

# COWI/RWEC/Leitat

## Recovery of Obsolete vessels not used in the fishing trade

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European Commission, Directorate-General Environment and Climate Action, Recovery of Obsolete Vessels not used in the Fishing Trade ENV.C.2/ETU/2010/0031

## Guideline on and recommendations for dealing with Abandoned Vessels

### Introduction

#### Purpose

1. This guideline offers information to assist those who may need to deal with abandoned vessels. It is particularly addressed to those who either are planning to introduce new schemes where these have not existed before or to offer suggestions for improvements to current schemes to update them.
2. This guideline is intended to be of interest to recreational boat users, coastal and inland waterways operators, small commercial boat operators, harbour and marina operators, local, regional and government authorities.

#### Scope

3. This guideline covers abandonment of boats within Europe. It may apply to vessels that may or may not fall within the scope of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (HKC).
4. The larger vessels within this range are more likely to be undertaking short international sea voyages and may be registered ships (i.e. on the register of a Flag State). Some overlap may therefore exist with other applicable instruments e.g. they may be subject to the Nairobi Wreck Removal Convention. These ships will have a recognisable identity and the owner may be readily traceable and as a result they may be less likely to be abandoned.
5. Many smaller vessels including recreational vessels may not be registered if not making international voyages. Further, not all EU States require registration for vessels confined to inshore waters.

#### Definition

6. A number of terms are used within and/or between States to define abandoned vessels. Some terms are defined in international instruments and others in national and local or regional legislation. They all attempt to describe the circumstances in which a vessel may be considered or declared to be abandoned – which can then trigger action to deal with the potential impacts of abandonment.
7. A vessel may be considered to be abandoned by virtue of being:
  - Adrift, neglected for a period of time (some jurisdictions have defined a time period, it may be a few weeks or some months) on land, or at mooring and is not claimed
  - Disowned by the owner due to financial difficulties, or following a maritime casualty
  - Confiscated in response to illegal activities

- Derelict
- A wreck
- Salvage.

8. Having determined or made a declaration of abandonment a control system may then be employed to deal with the boat.

#### Exclusions – Matters not covered

9. The guideline does not explicitly cover the standards, operation and provision of facilities for dismantling vessels. For further information on these matters see the references and further reading in Annex IV to this Guideline. Also not covered in this document is protection of some wrecks (graves, historic wrecks) – for these see e.g.:
- UNESCO Convention on the Protection of the Underwater Cultural Heritage, adopted by the UNESCO General Conference on 2 November 2001
  - National legislation such as e.g. UK - The Protection of Wrecks Act 1973 which provides protection for designated shipwrecks. It provides for wrecks to be designated because of historical, archaeological or artistic value, for designation of dangerous sites and
  - The US Abandoned Shipwrecks Act 1987 and
  - The Spanish Estatuto No 60/62, 24 December 1962.

## **Background - Scale and Costs**

### The scale and environmental impacts of abandoned boats

10. Abandonment of vessels has been recognised by a number EU Member States (e.g. UK and Greece) as a matter of concern with respect to their potential for impact on navigation or simply blocking mooring space. There are many small vessels across Europe. ICOMIA<sup>1</sup> estimates the population of European recreational vessel to be some 6,000,000 for example. The number of those left abandoned or derelict is however not known but a very conservative assessment made for a study for the European Commission (COWI 2011) suggests that up to some 6,600-9,900 abandoned vessels may be generated per year. This equates to 0.11-0.17 % of the total EU fleet of recreational vessels. They can cause local impacts such as pollution from oils and hazardous substances, a hazard to navigation, nuisance and marine litter.

### National Experiences of Abandoned Vessels

11. A number of European countries have dealt with abandoned vessels in different ways. Few have collated national data, e.g. Greece has collected information about the numbers and location of abandoned vessels. There appears however to be no consistency in the way that vessels are monitored, relying more on self-governing on factors such as abandonment at moorings via non-payment of fees leading to vessel seizure and sale.

### The Costs of Dealing with Abandoned Vessels

12. The costs of removal of an abandoned vessel can vary significantly. This depends on its size, location, ease of access, materials of construction, any hazardous materials present and the availability and type of recycling and disposal facilities. Costs quoted for recovery of a small vessel were estimated to be EUR 700 and with an average dismantling cost of EUR 1,000 (COWI 2011). Generally it is less costly to dismantle a vessel that has been sent to a suitable facility than to have to recover and deal with it. For comparison average prices of dismantling recreational

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<sup>1</sup> Decommissioning of End of Life Boats, A Status Report 2<sup>nd</sup> Edition, ICOMIA (International Council of Marine Industry Associations) December 2007.

boats are estimated to be for sailing boats: 100 - 150 EUR/m and for motor boats: 200 - 1,000 EUR/m (COWI 2011).

## **Guideline**

### Principles

13. The main objective of this guideline should be to ensure that safety for navigation and protection of the environment is enhanced through the better management of abandoned vessels, be they recreational or commercial. It should be borne in mind that any new control system that is introduced may need to be carefully matched to existing requirements for larger vessels where national maritime law is applicable. Annexes II and III of this guideline provide information about the issue of abandoned vessels from decisions of meetings of the UNEP Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal, of the International Maritime Organisation and of the International Labour Organisation. This work provides useful examples for approaches to dealing with smaller abandoned vessels and recreational craft.
14. The matters in paragraphs 15-18 are to be taken into consideration when establishing a framework for dealing with abandoned vessels.

### Sustainability

15. A vessel is a resource and should not simply be abandoned. An owner's objective should be to keep a vessel well maintained (which helps to maintain its value) or dispose of it properly at the end of its useful life. Vessels contain useful materials. The more vessels are properly treated in recognized facilities at the end of life, the better use can be made of the resources they represent and help to prevent production of waste in accordance with the European Waste Hierarchy. Some potential alternative uses for end of life vessels may play a limited role in providing an extended life for the materials of which vessel are constructed such as its conversion for use as a shelter or store.

### Safety

16. Reasons why a vessel may be discarded and/or abandoned may include loss of financial capacity to maintain upkeep, a failure of maintenance, loss through e.g. a storm or theft. In any event a vessel may end up sunk or partially sunk in an unplanned manner and hence present a hazard.
17. Normal discarding (i.e. intention to dispose by the owner) should not be by abandonment. Abandonment of a vessel is a socially unacceptable and unsafe practice and poses a threat to human health and the environment. It creates risks for other water users – not just other vessel owners – and a hazard to navigation. For example an abandoned vessel may be present risks due to the presence of potentially toxic substances left on board. In addition, such substances may pose a number of risks to human health and the environment including fire hazard and a risk of pollution to wildlife and habitats.

### Prevention of abandonment

18. Efforts should be made to avoid or prevent a vessel from becoming abandoned in the first place. Vessel owners themselves have an important role to play in this respect. When deciding to dispose of a vessel an owner should consider a number of steps to ensure safe and environmentally sound disposal, by:
  - Maintaining the vessel in an acceptable condition on the water until it is removed for disposal and recycling, or storing it in a safe place i.e. at a boat yard
  - Removal of hazardous material on board if it is not attended to for a considerable period;

- Selecting an authorised vessel dismantler with the necessary permits
- Surrendering a vessel for safe keeping in cases of financial difficulty or other reasons rendering the owner incapable of looking after the vessel.

#### A Control System for Abandoned Vessels

19. A control system should be established to facilitate the safe identification and removal, as appropriate, of an abandoned vessel. The factors mentioned below should be taken into account to ensure that a systematic approach to declaration of abandonment and subsequent recovery and disposal can be properly carried out. It is envisaged that a competent authority will undertake most of these actions:

- A monitoring and reporting system to enable abandoned boats to be identified
- A means of providing warnings, such as signs in appropriate locations, to indicate that vessel abandonment is an offence
- Action by the State (or Federal) authority to locate the vessel
- Setting of criteria for determining the hazard posed, including such matters as depth of water above the vessel for the case of sunk vessels, proximity of navigation routes, vulnerability of port facilities
- Setting environmental criteria such as damage likely to result from any release of polluting material into the aquatic marine environment
- Establishing measures to facilitate removal, including rights and enforceable obligations to remove the vessel, such that the vessel owner (if found) is responsible for removing it
- Establishing measures and powers when a State or its agent may intervene with timescales set for action according to priorities determined by criteria to enable the most urgent or potentially polluting cases to be dealt with appropriately
- Setting liabilities of the owner for the costs of locating, marking and removing vessels and wrecks
- Where appropriate awarding rights, responsibilities and powers for private marina and harbour owners to deal with abandoned vessels.

20. It may be useful to initiate a trial in a defined area to assess the efficacy of the system before rolling out on a regional or national basis. For example the UK Royal Yachting Association Guidelines provides an example of a system that has been put into practice.

#### Role of Authorities

21. A local authority or authority with responsibility for a waterway (e.g. inland waterways and canal) should have an objective to put in place measures to reduce the incidence and impact of abandoned vessels. It should do this by establishing appropriate conditions for end of life vessels to be disposed of in an environmentally sound manner. This should also include harbour authorities and marina owners. These conditions should include matters such as:

- Registration schemes
- Powers for identification
- Removal if necessary with or without recovery of costs
- A range of powers including to remove and sell or destroy abandoned vessels and to trace and take enforcement action against a previous owner as a deterrent
- Incentives (e.g. surrender schemes) may be employed according to local circumstances and needs.

22. The lack of readily available data emphasises the need for better information about the scale of vessel abandonment in Europe. To this end, systems for monitoring, surveying and recording incidents of abandoned vessels should be introduced to assist future management and costing of the resource requirement, as well as targeting effort to eliminate the practice.

23. Authorities should make available registers of recycling and disposal facilities within the locality that are capable of dismantling a vessel, with the necessary permits. This will also assist responsible owners to dispose of their vessels properly.

#### Proposed Scheme for managing abandoned vessels

24. This section presents checklists of actions on matters to be considered by relevant bodies assigned the responsibility for the management of abandoned vessels. The essence of any such scheme is that it is underpinned by a control system, as outlined in the preceding paragraphs, including processes for registering and actions to take at the end of a vessel's life (de-registering and disposal). These do not need to be elaborate or complicated schemes to have the necessary effect.

#### Checklist 1- Actions for vessel owners

25. These simple actions for owners are preventive and are designed to ensure that those owning vessels do not allow them to become abandoned in the first place. The actions are based on the assumption that a compliance scheme has been put into effect in accordance with this guideline as described:

- Comply with vessel registration schemes including de-registration processes
- Maintain an adequate insurance at all times
- Identify hazardous materials.

26. Compliance with registration may be made enforceable. The insurance will help to recover a vessel that may have been damaged and is otherwise at risk of becoming a wreck. Identifying any hazardous materials will help to ensure that when disposed of hazardous and non-hazardous wastes are not mixed and that appropriate disposal and/or recovery options are employed.

#### Checklist 2- Actions for local authorities/ports and harbours/marinas

27. The objective of the process outlined here is to i) determine vessel abandonment in the first place; ii) facilitate action in lieu of that which a responsible owner might have taken to remove and deal safely with the vessel; and iii) provide for penalties for offences.

28. The control scheme should:

- Establish criteria for abandonment to determine what should and should not be regarded as an abandoned vessel
  - The criteria should differentiate abandoned vessels from wrecks that would be subject to the Nairobi Convention as necessary
  - Criteria should identify higher risk categories for early attention.
- Ensure that adequate attempts to trace ownership of the vessel are made before an official declaration of abandoned
  - Identify insurers if any (commercial vessels are more likely to be covered by insurance, for example the Basel Convention Guidelines reproduced in Annex II indicate the criteria for compulsory insurance under the Nairobi Convention).
- Identify facilities with permits for recycling and disposal of the vessels as waste
- Maintain local responsibility for monitoring incidents of abandoned vessels
- Consider amnesty and surrender schemes as opposed to alternative cost of managing abandonment (even though in some instances a vessel owner may lack the means to dispose of the vessel properly such a scheme may be less costly than having to retrieve an abandoned wreck)
- Record incidents of abandoned vessels for collation on a database by national authorities.

29. Many of the features described above can be found in the example of a scheme established in Washington USA. This USA experience is set out for information in some detail in Annex I to assist in understanding how a complete control scheme has been put into effect.

### Checklist 3- Actions for federal authorities/government

30. The actions for Governments and regulatory authorities should be as follows:

- Require a unique vessel number or other identifier to be marked on each vessel the subject of the scheme
- Establish a register of recreational vessels, if one does not exist
  - The register may contain essential details only, this will consist of basic vessel and owner/keeper information, on a database maintained by the designated agency/authority
  - To de-register end of life vessels to be notified to keepers of register (whether) local or central.
- Consider creating penalties for abandonment and other offences
- Encourage establishment of a network of suitable dismantling facilities
  - Facilities to be compliant with all applicable environmental legislation
  - Ensure authorities and vessel owners can locate their nearest dismantling facility through the use of a register of permitted sites.

31. These actions would be enforceable with suitable penalties for infringements e.g. the risk of an owner erasing the identifier may be minimised by creating a penalty for defacing the identification marks.

## **Annex I - Example of a scheme to deal with abandoned vessels**

### USA – Washington State Derelict Vessel Removal Program (DVRP)<sup>2</sup>

This program has been developed for authorities in the State of Washington and is only presented here as an example. The scheme is comprehensive and contains many features that are applicable for any scheme to deal with abandoned vessels.

#### Overview

Washington's Department of Natural Resources (DNR) is manager and steward of the 2.6 million acres of state-owned aquatic lands. Washington's 2001 Legislature authorized the use of money in the state toxics account for a grant program for local governments to clean up and disposal of hazardous substances on abandoned and derelict vessels. The 2002 Washington State Legislature then passed the Derelict Vessel Act, which provides certain local and state agencies with the authority and funding for the removal and disposal of derelict and abandoned vessels from the waters of the state. Prior to the 2002 legislation, DNR had to rely on cooperation by the vessel owners, lengthy legal approaches such as trespass and nuisance abatement actions, and federal actions to address derelict vessels. DNR has created an inventory of derelict and abandoned vessels in the waters of Washington State. In addition, criteria have been developed to prioritize these vessels for removal. Because the funding of the derelict vessel removal account is limited each year, these criteria include consideration of environmental protection, threats to human health and safety, as well as threats to navigation, so the most damaging vessels can be removed first.

Washington Department of Natural Resources' (DNR) Derelict Vessel Removal Program (DVRP) is the first mechanism to address the problem of derelict or abandoned vessels in Washington State's waters. The program provides funding and expertise to assist public agencies in the removal and disposal of vessels across the state. Under state law, other ways to address abandoned vessels, including vessels on land, in marinas, and vessels adrift are described in Washington State legislature WAC 308-93-275.

The DVRP Provides:

- Reimbursement of up to 90% of the cost of removal and disposal.
- Remaining 10% of the cost can be in the form of "in-kind" services.
- Authorized public entities not able to undertake the removal of a derelict vessel may ask DNR to assume the lead.
- Priority for the use of funds is for vessels in danger of breaking up, sinking, or blocking a navigational channel, or vessels that present a risk to human health, safety or the environment.

Funding for the Program comes from an additional fee placed on annual vessel registration fees and an additional fee added to the cost of obtaining a foreign vessel identification document.

Only authorized public entities in Washington State (Department of Natural Resources, Department of Fish and Wildlife, Parks and Recreation Commission, Metropolitan Park Districts, Port Districts, and any city, town or county with ownership, management or jurisdiction over the aquatic lands where the vessel is located) may participate in this program.

Periodically DNR requests proposals for the removal and/or disposal of vessels determined to be derelict and/or abandoned. DNR posts those proposals on the state's central contract advertisement database called WEBS.

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<sup>2</sup>[http://www.dnr.wa.gov/recreationeducation/topics/derelictvessels/pages/aqr\\_derelict\\_vessel\\_removal\\_program.aspx](http://www.dnr.wa.gov/recreationeducation/topics/derelictvessels/pages/aqr_derelict_vessel_removal_program.aspx)

## **Annex II - Basel Convention's Open Ended Working Group Decision OEWG-VI/17 on dealing with abandoned ships**

This Annex reproduces the Annex to Basel Convention's Open Ended Working Group Decision OEWG-VI/17 (<http://basel.int/meetings/oewg/oewg6/docs/29e.pdf> accessed September 2011) on dealing with abandoned ships.

### **"Guidance on dealing with abandonment of ships on land or in ports**

The Conference of the Parties at its seventh meeting in Decision VII/27 requested submissions from Parties regarding the abandonment of ships on land or in ports. The responses made have been reviewed by the Conference of the Parties at its eighth meeting. The information contained in the submissions was considered to represent a reasonable cross section of the overall population and types of cases of abandoned ships. This information indicates that while a wide range of sizes of ships appears to be involved, small ships are the most dominant. Many of these appear to be ships involved in domestic trade. It is further noted that there is a wide variety of causes leading to abandonment, including: confiscation in response to illegal activities, abandonment due to financial difficulties and also abandonment following a maritime casualty.

Furthermore, the Conference of the Parties at its eighth meeting, by its Decision VIII/13, recognized the need for guidance on how best to deal with ships that are abandoned on land or in ports. This Decision also requested the information to be forwarded to the International Maritime Organisation and the International Labour Organisation for their consideration.

Accordingly the following points are noted:

(i) The Legal Committee of the International Maritime Organization has considered the issue of abandonment of ships in relation to decision VII/27 of the Basel Convention and the outcome of the first session of the ILO/IMO/BC Working Group on Ship Scrapping. The result of this consideration is found in document (LEG 91/11) of the Legal Committee a copy of which is on the Basel Convention website (*link to be inserted*). The general view expressed is that acts of abandonment of ships on land or in ports (internal waters of a State) should be addressed in the national laws of the State concerned. The 1996 Protocol to the London Convention 1972 may cover the dumping of a ship in the internal waters of a State if that State has chosen to apply the "opting-in" provisions of the Protocol to its internal waters (Article 7.2).

(ii) The Nairobi International Convention on the Removal of Wrecks, 2007, which was adopted in May 2007, has relevance to some cases of abandoned ships. This Convention applies to wrecks, either posing a danger or impediment to navigation or which may be expected to result in major harmful consequences to the marine environment or damage to the coastline or related interests of one or more States. A wreck is defined as a sunken or stranded ship consequent to a maritime casualty. This Convention provides the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment and which are located beyond the territorial sea. It also includes an optional clause enabling State Parties to apply certain provisions to their territory, including their territorial sea. The Convention incorporates gross tonnage (GT) as the unit of measurement of ships required to maintain compulsory insurance. The figure of 300 GT was the agreed threshold for ships to be included under the compulsory insurance provisions. The Nairobi International Convention on the Removal of Wrecks may address some cases of abandoned ships at sea, when these ships are wrecks consequent to a maritime casualty and when they present an identifiable hazard. Furthermore, the wreck must be in the geographic area of application of the treaty, which under an opt-in provision of the Convention might extend to a State Party's territory, including its territorial sea.

This information note may be updated from time to time as new information becomes available."

### **Annex III - The Nairobi International Convention on the Removal of Wrecks, 2007**

“The Nairobi International Convention on the Removal of Wrecks, 2007, was adopted by a diplomatic conference held in Kenya in 2007. The Convention will provide the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment.

The Convention will fill a gap in the existing international legal framework by providing the first set of uniform international rules aimed at ensuring the prompt and effective removal of wrecks located beyond the territorial sea. The new Convention also includes an optional clause enabling States Parties to apply certain provisions to their territory, including their territorial sea.

Although the incidence of marine casualties has decreased dramatically in recent years, mainly thanks to the work of IMO and the persistent efforts of Governments and industry to enhance safety in shipping operations, the number of abandoned wrecks, estimated at almost thirteen hundred worldwide, has reportedly increased and, as a result, the problems they cause to coastal States and shipping in general have, if anything, become more acute.

These problems are three-fold: first, and depending on its location, a wreck may constitute a hazard to navigation, potentially endangering other vessels and their crews; second, and of equal concern, depending on the nature of the cargo, is the potential for a wreck to cause substantial damage to the marine and coastal environments; and third, in an age where goods and services are becoming increasingly expensive, is the issue of the costs involved in the marking and removal of hazardous wrecks. The convention attempts to resolve all of these and other, related, issues.

The Convention provides a sound legal basis for coastal States to remove, or have removed, from their coastlines, wrecks which pose a hazard to the safety of navigation or to the marine and coastal environments, or both. It will make shipowners financially liable and require them to take out insurance or provide other financial security to cover the costs of wreck removal. It will also provide States with a right of direct action against insurers.

Articles in the Convention cover:

- Reporting and locating ships and wrecks - covering the reporting of casualties to the nearest coastal State; warnings to mariners and coastal States about the wreck; and action by the coastal State to locate the ship or wreck;
- Criteria for determining the hazard posed by wrecks, including depth of water above the wreck, proximity of shipping routes, traffic density and frequency, type of traffic and vulnerability of port facilities. Environmental criteria such as damage likely to result from the release into the marine environment of cargo or oil are also included;
- Measures to facilitate the removal of wrecks, including rights and obligations to remove hazardous ships and wrecks - which sets out when the shipowner is responsible for removing the wreck and when a State may intervene;
- Liability of the owner for the costs of locating, marking and removing ships and wrecks - the registered shipowner is required to maintain compulsory insurance or other financial security to cover liability under the convention; and
- Settlement of disputes.”

## **Annex IV - References and further information**

A number of organizations have developed documents concerning the treatment of end-of-life ships, ship recycling and abandoned boats; some of the key groups are mentioned here.

### **The Royal Yachting Association UK**

Guidance Note on Abandoned Boats and Trailers

<http://www.rya.org.uk/infoadvice/clubsclass/Premises/Pages/abandonedboats.aspx>

### **The Basel Convention –**

The Basel Convention on the Control of Transboundary Movement of Hazardous wastes and their Disposal (1989) has dealt at some length with the issue of ship dismantling and the web site of the Secretariat to the Convention has a specific page that brings together practical information and documents from various sources on the environmentally sound management of ship dismantling. Links to items discussed at meetings of the Convention Parties and other documents are at <http://archive.basel.int/ships/compilation.html> . This includes references and links to guidelines produced by the Basel Convention, ILO & IMO.

### **The European Commission**

The European Commission has a dedicated section on its website that deals with European interests in ship recycling; the approach to a European Strategy for ship recycling, research and studies carried out and links to other organizations involved with this topic; all may be found at <http://ec.europa.eu/environment/waste/ships/index.htm>

It also links to the work of the European Maritime Safety Agency on ship recycling at Work of the European Maritime Safety Agency (EMSA) on ship recycling.

### **Industry**

The Industry Working Group on Ship Recycling in October 2009 adopted the 'Transitional Measures for Shipowners Selling Ships for Recycling'.

### **International Labour Organisation (ILO)**

The ILO adopted technical guidelines on ship dismantling in 2004: "Safety and Health in Shipbreaking – Guidelines for Asian countries and Turkey".

[http://www.ilo.org/public/libdoc/ilo/2004/104B09\\_279\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/2004/104B09_279_engl.pdf)

### **International Maritime Organization (IMO)**

The IMO is the UN specialized agency that dealing with maritime issues including ship recycling and the Hong Kong Convention was developed under its auspices. The IMO continues to develop various guidelines on the recycling of ships.

The IMO Secretariat produced a note in 2005 (Joint Working Group document [ILO/IMO/BC WG 1/2/2](#)) providing information on the various IMO legal instruments and guidelines relating to the abandonment of ships. This note has been considered by a Joint Working Group of the ILO IMO and BC at its first session, the twenty-seventh Consultative Meeting of the Parties to the London Convention 1972 and the ninety-first meeting of the IMO Legal Committee.

### **Non-Governmental Organisations (NGOs)**

A number of NGOs have been active in the area of ship recycling and served to highlight issues including those of abandoned ships. The principal NGOs involved are:

- Basel Action Network (BAN)
- NGO Ship Breaking Platform
- Greenpeace.

Also Robin des Bois [www.robindesbois.org](http://www.robindesbois.org) is an NGO involved in maritime security and environment which publishes regular information bulletins and annual surveys on shipbreaking in French and English, the web site has a page on "démolition des navires".

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