administrative decision appeal mechanisms including where appropriate impartial "fast-track" review procedures | 2009 |
| <ul style="list-style-type: none"> Explore the possibility of using the World Bank <i>Doing Business</i> indicator "Dealing with Licenses" as the basis for peer dialogue and benchmarking and measuring progress across APEC | 2009 |
| <i>Improve the efficiency and effectiveness of investment procedures</i> | |
| <ul style="list-style-type: none"> Simplify and streamline application and, registration, licensing and taxation procedures and establish a one-stop authority, where appropriate, for the lodgement of papers | |
| <ul style="list-style-type: none"> Simplify and reduce the number of forms relating to foreign investment and encourage electronic lodgement | |
| <ul style="list-style-type: none"> Shorten the processing time and procedures for investment applications. | |
| <ul style="list-style-type: none"> Promote use of "silence is consent" rules or no objections within defined time limits to speed up processing times, where appropriate | |
| <ul style="list-style-type: none"> Ensure the issuing of licences, permits and concessions is done at least cost to the investor | |
| <ul style="list-style-type: none"> Simplify the process for connecting to essential services infrastructure | Continuing |
| <ul style="list-style-type: none"> Explore the possibility of using the World Bank <i>Doing Business</i> indicator "Starting a Business" as the basis for peer dialogue and benchmarking progress across APEC | 2010 |
| <ul style="list-style-type: none"> Establish and disseminate widely clear and simple instructions and explanations concerning the application and registration process | |
| <ul style="list-style-type: none"> Implement strategies to improve administrative performance at lower levels of government. | |
| <ul style="list-style-type: none"> Facilitate availability of high standard business services supporting investment | |

| <i>Specific actions</i> | <i>Timetable</i> |
|--|------------------|
| <i>Build constructive stakeholder relationships</i> | |
| <ul style="list-style-type: none"> ▪ To the extent possible, establish a mechanism to provide interested parties (including business community) with opportunity to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation. | 2008 |
| <ul style="list-style-type: none"> ▪ Continue to share APEC member economies' experiences of successful stakeholder consultative mechanisms | 2009 |
| <ul style="list-style-type: none"> ▪ Promote the role of policy advocacy within IPAs as a means of addressing the specific investment problems raised by investors including those faced by SMEs | Continuing |
| <ul style="list-style-type: none"> ▪ Continue to share APEC member economies' experiences of successful public private dialogue to take advantage of the information on successes and problems encountered by established investors | Continuing |
| <ul style="list-style-type: none"> ▪ Promote backward investment linkages between businesses, especially between foreign affiliates and local enterprises including through the promotion of industry clusters | |
| <ul style="list-style-type: none"> ▪ Encourage high standards of corporate governance through cooperation aimed at promoting international concepts and principles for business conduct, such as APEC's programs on corporate governance and anti-corruption. | |
| <ul style="list-style-type: none"> ▪ Examine and share APEC member economies' experience with responsible business conduct instruments. | Continuing |
| <i>Utilise new technology to improve investment environments</i> | |
| <ul style="list-style-type: none"> ▪ Promote the introduction and use of new technologies aimed at making the investment process simpler and faster | |
| <ul style="list-style-type: none"> ▪ Maintain adequate and effective protection of technology and related intellectual property rights | |
| <ul style="list-style-type: none"> ▪ Where possible, give effect to international norms for property protection | |
| <i>Establish monitoring and review mechanisms for investment policies</i> | |
| <ul style="list-style-type: none"> ▪ Conduct periodic reviews of investment procedures ensuring they are simple, transparent and at lowest possible cost. | 2008 and 2009 |
| <ul style="list-style-type: none"> ▪ Establish indicators for monitoring the performance of the special inquiry points or Investment Promotion Agencies such as those set down by the Multilateral Investment Guarantee Agency | 2010 |
| <i>Enhance international cooperation</i> | |
| <ul style="list-style-type: none"> ▪ To the best extent possible, accede to, or observe, multilateral and/or regional investment promotion and facilitation conventions | |
| <ul style="list-style-type: none"> ▪ Make use, where appropriate, of international and regional initiatives aimed at building investment facilitation and promotion expertise, such as those offered by the World Bank, UNCTAD and OECD | |
| <ul style="list-style-type: none"> ▪ Ensure measures exist to ensure effective compliance with commitments under international investment agreements | |
| <ul style="list-style-type: none"> ▪ Review existing international agreements and treaties to ensure their provisions continue to create a more attractive environment for investment. | Continuing |

Attachment A - Investment facilitation actions already under way

| <i>Principle</i> | <i>Action under way</i> |
|---|--|
| <i>Accessibility and transparency</i> | <ul style="list-style-type: none"> • Tourism Destinations using Planning Processes to Facilitate Investment (TWG) • Capacity Building on Tourism Satellite Account as basis for Promoting Liberalization and Facilitation on Tourism Services (TWG 01/2008T) • Reducing Trade, Regulatory, and Financing Barriers to Accelerate the Uptake of Clean Coal Technologies by Developing Economies in the Asia Pacific Region (EWG 01/2008T) • ABAC: Business Statements on the importance of Transparency to Facilitate Investment |
| <i>Stability, security and protection</i> | |
| <i>Predictability and consistency</i> | <ul style="list-style-type: none"> • Seminar on Good Governance on Investment Promotion (CTI 10/2008T) • Cross-border Mergers and Acquisitions on Exports, FDI and Competition Policy (EC) • ABAC: Business Statements on the importance of Harmonisation of Rules to Facilitate Investment |
| <i>Efficiency and effectiveness</i> | <ul style="list-style-type: none"> • APEC-UNCTAD Joint Capacity Building Project for Addressing Knowledge Gaps in the Use of Foreign Direct Investment (Stage 1) (CTI 03/2008A) • APEC-UNCTAD Joint Capacity Building Project for Addressing Knowledge Gaps in the Use of Foreign Direct Investment (Stage 2) (CTI 04-2008A) • Doing Business - Investment at the Sub-National Level to Promote Economic Integration (Phase 1) (CTI 35/2008T) • Measures Affecting Cross Border Exchange and Investment in Higher Education in the APEC Region (HRD 02/2008T) • Study on Measures of Ease of Doing Business in APEC (EC) • ABAC: Business Statements on the importance of Simplification of Approvals Processes to Facilitate Investment |
| <i>Constructive stakeholder relationships</i> | <ul style="list-style-type: none"> • Workshop on SMEs' Financing in Asia-Pacific Region (SMEWG 02/2008A) • Capacity Building for Investment Liberalisation and Facilitation (HRD WG project for 2007-2008) (HRD 01/2007T) • Capacity Building for Sharing Success Factors of Improvement of Investment Environment (CTI 32/2008T) • ABAC: Matrix of Successful Investment Facilitation Measures |
| <i>Use of new technology</i> | |
| <i>Monitoring and review</i> | |

| <i>Principle</i> | <i>Action under way</i> |
|--|---|
| <i>Enhance international cooperation</i> | <ul style="list-style-type: none"> • Seminar on Recent Trends on Investment Liberalization and Facilitation in Transport and Telecommunications Infrastructure (CTI 09/2008T) • APEC Energy Trade and Investment Study and Roundtable (EWG) • Capacity Building for International Investment Agreements (CTI 02/2008T) • Core Elements in International Investment Agreements Project (Phase II) (CTI 34-2008T) • APEC Seminar for Sharing Experience in APEC Economies on Relations between Competition Authorities and Regulator Bodies (CTI 13/2008T) |



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