

## FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND THE REPUBLIC OF SLOVENIA

The following text reproduces the Free Trade Agreement between Turkey and the Republic of Slovenia.<sup>1</sup>

## FREE TRADE AGREEMENT BETWEEN THE REPUBLIC OF TURKEY AND THE REPUBLIC OF SLOVENIA

### PREAMBLE

*The Republic of Turkey and the Republic of Slovenia* (hereinafter "the Parties"),

*Having* regard to the Agreement Establishing an Association between Turkey and European Economic Community and the Europe Agreement Establishing an Association between the Republic of Slovenia, of the one part, and the European Communities and their Member States, acting within the framework of the European Union, of the other part;

*Reaffirming* their commitment to the principles of a market economy, which constitutes the basis for their economic relations and their compliance with the rights and obligations arising out of the agreements of the World Trade Organization/General Agreement on Tariffs and Trade 1994 (hereinafter "WTO/GATT 1994");

*Considering* their common desire to participate actively in the process of economic integration in Europe and expressing their preparedness to co-operate in seeking ways and means to strengthen this process;

*Resolved* to this end to eliminate progressively the obstacles to substantially all their mutual trade, in accordance with the provisions of the GATT 1994;

*Convinced* that this Agreement will create a new climate for their economic relations and in particular for the development of trade, investment and economic and technological co-operation;

*Have agreed as follows:*

### *Article 1*

#### Objectives

1. The Parties shall gradually establish a free trade area on substantially all their bilateral trade in a transitional period ending on 1 January 2001, in accordance with the provisions of this Agreement and in conformity with those of the GATT 1994 and the WTO.
2. The objectives of this Agreement are:
  - (a) to promote through the expansion of mutual trade the harmonious development of economic relations between the Parties and thus to foster in the Parties the advance of economic activity;

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<sup>1</sup> The Annexes and Protocols thereto have been submitted to the Secretariat for consultation by interested Members (Office 1174).

- (b) to provide fair conditions of competition for trade between the Parties;
- (c) to contribute by the removal of barriers to trade to the harmonious development and expansion of world trade;
- (d) to promote co-operation in areas which are of mutual interest to the Parties.

## **CHAPTER I**

### Industrial products

#### *Article 2*

##### Scope

1. The provisions of this Chapter shall apply to industrial products originating in one of the Parties, where the term "industrial products" means for the purpose of this Agreement the products falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System, with the exception of the products listed in Annex I to this Agreement (hereinafter "Annex I").

2. The provisions of this Chapter shall not preclude the introduction by the Republic of Slovenia of an agricultural component in the duties applicable to products falling within Chapters 25 to 97 of the Harmonised Commodity Description and Coding System listed in Annex II to this Agreement (hereinafter "Annex II") in respect of products originating in the Republic of Turkey.

3. The provisions of this Chapter shall not preclude the retention by the Republic of Turkey of an agricultural component in the duties applicable to products falling within Chapters 25 to 97 of the Harmonised Commodity Description and Coding System listed in Annex II in respect of products originating in the Republic of Slovenia.

#### *Article 3*

##### Basic duties

1. For commercial exchanges covered by this Agreement, the Slovenian Customs Tariffs shall be applied for the classification of goods for import into the Republic of Slovenia. The Turkish Customs Tariffs shall be applied for the classification of goods for import into the Republic of Turkey.

2. For each product the basic duty to which successive reductions set out in this Agreement are to be applied shall be:

for products originating in the Republic of Turkey, the Most Favoured Nation rate of duty in force on 1 January 1997 in the Republic of Slovenia;

for products originating in the Republic of Slovenia, the Most Favoured Nation rate of duty that is in force in Turkey, on erga omnes basis, on the date of entry into force of this Agreement.

3. If, after entry into force of the Agreement, any tariff reduction is applied on an erga omnes basis in particular reductions resulting from the tariff agreement concluded as a result of the GATT Uruguay Round, such reduced duties shall replace the basic duties referred to in paragraph 2 as from that date when such reductions are applied.

4. The reduced duties calculated in accordance with Protocol 1 shall be applied rounded to the first decimal place.

5. The Parties shall notify each other their respective national basic rates of duties.

#### *Article 4*

##### Customs duties on imports

1. No new customs duty on imports shall be introduced in trade between the Parties from the date of entry into force of this Agreement.

2. Customs duties on imports shall be abolished in accordance with the provisions of Protocol 1 to this Agreement (hereinafter "Protocol 1").

3. Customs duties on imports for selected number of textile products originating in the Republic of Turkey shall be progressively reduced in accordance with Annex III to this Agreement (hereinafter "Annex III").

#### *Article 5*

##### Charges equivalent to customs duties

1. No new charge having an effect equivalent to a customs duty on imports shall be introduced in trade between the Parties.

2. All charges having an effect equivalent to customs duties on imports shall be abolished on the date of the entry into force of this Agreement.

#### *Article 6*

##### Fiscal duties

The provisions of Article 4 shall also apply to customs duties of a fiscal nature.

*Article 7*

Customs duties on exports and charges having equivalent effect

1. No new customs duty on exports or charge having equivalent effect shall be introduced in trade between the Parties.
2. All customs duties on exports and charges having equivalent effect shall be abolished on the date of entry into force of the Agreement .

*Article 8*

Quantitative restrictions on imports and measures having equivalent effect

1. No new quantitative restriction on imports or measure having equivalent effect shall be introduced in trade between the Parties.
2. All quantitative restrictions on imports and measures having equivalent effect shall be abolished on the date of entry into force of the Agreement, except as provided for in Annex III.

*Article 9*

Quantitative restrictions on exports and measures having equivalent effect

1. No new quantitative restriction on exports or measure having equivalent effect shall be applied in trade between the Parties.
2. All quantitative restrictions on exports and measures having equivalent effect shall be abolished on the date of entry into force of the Agreement.

**CHAPTER II**

Agricultural, Processed Agricultural and Fish Products

*Article 10*

Scope

1. The provisions of this Chapter shall apply to agricultural, processed agricultural and fish products originating in one of the Parties.
2. The term "agricultural products" means for the purpose of this Agreement the products falling within Chapter 1 to 24 of the Harmonized Commodity Description and Coding System and all the products listed in Annex I.

*Article 11*

Trade in agricultural products

Protocol 2 to this Agreement (hereinafter "Protocol 2") lays down the arrangements applicable to agricultural products referred to therein.

#### *Article 12*

##### Basic duties

1. For each product the basic duty to which the successive reductions set out in this Agreement are to be applied shall be the Most Favoured Nation rate of duty in force on the date of importation.
2. The reduced duties calculated in accordance with paragraph 2 shall be applied rounded to the first decimal place.
3. The Parties shall communicate to each other their respective national basic rates of duties in accordance with the provisions of paragraph 2.

#### *Article 13*

##### Special safeguards

Notwithstanding other provisions of this Agreement and, in particular, Article 20, if, given the particular sensitivity of the agricultural markets, imports of products originating in a Party, which are subject to concessions granted under this Agreement, cause serious disturbance to the markets of the other Party, the Party concerned shall enter into consultations immediately to find the appropriate solution. Pending such solution, the Party concerned may take the measures it deems necessary.

#### *Article 14*

##### Concessions and agricultural policies

1. The concessions granted under this Agreement are referred to in Protocol 2.
2. Without prejudice to the concessions granted under this Chapter, the provisions of this Chapter shall not restrict in any way the pursuance of the respective agricultural policies of the Parties or the taking of any measures under such policies, including the implementation of the respective provisions of the Agreement on Agriculture within the framework of the WTO.
3. The Parties shall notify to each other of changes in their respective agricultural policies pursued or measures applied which may affect the conditions of agricultural trade between them as provided for in this Agreement. Prompt consultations shall be held, upon request of any Party, to examine the situation.
4. In trade between the Parties from the date of entry into force of this Agreement no new quantitative restriction on imports or measures having equivalent effect shall be introduced.

*Article 15*

Veterinary, health and phytosanitary measures

1. The veterino-sanitary measures and the work of the veterinary services will be in accordance with the Office International des Epizoodies Codex Alimentarius Commission and other international conventions in this field.
2. The Phytosanitary measures and the work of the plant protection service will be in accordance with the International Plant Protection Convention and other international conventions in this field.
3. The Parties shall apply their regulations in sanitary and phytosanitary matters in nondiscriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

**CHAPTER III**

General provisions

*Article 16*

Internal taxation

1. The Parties shall refrain from any measure or practice of an internal fiscal nature establishing, whether directly or indirectly, discrimination between the products originating in one of the Parties.
2. Products exported to the territory of one of the Parties may not benefit from repayment of internal taxes in excess of the amount of direct or indirect taxes imposed on these products.

*Article 17*

Trade relations governed by this and other Agreements

1. This Agreement shall not prevent the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade which are in accordance with the provisions of Article XXIV of the GATT 1994 and with the Understanding on the Interpretation of Article XXIV of the GATT 1994 and to the extent that these do not negatively affect trade regime and in particular the provisions concerning rules of origin provided for by this Agreement.
2. Exchange of information concerning agreements establishing such customs unions or free trade areas shall take place, on request of any Party, within the Joint Committee.

*Article 18*

Structural adjustment

1. Exceptional measures of limited duration which derogate from the provisions of Article 4 may be taken by any of the Parties in the form of increased customs duties.

These measures may only concern infant industries, or certain sectors undergoing restructuring or facing serious difficulties, particularly where these difficulties produce important social problems.

3. Customs duties on imports applicable in the Party concerned to products originating in the other Party introduced by these measures may not exceed 25 per cent *ad valorem* and shall maintain an element of preference in customs duties for products originating in the Parties. The total value of imports of the products which are subject to these measures may not exceed 15 per cent of total imports of industrial products from the other Party as defined in Chapter I, during the last year for which statistics are available.

4. These measures shall be applied for a period not exceeding three years. They shall cease to apply at the latest on 1 January 2001.

5. The Party concerned shall inform the other Party of any exceptional measures it intends to take and, consultations shall be held without delay within the Joint Committee on such measures and the sectors to which they apply prior to their introduction. When taking such measures the Party concerned shall provide the Joint Committee with a schedule for the elimination of the customs duties introduced under this Article. This schedule shall provide for a phasing out of these duties starting at the latest two years after their introduction, at equal annual rates. The Joint Committee may decide on a different schedule.

#### *Article 19*

##### Dumping

If a Party finds that dumping within the meaning of Article VI of the GATT 1994 is taking place in trade relations governed by this Agreement, it may take appropriate measures against that practice in accordance with Article VI of the GATT 1994 and the rules established by agreements related to that Article, under the conditions and in accordance with the procedures laid down in Article 23.

#### *Article 20*

##### General safeguards

Where any product is being imported in such increased quantities and under such conditions as to cause or threaten to cause:

- (a) serious injury to domestic producers of like or directly competitive products in the territory of the importing Party, or
- (b) serious disturbances in any related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 23.

*Article 21*

Re-export and serious shortage

Where compliance with the provisions of Articles 7 and 9 leads to:

- (a) re-export towards a third country against which the exporting Party maintains for the product concerned quantitative export restrictions, export duties or measures or charges having equivalent effect; or
- (b) a serious shortage, or threat thereof, of a product essential to the exporting Party;

and where the situations referred to above give rise or are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 23. The measures shall be non-discriminatory and be eliminated when conditions no longer justify their maintenance.

*Article 22*

## State monopolies

1. The Parties shall ensure that by the end of the year following the entry into force of this Agreement any state monopoly of a commercial character be adjusted so that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties.
2. The Joint Committee shall be informed about the measures adopted to implement this objective.

*Article 23*

## Procedure for the application of safeguard measures

1. Before initiating the procedure for the application of safeguard measures set out in the following paragraphs of this Article, the Parties shall endeavour to solve any differences between them through direct consultations.
2. In the cases specified in Articles 19, 20 and 21 a Party which is considering to resort to safeguard measures shall promptly notify the Joint Committee with all relevant information and give it the assistance required to examine the case. Consultations between the Parties shall take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.
3. If, within one month of the matter being referred to the Joint Committee, the Party in question fails to put an end to the practice objected to or to the difficulties notified and in the absence of a decision by the Joint Committee in the matter, the concerned Party may adopt the safeguard measures it considers necessary to remedy the situation.
4. The safeguard measures taken shall be notified immediately to the Joint Committee. They shall be restricted, with regard to their extent and their duration, to what is strictly necessary in order to rectify the situation giving rise to their application and shall not be in excess of the damage caused by the practice or the difficulties in question. Priority shall be given to such measures that will least disturb the functioning of this Agreement.
5. The safeguard measures taken shall be the subject of regular consultations within the Joint Committee with a view to their relaxation, or abolition when conditions no longer justify their maintenance.
6. Where exceptional circumstances requiring immediate action make prior examination impossible, the Party concerned may, in the cases of Articles 18, 19, 20, 21, 27 and 28 apply forthwith the precautionary measures strictly necessary to remedy the situation. The measures shall be notified without delay to the Joint Committee and consultations between the Parties shall take place within the Joint Committee.

*Article 24*

## Rules of origin

Protocol 3 to this Agreement (hereinafter "Protocol 3") lays down the rules of origin and the proof of origin requirements for application of tariff preferences provided for in this Agreement.

*Article 25*

## General exceptions

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; of the protection of health and life of humans, animals or plants, including environmental measures necessary to protect human, animal or plant life or health; of the protection of national treasures possessing artistic, historic or archaeological value; of the protection of intellectual property, or of the rules relating to gold or silver or to the conservation of exhaustible natural resources. Such prohibitions or restrictions shall not, however, constitute means of arbitrary discrimination or a disguised restriction on trade between the Parties.

*Article 26*

## Payments

1. Payments in freely convertible currencies relating to commercial transactions within framework of this Agreement between the Parties and the transfer of such payments to the territory of the Party where the creditor resides shall be free from any restrictions.
2. The Parties shall refrain from any exchange or administrative restrictions other than those existing in the current legislation of the Parties, on the grant, repayment or acceptance of short and medium term credits covering commercial transactions within framework of this Agreement in which resident participates.
3. Notwithstanding the provisions of paragraph 2, any measures concerning current payments connected with the movement of goods shall be in conformity with the conditions laid down under Article VIII of the Articles of the Agreement of the International Monetary Fund.

*Article 27*

## Rules of competition concerning undertakings, State aid

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Parties:
  - (a) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition;
  - (b) abuse by one or more undertakings of a dominant position in the territories of the Parties as a whole or in a substantial part thereof;
  - (c) any state aid which distorts or threatens to distort competition by favouring certain undertakings or certain products.

2. The Parties shall ensure transparency in the area of state aid, in accordance with the provisions of the Agreement on Subsidies and Countervailing Measures and the WTO/GATT 1994 and each Party, upon request of the other Party, will provide information on aid schemes and on particular individual cases of state aid.

3. With regard to products referred to in Chapter II the provisions in paragraph 1 (c) shall not apply.

4. If a Party considers that a given practice is incompatible with this Article and if such practice causes or threatens to cause serious prejudice to the interest of that Party or material injury to its domestic industry, it may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 23.

5. Subject to its laws, regulations and policies, each Party will accord fair and equitable treatment to the individuals, companies, government agencies and other entities of the other Party engaged in the pursuit of activities under this Agreement.

#### *Article 28*

##### Balance of payments difficulties

1. The Parties shall endeavour to avoid the imposition of restrictive measures including measures relating to imports for balance of payments purposes.

2. Where one of the Parties is in serious balance of payments difficulties, or under imminent threat thereof, the Party concerned may, in accordance with the conditions established under the WTO/GATT 1994 and with Article VIII of the Articles of Agreement of the International Monetary Fund, adopt restrictive measures, including measures related to imports, which shall be of limited duration and may not go beyond what is necessary to remedy the balance of payments situation. The measures shall be progressively relaxed as balance of payments conditions improve and they shall be eliminated when conditions no longer justify their maintenance. The Party concerned shall inform the other Party forthwith of their introduction and, whenever practicable, of a time schedule for their removal.

#### *Article 29*

##### Protection of intellectual, industrial and commercial property

1. Pursuant to the provisions of this Article and of Annex IV to this Agreement (hereinafter "Annex IV") the Parties shall grant and ensure adequate and effective protection of intellectual, industrial and commercial property rights in accordance with the highest international standards, including effective means of enforcing such rights.

2. The implementation of this Article and of Annex IV shall be regularly reviewed by the Parties. If problems in the area of intellectual and commercial property affecting trading conditions were to occur, urgent consultation within the Joint Committee shall be undertaken, at the request of either Party, with a view to reaching mutually satisfactory solutions.

#### *Article 30*

## Public procurement

1. The Parties consider the liberalization of their respective public procurement markets as an objective of this Agreement.
2. As of the entry into force of this Agreement the Parties shall grant each other's companies access to contract award procedures and treatment no less favourable than that accorded to companies of any other country.
3. The Parties shall progressively develop their respective regulations for public procurement with the view to grant suppliers of the other Party by the end of the transitional period at the latest access to contract award procedures on their respective public procurement markets according to the provisions of the Agreement on Government Procurement concluded within the framework of the WTO and the Parties' undertakings therein.
4. The Joint Committee shall examine developments related to the achievement of the objectives of this Article so as to ensure free access, transparency and mutual opening of their respective public procurement markets.

### *Article 31*

#### The Joint Committee

1. A Joint Committee is hereby established in which each Party shall be represented. The Joint Committee shall be responsible for the administration of this Agreement and shall ensure its proper implementation.
2. For the purpose of the proper implementation of this Agreement, the Parties shall exchange information and, at the request of any Party, shall hold consultations within the Joint Committee. The Joint Committee shall keep under review the possibility of further removal of the obstacles to trade between the Parties.
3. The Joint Committee may take decisions in the cases provided for in this Agreement. These decisions shall be implemented by the Parties in accordance with their legislation. The Joint Committee may also make recommendations on any other trade and economic matter of mutual interest to the Parties.

### *Article 32*

#### Procedures of the Joint Committee

1. For the proper implementation of this Agreement the Joint Committee shall meet whenever necessary upon request of any Party but at least once a year. Either Party may request that a meeting be held.
2. The Joint Committee shall act by common agreement.

3. If a representative of a Party in the Joint Committee has accepted, under reservation, a decision subject to the fulfilment of internal legal requirements, the decision shall enter into force, if no later date is contained therein, on the date of the receipt of a written notification as to the fulfilment of such requirements.

4. For the purpose of this Agreement the Joint Committee shall adopt its rules of procedure which shall, inter alia, contain provisions for convening meetings and for the designation of the Chairman and his/her term of office.

5. The Joint Committee may decide to set up such subcommittees and working groups as it considers necessary to assist it in accomplishing its tasks.

*Article 33*

## Security exceptions

Nothing in this Agreement shall prevent a Party from taking any appropriate measure which it considers necessary:

- (a) to prevent the disclosure of information contrary to its essential security interests;
- (b) for the protection of its essential security interests or for the implementation of international obligations or national policies:
  - (i) relating to the traffic in arms, ammunition and implements of war, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes, and to such traffic in other goods, materials and services as is carried on directly or indirectly for the purpose of supplying a military establishment; or
  - (ii) relating to the non proliferation of biological and chemical weapons, nuclear weapons or other nuclear explosive devices; or
  - (iii) taken in time of war or other serious international tension.

*Article 34*

## Elimination of technical barriers to trade

1. The rights and obligations of the Parties relating to standards or technical regulations and related measures shall be governed by the WTO Agreement on Technical Barriers to Trade.
2. The Parties shall co-operate and exchange information in the field of standardisation, metrology, conformity assessment and accreditation with the aim of reducing technical barriers to trade.
3. Each Party, upon request of the other Party, shall provide information on particular individual cases of standards-related measures.
4. To eliminate technical barriers and effectively implement this Agreement, the Parties can on the basis hereof conclude an agreement for mutual recognition of test reports, certificates of conformity and other documents directly or indirectly related to conformity assessment of products which are the subject of the goods exchange between the Parties, on the basis of regulations in force in the importing state.

*Article 35*

## Fulfilment of obligations

1. The Parties shall take all necessary measures required to ensure the achievement of the objectives of this Agreement and the fulfilment of their obligations under this Agreement.

2. If a Party considers that the other Party has failed to fulfill an obligation under this Agreement, the Party concerned may take appropriate measures under the conditions and in accordance with the procedure laid down in Article 23.

#### *Article 36*

##### Evolutionary clause

1. Where a Party considers that it would be useful in the interests of the economies of the Parties to develop and deepen the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Party. The Joint Committee shall examine such request and, where appropriate, may make recommendations, particularly with a view to opening negotiations.

2. Agreements resulting from the procedure referred to in paragraph 1 will be subject to ratification or approval by the Parties to this Agreement in accordance with their internal legal procedures.

#### *Article 37*

##### Dispute settlement

1. Each Party may refer to the Joint Committee any dispute relating to the application or the interpretation of this Agreement.

2. The Joint Committee may settle the dispute by means of a decision.

3. Each Party shall be bound to take measures involved in carrying out the decision referred to in paragraph 2.

4. If a dispute referred to the Joint Committee has not been resolved in accordance with paragraph 2 of this Article, each Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months.

5. The Joint Committee shall then choose, within sixty days, among experts proposed by the two arbitrators, a third arbitrator who shall not be a national of either Party and who will serve as the chairman.

6. The arbitrators' decision shall be taken by majority vote within ninety days or within such longer period as may be agreed by the Joint Committee.

7. Each Party must take the steps required to implement the decision of the arbitrators.

#### *Article 38*

##### Amendments

Amendments to this Agreement shall enter into force on the date of a receipt of the latter diplomatic note conforming that all internal legal procedures required by each Party for their entry into force have been completed.

*Article 39*

Annexes and Protocols

1. The Annexes and the Protocols to this Agreement are an integral part of it.
2. The Joint Committee may decide to amend the Annexes and Protocols. In this case the modifications or amendments shall enter into force on the date of receipt of the latter diplomatic note confirming the approval of the respective Party in accordance with its internal regulation.

*Article 40*

Entry into force

1. This Agreement shall enter into force on the first day of the month following the date when the Parties have notified each other that respective internal requirements for the entry into force of this Agreement have been fulfilled.
2. This Agreement shall be applied provisionally from the first day of the second month following the date of notification by the Republic of Turkey that its internal requirements for the entry into force of this Agreement have been fulfilled.

*Article 41*

Validity and termination

1. This Agreement is concluded for an unlimited period.
2. Each Party may terminate this Agreement by a written notification to the other Party. The termination shall take effect on the first day of the seventh month following the date on which the notification was received by the other Party.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Agreement.

Done at Ankara, this .....5<sup>th</sup> of May, 1998....., in two originals in English language.

For the Republic of Turkey

For the Republic of Slovenia

## JOINT DECLARATION

The Parties agree that the quantitative restrictions applied on imports into the Republic of Slovenia for textile and clothing products listed under Annex III to the Agreement and originating in the Republic of Turkey, shall be reviewed at the end of the sixth month following the entry into force of this Agreement. The review shall be made with the aim to evaluate the situation of textile and clothing industry of the Republic of Slovenia and to determine whether the Turkish exports, compared with the global imports of the products concerned, cause any serious injury to the domestic producers of like or directly competitive products. In this regard, the Parties shall assess the possibility of further liberalization in the sense of abolishing quantitative restrictions on the mentioned products partially or wholly.

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