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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-091]

Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 28, 2018.

FOR FURTHER INFORMATION CONTACT: Keith Haynes at (202) 482-5139 or Emily Halle at (202) 482-0176, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On August 8, 2018, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) Petition concerning imports of certain steel wheels 12 to 16.5 inches in diameter (certain steel wheels) from the People's Republic of China (China), filed in proper form on behalf of Dexstar Wheel, a division of Americana Development, Inc. (the petitioner), which is a domestic producer of certain steel wheels.¹ The CVD Petition was accompanied by an antidumping duty (AD) Petition concerning imports of certain steel wheels from China.

¹ See the petitioner's letter, "Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Certain Steel Wheels 12 to 16.5 inches in Diameter from the People's Republic of China," dated August 8, 2018 (the Petition).

On August 10, 2018, Commerce requested supplemental information pertaining to certain aspects of the Petition in two separate supplemental questionnaires, one dealing with general issues with the Petition and the other with issues related to Volume III of the Petition (*i.e.*, the CVD allegation).²

The petitioner filed its responses to the supplemental questionnaires on August 15, 2018.³ On August 17, 2018, we spoke with the petitioner regarding the scope language submitted in its August 15, 2018, submission.⁴ On August 20, 2018, the petitioner filed an amendment to the scope, further clarifying the scope language.⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of certain steel wheels in China and that imports of such products are materially injuring, or threatening material injury to, the domestic industry producing certain steel wheels in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are

² See Commerce's letters, "Petition for the Imposition of Countervailing Duties on Imports of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Supplemental Questions" (CVD Deficiency Questionnaire), and "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Supplemental Questions" (General Issues Deficiency Questionnaire), each dated August 10, 2018.

³ See the petitioner's letters, "Certain Steel Wheels 12 To 16.5 inches in Diameter from the People's Republic of China (C-570-091): Petitioners' Response to Commerce's August 10, 2018 Supplemental Questionnaire Regarding the Countervailing Duty Petition" (CVD Supplement) and "Petitioners' Response to Commerce's August 10, 2018 General Issues Questionnaire Regarding the Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Steel Wheels from the People's Republic of China," (General Issues Supplement), each dated August 15, 2018.

⁴ See memorandum, "Phone Call with Counsel to the Petitioner," dated August 17, 2018.

⁵ See the petitioner's letter, "Petitioner's Response to the Department of Commerce's August 17, 2018 Additional Questions Regarding the Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China," dated August 20, 2018 (Second Scope and AD Supplement).

initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on August 8, 2018, the period of investigation is January 1, 2017, through December 31, 2017.

Scope of the Investigation

The product covered by this investigation is certain steel wheels 12 to 16.5 inches in diameter from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Scope Comments

During our review of the Petition, Commerce contacted the petitioner regarding the proposed scope language to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ As a result of the petitioner's submissions, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

⁶ *See* "Determination of Industry Support for the Petition" section, *infra*.

⁷ *See* General Issues Supplement, at 2-5 and Exhibit SGQ-2 (Revised Scope); *see also* August 20 Petition Supplement, at 1-2 and Exhibit SQR2-1 (Revised Scope).

As discussed in the *Preamble* to Commerce’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁸ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁹ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on September 17, 2018, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on September 27, 2018, which is 10 calendar days from the initial comments deadline.¹⁰

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹¹ An electronically filed document must be received successfully in its

⁸ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁹ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹⁰ See 19 CFR 351.303(b).

¹¹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011). See also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce’s electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at

entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance’s APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOC of the receipt of the Petition and provided them the opportunity for consultations with respect to the CVD Petition.¹² The GOC did not request consultations.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

<https://access.trade.gov/help.aspx>, and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹² See Commerce letter, “Countervailing Duty Petition on Certain Steel Wheels 12 to 16.5 inches in Diameter from the People’s Republic of China,” dated August 9, 2018.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that certain steel wheels, as defined in

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁵ See Volume I of the Petition, at I-6 through I-8.

the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2017.¹⁷ In addition, the petitioner provided a letter of support from American Wheel Corporation, stating that the company supports the Petition and providing its own production of the domestic like product in 2017.¹⁸ The petitioner identifies itself and American Wheel Corporation as the only companies constituting the U.S. certain steel wheels industry and states that there are no other known producers of certain steel wheels in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁹

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²⁰ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* memorandum, “Countervailing Duty Investigation Initiation Checklist: Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China” (China CVD Initiation Checklist), at Attachment II (Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People’s Republic of China). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁷ *See* Volume I of the Petition at I-9, I-31 and Exhibit I-11.

¹⁸ *Id.* at I-9 and Exhibit I-2.

¹⁹ *Id.* at I-2, I-9 and Exhibit I-1; *see also* General Issues Supplement, at SGQ-5 and Exhibit SGQ-5.

²⁰ *Id.*

evaluate industry support (*e.g.*, polling).²¹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²² Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²³ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that Commerce initiate.²⁴

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from

²¹ *Id.*; *see also* section 702(c)(4)(D) of the Act.

²² *See* China CVD Initiation Checklist, at Attachment II.

²³ *Id.*

²⁴ *Id.*

countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁵

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and lost revenues; decline in production, U.S. shipments, and capacity utilization; decline in production-related workers and hours worked; decline in capital expenditures; and negative impact on financial performance.²⁶ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁷

²⁵ See Volume I of the Petition, at I-19 through I-21 and Exhibit I-8.

²⁶ *Id.* at I-15 through I-42 and Exhibits I-2, I-6, I-8, I-10, I-11, I-14 through I-16; *see also* General Issues Supplement, at SGQ-5, SGQ-6 and Exhibit SGQ-6.

²⁷ See China CVD Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China).

Initiation of CVD Investigation

Based on the examination of the Petition, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of certain steel wheels from China benefit from countervailable subsidies conferred by the GOC. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all of the subsidy programs alleged in the Petition, with certain limitations. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named 36 producers/exporters as accounting for the majority of exports of certain steel wheels to the United States from China.²⁸ In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of certain steel wheels from China during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigation," in the Appendix. On August 21, 2018, we released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment

²⁸ *See* General Issues Supplemental at Exhibit SGQ-1.

regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.²⁹ Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at <http://enforcement.trade.gov/apo>.

Comments regarding respondent selection must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date established by Commerce. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of certain steel wheels from China are materially injuring, or threatening material injury to, a U.S. industry.³⁰ A negative ITC

²⁹ See memorandum, "Countervailing Duty Investigation of Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: U.S. Customs and Border Protection Entry Data," dated August 21, 2018.

³⁰ See section 703(a)(2) of the Act.

determination will result in the investigation being terminated.³¹ Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³² and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³³ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties

³¹ See section 703(a)(1) of the Act.

³² See 19 CFR 351.301(b).

³³ See 19 CFR 351.301(b)(2).

simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁴ Parties must use the certification formats provided in 19 CFR 351.303(g).³⁵ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the

³⁴ See section 782(b) of the Act.

³⁵ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (“*Final Rule*”); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: August 28, 2018.

Christian Marsh,

Deputy Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation is certain on-the-road steel wheels, discs, and rims for tubeless tires with a nominal wheel diameter of 12 inches to 16.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 12 inches to 16.5 inches within the scope are generally for road and highway trailers and other towable equipment, including, *inter alia*, utility trailers, cargo trailers, horse trailers, boat trailers, recreational trailers, and towable mobile homes. The standard widths of certain on-the-road steel wheels are 4 inches, 4.5 inches, 5 inches, 5.5 inches, 6 inches, and 6.5 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope.

The scope includes rims and discs for certain on-the-road steel wheels, whether imported as an assembly, unassembled, or separately. The scope includes certain on-the-road steel wheels regardless of steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. The scope also includes certain on-the-road steel wheels with discs in either a “hub-piloted” or “stud-piloted” mounting configuration, though the stud-piloted configuration is most common in the size range covered.

All on-the-road wheels sold in the United States must meet Standard 110 or 120 of the National Highway Traffic Safety Administration’s (NHTSA) Federal Motor Vehicle Safety Standards, which requires a rim marking, such as the “DOT” symbol, indicating compliance with applicable motor vehicle standards. *See* 49 C.F.R. § 571.110 and § 571.120. The scope includes certain on-the-road steel wheels imported with or without NHTSA’s required markings.

Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem or rims imported as an assembly with a tire mounted on the rim and/or with a valve stem are included in the scope of this investigation. However, if the steel wheels or rims are imported as an assembly with a tire mounted on the wheel or rim and/or with a valve stem attached, the tire and/or valve stem is not covered by the scope.

Excluded from this scope are the following:

- 1) steel wheels for use with tube-type tires; such tires use multi piece rims, which are two-piece and three-piece assemblies and require the use of an inner tube;
- 2) aluminum wheels;
- 3) certain on-the-road steel wheels that are coated entirely with chrome; and

- 4) steel wheels that do not meet Standard 110 or 120 of the NHTSA's requirements other than the rim marking requirements found in 49 C.F.R. § 571.110S4.4.2 and § 571.120S5.2.

Certain on-the-road steel wheels subject to this investigation are properly classifiable under the following category of the Harmonized Tariff Schedule of the United States (HTSUS): 8716.90.5035 which covers the exact product covered by the scope whether entered as an assembled wheel or in components. Certain on-the-road steel wheels entered with a tire mounted on them may be entered under HTSUS 8716.90.5059 (Trailers and semi-trailers; other vehicles, not mechanically propelled, parts, wheels, other, wheels with other tires) (a category that will be broader than what is covered by the scope). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

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