

INCLUDING ANIMAL WELFARE IN DUE DILIGENCE

Eurogroup for Animals' Contribution to the European Commission's Public Consultation on the Proposal for an Initiative on Sustainable Corporate Governance

Eurogroup for Animals welcomes the coming EU initiative aiming at further embedding sustainability into corporate governance which may lead to the adoption of a legislation setting an EU-wide due diligence mechanism.

Eurogroup for Animals strongly believes that the concept of due diligence currently developed at the EU level **should encompass animal welfare**.

Such approach would be supported by:

- The **inherent links between animal welfare and sustainable development (public health, climate, hunger, poverty...)** , as acknowledged by the latest EU strategies such as the EU Farm to Fork Strategy **(1)**.
- Several international standards** including OECD sector-specific guidances and the IFC Sustainability Framework **(2)**.
- Best practices** adopted by a government such as the Netherlands and by companies active in the food and garment sectors as part of their mandatory or voluntary due diligence plans **(3)**.

Including animal welfare in the scope of the future EU wide corporate due diligence obligation would therefore be **relevant and consistent with actual trends**. On the contrary, choosing to enshrine certain established practices while leaving others out, such as animal welfare, could send a wrong signal and hinder the momentum for progress that has been built up, by encouraging companies to focus their efforts only on the points set out in the law. The foregoing therefore strongly argues in favour of a **comprehensive EU due diligence concept that would include animal welfare**.

Furthermore, extending such a mechanism to animal welfare would be fully in line with EU goals, as Article 13 of the TFEU expressly recognises that animals are sentient beings and provides that the EU shall be mindful of animal welfare when formulating its policies.

Eurogroup for Animals is the pan-European advocacy organisation for animals, with 70 members mostly based in the EU, but also in other European countries, Australia and the United States. Our aim is to improve the wellbeing of as many animals as possible and defend their interests

1. Animal welfare as an integral part of sustainable development

According to the Inception report, the due diligence mechanism would require “companies to take measures to address their adverse **sustainability impacts**, such as climate change, environmental, human rights (including workers and child labour) harm in their own operations and in their value chain by identifying and preventing relevant risks and mitigating negative impact”.¹ Such a due diligence duty “could be designed by building on existing authoritative guidelines using well-established definitions as developed by the UN and later expanded by the OECD”.²

Thus, the OECD’s definition of a “Responsible Business Conduct” (“RBC”) should be relevant to define the content of the due diligence obligation. Such definition refers to an expectation that all businesses avoid and address negative impacts of their operations, while contributing to sustainable development in the countries where they operate.³

The connection between animal welfare and sustainability **(1.1)** has now gained full recognition at the EU level **(1.2)**.

1.1. The connection between animal welfare and sustainability

Animal Welfare is **strongly linked to achieving the UN Sustainable Development Goals (SDGs)**. The first academic study on this topic, published in October 2019⁴, identified the interactions between SDGs and Animal Welfare, in both directions. The conclusion of this exercise was that, even if animal welfare is not explicitly mentioned in the SDGs, it is positively linked with all of them, to various degrees. Higher animal welfare does not impede any SDG. To the contrary, while, for some of them, the mutually beneficial effect is strong (SDG 12 “Sustainable Consumption and Production” and 14 “Life Below Water”), in some cases, higher welfare would have a direct positive impact on the SDGs (SDG 1 “End Poverty”, SDG 2 “Zero Hunger”, SDG 3 “Good Health and Wellbeing”). In general, production systems with the potential to provide higher animal welfare conditions are also more likely to have a lesser negative impact on the environment, the climate and livelihoods.

As elaborated in previous Eurogroup for Animals’ reports⁵, there are a number of concrete interconnections between higher animal welfare and SDGs, such as the following:

- **Intensive farming**, through highly industrialized animal production systems, has had devastating effects not only on the welfare of the animals exploited, but also on the **environment**, as it leads to high levels of water, air and ground pollution and to deforestation due to the growing need for animal feed (SDG 6 - Clean Water and Sanitation, SDG 14 - Life below Water, SDG 15 - Life on Land).

¹ Sustainable Corporate Governance, Inception impact assessment, <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance>.

² *Ibid*, p. 3

³ <https://mneguidelines.oecd.org/>.

⁴ Linda Keeling et al, “[Animal Welfare and the United Nations Sustainable Development Goals](#)”

⁵ In particular, Eurogroup for Animals, “[Policy Brief: Animal Welfare, Trade And Sustainable Development Goals](#)” (2019) & Eurogroup for Animals, “[What could the European Union and China achieve for Animals](#)” (2020)

- The livestock supply chain accounts for 14.5% of **global greenhouse gas (GHG) emissions**. There is an issue of quantity, but the way we raise animals also matters. According to the IPBES, *“approximately 25% of the globe’s GHG emissions come from land clearing, crop production and fertilization, with animal-based food contributing 75% of that. Intensive agriculture has increased food production at the cost of regulating and non-material contributions from nature”*. In addition to potentially allowing for higher animal welfare standards, grass-based and mixed-farm systems, less dependent on additional feed, also have better capacities for carbon sequestration⁶.
- Improving animal welfare also **benefits human health** by helping to **reduce the risk of food-borne diseases and zoonoses**, as well as to **lessen the use of antibiotics** in animal productions (SDG 3 - Healthy Lives). In addition to being intrinsically detrimental to animal welfare, the intensification of animal agriculture has also fuelled these health--related issues:
 - **Zoonoses** are fueled not only by the increasing trade in wild animals, be it legal or not, but also by the spread of intensive animal farming. The change in land-use - notably linked to the spread of animal agriculture and to the production of animal feed - and the subsequent loss of habitat have made encounters between animals (wild and farmed), humans and ecosystems closer and much more frequent. This pressure on biodiversity has been a major cause of the spread of zoonoses⁷. In addition, farmed animals kept by the billions (trillions, if we consider fish in aquaculture) are reservoirs and pathways for diseases that can be dangerous, if not devastating, for humans. A recent study found that *“since 1940, agricultural drivers were associated with >25% of all – and >50% of zoonotic – infectious diseases that emerged in humans, proportions that will likely increase as agriculture expands and intensifies”*.⁸
 - The overuse of antimicrobials in livestock production is the primary cause of the surge in **antimicrobial resistance (AMR)**⁹, which the World Health Organization (“WHO”) has described as *“one of the biggest threats to global health, food security, and development today”*. This phenomenon is not due to small-scale productions, but to the spread of intensive farming systems, in which antimicrobial products are used routinely and increasingly. The EU’s “One Health” Action Plan against AMR already recognises the link between this issue and poor farm welfare practices, underlining the importance to address this concern in trade policy¹⁰.
- By positively impacting animal health, improving animal welfare can help build **more resilience in food production systems** (SDG 2 - Zero Hunger). Diseases constitute a joint threat to animal welfare and **sustainability of food production systems**. The OIE estimates that morbidity and mortality due to animal diseases cause the loss of at least 20% of livestock production globally¹¹. Knowing that poorly treated animals are more vulnerable to diseases¹², improving animal welfare

⁶ Canu & Forabosco (UNEP DTU 2018), [Greenhouse gas emissions of livestock raised in a harsh environment](#), International Journal of Global Warming, 2018 Vol.15 No.4, pp.431 - 446

⁷ IPBES, [“Executive Summary of the IPBES Pandemics Workshop Report”](#) (2020).

⁸ <https://www.nature.com/articles/s41893-019-0293-3#Ack1>

⁹ <https://www.cddep.org/wp-content/uploads/2017/10/science.0929PolicyForum-1.pdf>

¹⁰ https://ec.europa.eu/health/sites/health/files/antimicrobial_resistance/docs/amr_2017_action-plan.pdf

¹¹ <http://www.rr-africa.oie.int/en/news/index.html>

¹² Eurogroup for Animals, “Policy Brief” *op. cit.*, p. 10.

would reduce losses and increase productivity¹³, in accordance with SDG 2.4 relating to sustainable food production systems and resilient agricultural practices.

- Industrialised systems typically **employ fewer people** than traditional ones, as many integral tasks become automated. **Wages are low**, and the seasonal nature of the work creates prolonged job insecurity. The sector also employs many migrant workers who are especially vulnerable due to their precarious legal status and who are particularly likely to experience poor working conditions, unfair wages and limited access to public services.¹⁴ (SDG 8 - Decent Work and Economic Growth)

The second path that could generate multiple positive effects is for companies to move towards more sustainable production and consumption systems, which include lowering the production and consumption of animal products, in particular meat and dairy products. This could have huge benefits for public health, lowering cases of obesity, diabetes and cardiovascular diseases (SDG 3 - Healthy Lives). The dairy and meat sector also represents around 14.5% of Greenhouse Gas (GHG) Emissions (SDG 13 - CLimate Action) and it is a massive source of water pollution (SDG 6 - Water Quality). Improving sustainability of meat and dairy production and consumption would also help fighting biodiversity loss (SDG 15 - Live on land; SDG 14 - Live under water). As an illustration, Ikea announced recently that they would aim to offer 50% plant-based meals in their restaurants by 2025¹⁵ and Unilever that they want to reach €1bn-a-year plant-based foods business by 2028¹⁶. Both companies underline the importance of animal welfare in the sustainability of their business model.

1.2. The increased recognition of the connection between animal welfare and sustainability in EU legislation

Animal welfare is increasingly recognised as an important element of sustainable production systems **by the European Commission** (the “Commission”):

- The EU “**Farm to Fork**” Strategy¹⁷, published in 2020, places great emphasis on the need for a fairer, healthier and more environmentally friendly food system, which depends on resilient and sustainable agricultural supply chains. It stresses the “**urgent need to improve animal welfare**”, which it deems essential to achieve a fair transition towards sustainable food systems¹⁸.
- In 2018, the Commission acknowledged for the first time the close connection between **improved animal welfare and sustainability of food production systems**, in Free Trade Agreement proposals made by the Directorate General for Trade to Australia and New Zealand.¹⁹ Such recognition has also

¹³ IFC, [Good Practice Note – Improving Animal Welfare in Livestock Operations](#) (2014).

¹⁴ HLPE. 2016. Sustainable agricultural development for food security and nutrition: what roles for livestock? A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome

¹⁵ <https://newsroom.inter.ikea.com/news/ikea-restaurant-meals--50--plant-based-by-2025/s/abee8b24-5506-48e1-a057-4417f35962fb>

¹⁶ <https://www.theguardian.com/business/2021/feb/04/world-is-shifting-to-a-more-plant-based-diet-says-unilever-chief>

¹⁷ European Commission, “[Farm to Fork Strategy](#)” (2020),

¹⁸ *ibid.*, p. 5 and 7.

¹⁹ Article X.17(1) of the [FTA proposal](#) to New Zealand quotes: “*The Parties recognise that animals are sentient beings. They also recognize the connection between improved welfare of animals and sustainable food production systems*”.

been included in the trade and cooperation agreement between the EU and the United Kingdom following Brexit.²⁰

2. Integration of animal welfare in due diligence under international standards

Despite clear references to environmental protection, the two leading standards on responsible business conduct – ie. the United Nations Guiding Principles on Business and Human Rights (“UNGPs”)²¹ and the OECD Guidelines for Multinational Enterprises (the “**OECD Guidelines for MNEs**”)²², do not contain, for now, an explicit mention to animal welfare.²³

However, several other existing due diligence standards already deal with animal welfare **(2.1)**, and the expected revision of the OECD Guidelines for MNEs might well lead to the inclusion, among others, of animal welfare within the scope of due diligence **(2.2)**.

2.1 Existing international due diligence standards integrating animal welfare

While OECD Guidelines for MNEs set the main principles for a Responsible Business Conduct, to concretely know what they have to include in their due diligence, companies shall refer to **sectoral guidance** and good practices relevant to their operations.

Among OECD’s several guidelines, the guidance applicable to agricultural supply chains, and to a lesser extent to the garment and footwear sector, are relevant to animal welfare:

- The **OECD/FAO Guidance for Responsible Agricultural Supply Chains**²⁴, which lays down a globally applicable benchmark that companies active in the food sector should follow when carrying out their due diligence, suggests a “model enterprise policy” providing that business should strive “*to ensure that the ‘five freedoms’ for animal welfare are implemented*” and ensure “*high standards of management and stockmanship for animal production, that are appropriate to the scale of our operations, in accordance with or exceeding OIE’s principles*”²⁵.
- The **OECD Guidance for Responsible Supply Chains in the Garment and Footwear Sector**²⁶ while not expressly including animal welfare in the common risks, **acknowledges that some sub-sectors**, such as luxury goods, sports apparel, or work apparel, **face risks related to animal welfare**. It therefore refers to the due diligence guidance on this issue²⁷, provided by the OECD-FAO Guidance for Responsible Agricultural Supply Chains.

²⁰ Chapter 3, Article SPS16.1 of the [Trade and Cooperation Agreement between the EU and the UK](#).

²¹ [UN Guiding Principles on Business and Human Rights](#) (2011).

²² [OECD Guidelines for Multinational Enterprises](#) (2011).

²³ However, this lack of express mention to animal welfare in the OECD Guidelines for MNEs does not preclude the possibility for National Contact Points (“NCPs”) to interpret the current Environment Chapter in a way that it should be extended to animal welfare. For example, climate change, which is not mentioned in the Guidelines for MNEs either, has been considered “*to be part of the spirit of the Guidelines*” by the Dutch NCP when it accepted a specific instance related to climate change.

²⁴ OECD/FAO (2016), [OECD-FAO Guidance for Responsible Agricultural Supply Chains](#), OECD Publishing, Paris.

²⁵ *ibid.* p. 28.

²⁶ OECD, [OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#) (2017).

²⁷ *ibid.*, p. 48 and fn 14.

Likewise, it is also worth mentioning the **International Finance Corporation (“IFC”) Sustainability Framework**²⁸ offers a due diligence approach that encompasses animal welfare. Indeed, one of the “Performance Standards” - which are part of the framework and define the responsibilities of the IFC clients for managing their environmental and social risks -²⁹ provides that clients engaged in the production of living resources will manage them “*in a sustainable manner, through the application of industry-specific good management practices*”³⁰. This Performance Standard is complemented³¹ by a “Good Practice Note Improving Animal Welfare in Livestock Operations”, which specifies these good practices by providing an approach to animal welfare as part of IFC’s approach to due diligence³², relying on OIE principles³³. The IFC later engaged in a project to detail these good practices and issued a set of Guiding Manuals³⁴ providing more practical and technical information.

In sum, **existing international standards already recommend companies faced with animal welfare risks to address these risks** in their due diligence policy.

2.2 The possible integration of animal welfare in the next version of the OECD Guidelines for MNEs

While the 2011 version of the OECD Guidelines does not specifically mention animal welfare, it could be part of the next revision, as voices have been heard in favour of its inclusion.

In particular, Mr. Roel Nieuwenkamp, the former Chair of the OECD Working Party on Responsible Business Conduct, considers that animal welfare should be part of the next revision of the Guidelines for MNEs.³⁵ He advocates for a direct reference to the standards developed by the OIE, similarly to the OECD-FAO Guidance for Responsible Agricultural Supply Chains, which provide a model policy that could be a “*useful starting point for the next revision of the Guidelines*”³⁶. This is further supported by the document “*A Liber Amicorum for Dr. Roel Nieuwenkamp*”, which quotes animal welfare among the six “*important themes for attention*”.³⁷

²⁸ See

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/sustainability+framework

²⁹ [IFC Performance Standards](#) (2012). Not only the IFC clients have to adhere to and comply with them, but these standards are now given authoritative value, as they tend to be used outside the framework of IFC’s operations and referred to as good practices, such as in some investment contracts between states and investors.

³⁰ Performance Standard 6, para. 26.

³¹ See

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_animalwelfare_2014

³² IFC, [Good Practice Note – Improving Animal Welfare in Livestock Operations](#) (2014), p.1.

³³ *ibid.*, p.21.

³⁴ See R.J. Hatton and L.P. Mousseau, “Animal Welfare in emerging markets – IFC’s perspective”, abstract of the presentation delivered at the OIE 4th conference, <http://www.oie.int/eng/animalwelfare-conf2016/Abstracts/3.6.%20Hatton.pdf>

³⁵ Roel Nieuwenkamp, “[Staying ahead of the curve on corporate responsibility: Climate change, digitalisation and animal welfare](#)” (*OECD On the level*, 28 July 2018).

³⁶ *ibid.*

³⁷ OECD, [OECD Guidelines for Multinational Enterprises: a Glass Half Full](https://mneguidelines.oecd.org/OECD-Guidelines-for-MNEs-A-Glass-Half-Full.htm) (2018), p. 15.

3. Governments and business initiatives integrating animal welfare in due diligence

Both national governments (3.1) and companies (3.2) have undertaken due diligence initiatives encompassing animal welfare.

3.1 An example of a national government initiative: the Dutch “RBC agreements”

The Netherlands, experimenting a new approach to regulation, have concluded eight RBC agreements with Dutch sectors and civil society organisations.³⁸ Though the scope of each agreement differs, several of these RBC agreements **include animal welfare considerations within the standard of conduct that companies have to comply with.**

- The **Agreement on Sustainable Garments and Textile** requires textile companies to address animal welfare risks – which are listed among the main concerns, along with human rights and general environmental protection considerations – in order to *“do business in a way that is fair, sustainable and safe and respects the environment and animal welfare”*.³⁹
- The **Agreement for the Food Products Sector**,⁴⁰ also mentions animal welfare as a risk to be assessed and directly refers to the OECD/FAO Guidance for Responsible Agricultural Supply Chains. Animal welfare is seen as a part of the considerations that companies shall take into account in their supply chain risk assessment. Reference is also made to a Dutch initiative from the private sector, *“Kip van Morgen”*, an agreement between producers and retailers providing that chicken meat that does not comply with certain animal welfare standards should be taken out of the store shelves.
- The **Agreement for international responsible investment in the insurance sector**, lists out animal welfare among the themes relating to Economic and Social Governance (ESG).⁴¹

3.2 Companies covering animal welfare in their mandatory or voluntary due diligence efforts

Many examples of companies undertaking animal welfare efforts as part of their due diligence can be found. Logically, they are mostly firms operating in the textile and food sectors – the ones facing most sustainability risks relating to animal welfare.

(i) **Due diligence plans under the French “Corporate Duty of Vigilance” Law**

Under French “Corporate Duty of Vigilance” Law,⁴² French largest companies are required to adopt and publish a due diligence plan with regard to human rights, human health and security and environmental risks (*“plan de vigilance”*) which arguably matches what is commonly understood by due diligence.

³⁸ <https://www.government.nl/topics/responsible-business-conduct-rbc/responsible-business-conduct-rbc-agreements>

³⁹ <https://www.imvoconvenanten.nl/en/garments-textile>

⁴⁰ <https://www.imvoconvenanten.nl/-/media/imvo/files/voedingsmiddelen/convenant-voedingsmiddelen.pdf>

⁴¹ <https://www.imvoconvenanten.nl/en/insurance>.

⁴² Codified at article [L225-102-4](#) of the French Commercial Code.

And, with the first publication of the due diligence plans, it appears that several companies **have included animal welfare considerations** in their due diligence plan:

- In the food sector, this concerns in particular, **Casino, Pomona, Sodexo and Danone**.⁴³
- In the garment sector, **Kering**, in particular, makes **explicit reference to animal welfare** in its due diligence plan as part of environmental concerns.⁴⁴ Its plan also includes the Kering Standards for Raw Materials and Manufacturing Processes,⁴⁵ which place great emphasis on animal welfare and raise expectations throughout the supply chain of compliance with the Kering Animal Welfare Standards.⁴⁶ These form a full and comprehensive plan on animal welfare, covering all species that are part of Kering’s supply chain worldwide and containing detailed and scientific-based requirements for the lifelong treatment of each of them.

It is also worth noting that the French law on extra-financial reporting, which has a similar – though broader – scope than the due diligence plan, requires companies to declare all information relating to the consequences of their activities on animal welfare.⁴⁷

(ii) Voluntary due diligence efforts incorporating animal welfare concerns

Facing growing awareness and consumer demand, many companies have started to cover animal welfare in their voluntary due diligence efforts, as visible in the Business Benchmark on Farm Animal Welfare (BBFAW) results.⁴⁸ The clear increase in the number of companies that integrate animal welfare in due diligence is also demonstrated across sector, from producers and manufacturers to retailers and food services (BBFAW, 2019)⁴⁹.

The 2018 Report of the Business Benchmark on Farm Animal Welfare shows that many companies have adopted formal animal welfare policies. For example, 71% of the companies had published formal improvement objectives for farm animal welfare, compared to 26% in 2012.⁵⁰ The 2019 report showed that 80% of the top leading 150 food businesses have at least recognised the importance to consider animal welfare in their due diligence efforts⁵¹. A report directed by the OECD on the implementation of the Guidance for Responsible Agricultural Supply Chains shows that 72% of the participating companies or industrial groups have set farm animal welfare objectives and targets.⁵²

⁴³ See the due diligence plans of [Casino](#) (p. 19), [Pomona](#) (p. 10 and 13), [Sodexo](#) (p.222), [Danone](#) (p. 146)

⁴⁴ Kering, Document d’enregistrement universel 2019, Plan de vigilance, p. 88 <https://plan-vigilance.org/company/kering/>

⁴⁵ https://keringcorporate.dam.kering.com/m/533afe4631e39610/original/kering_standards.pdf

⁴⁶ <https://keringcorporate.dam.kering.com/m/ead2a47a3ee2799/original/Kering-Animal-Welfare-Standards.pdf>

⁴⁷ Article [L. 225-102-1](#) of the French Commercial Code.

⁴⁸ https://www.agrociwf.fr/media/7435685/bbfaw_report_2018.pdf.

⁴⁹ <https://bbfaw.com/news-and-events/events/briefing-2019-bbfaw-report-launch/>

⁵⁰ *ibid.*, p. 33.

⁵¹ <https://bbfaw.com/news-and-events/events/briefing-2019-bbfaw-report-launch/>

⁵² OECD (2018),

<https://mneguidelines.oecd.org/Baseline-Report-on-OECD-FAO-Guidance-For-Responsible-Agricultural-Supply-Chains.pdf>, p. 21. The

list of participants is available at page 11 of the Report. For an illustration, see e.g. Allianz policy,

<https://www.allianz.com/en/sustainability/articles/human-rights.html>. Animal welfare is also listed as a requirement by the

European Bank for Reconstruction and Development in its ESG policy.

This trend can be explained by a growing awareness and interests by consumers but also by investors. Indeed, animal welfare is described by observers as an *“increasingly important, albeit emerging issue, for investors”*.⁵³

According to the FAIRR Initiative, animal welfare is considered a high risk factor for the main global animal protein producers⁵⁴. Their 2016 report concluded that “the magnitude of risks generated by animal factory farming is set to increase through rising capital costs, the shifting gravity of production to developing countries with less robust regulation, the impacts of climate change and increasing social concerns over animal welfare and sustainability.”⁵⁵ Yet, the risk is not only for farmed animals, as demonstrated by the case of SeaWorld Florida presented in the report. The company saw long-term damages in terms of share values and reputation, as well as a regulatory backlash, after denunciations of bad treatment of animals. Animal welfare is thus seen not only as a potential regulatory risk but also as an issue that can affect the public sentiment and that is connected to other important dimensions such as public health.

In other words, these elements clearly suggest that the private sector has started to grasp the issue of animal welfare. Not only do the relevant due diligence standards dealing with animal welfare exist, but companies have used them, so as to consolidate common good practices.

⁵³ See <https://www.ampcapital.com/nz/en/insights-hub/articles/2019/june/animal-welfare-an-emerging-investor-issue>

⁵⁴ <https://www.fairr.org/index/risk-opportunity-factors/animal-welfare/>

⁵⁵ <https://www.fairr.org/article/factory-farming-assessing-investment-risks/#key-findings-and-implications-for-investors>

This contribution has been prepared by Eurogroup for Animals' Trade & Animal Welfare Project. The Trade & Animal Welfare Project is made possible by:



Eurogroup for Animals - Trade & Animal Welfare Project

Rue Ducale 29 – 1000 Brussels

Tel: +32 (0)2 740 08 20 – Fax: +32 (0)2 740 08 29

Email: s.ghislain@eurogroupforanimals.org

Website: <http://www.eurogroupforanimals.org/trade-and-animal-welfare>

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