

Note

Response Measures Commitments in Climate Talks

By Sam Ogallah

Summary

Achieving the 2°C goal of the Paris Agreement will require enhanced ambition and effective implementation of GHG mitigation abatement policies and actions. This paper looks at response measures as a concept, the legal milestones from the UNFCCC to the Paris Agreement, as well as the interests of developing country Parties and the way forward under the Paris Agreement regime taking into account the specific circumstances of Africa and other developing countries.

Abstract

The United Nations Framework Convention on Climate Change (UNFCCC) Article 2, sets an ultimate objective of stabilizing greenhouse gas emissions "at a level that would prevent dangerous anthropogenic (human induced) interference with the climate system." It states that "such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner."

The First to the Fifth Assessment Reports (AR) of the Inter-Governmental Panel on Climate Change (IPCC) highlighted major issues related to potential impacts that could occur as a result of climate change in Africa. It also underlined the fact that Africa is characterized by a low adaptive capacity. Major areas of concern addressed in the ARs regarding the possible impacts of climate change relate to water food security/agriculture, resources and including changes in: precipitation and insulation, length of growing seasons, water availability, carbon uptake, incidences of extreme weather events, changes in flood risks, desertification, distribution and prevalence of human diseases and plant pests.

Climate change models suggest that, in general terms, the climate in Africa will become more variable. Since 1900, mean surface temperature in Africa continue to increase and could increase by 2-6°C in the next century under the business as usual scenario and if urgent action is not taken now to curb the global rise in the atmospheric greenhouse gas (GHG) emissions.

One of the most contested and controversial

areas of international climate change negotiations is response measures. According to UNFCCC secretariat, impacts implementation of response measures is understood as the effects arising from the implementation of mitigation policies and actions taken by Parties under the Convention, the Kyoto Protocol and the Paris Agreement, and how these mitigation policies/actions could have "in-jurisdiction" and "out-of-jurisdiction" (or cross-border) impacts.

To achieve the 2°C goal of the Paris Agreement (and even more so the 1.5°C) requires enhanced ambition and effective implementation of GHG mitigation abatement policies and actions. It is thus imperative that there is an increased urgent need to assess, analyze, address and report these environmental, cross-border social economic impacts. This paper therefore looks at response measures as a concept, the continuum of activities on response measures since the first COP in 1995, the legal milestones from the Convention to the Paris Agreement, the interests of developing country Parties and LDCs, and the way forward under the Paris Agreement regime taking into account the specific circumstances of the Africa continent and other developing countries of the world.

Introduction

The discussion on response measures started taking shape under the Kyoto Protocol, specifically in Article 2.3 which urges developed countries to strive to implement related policies and measures in such a way as to minimize adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially on those identified in Article 4.8 and

4.9 of the Convention. To achieve the new mitigation goal of 1.5°C under the Paris Agreement regime requires enhanced ambition effective implementation of GHG mitigation abatement policies and actions. This calls for an urgent need to assess, analyse, address and report the cross-border environmental, social and economic impacts. Though these impacts could be either positive or negative, the Convention, Kyoto Protocol and the Paris Agreement seek to minimize the negative and maximize the positive impacts of implementation of mitigation policies and actions. Developing country Parties and least developed countries find themselves in a dilemma when it comes to climate change response. The first dilemma is that most of the countries are just discovering natural resources that can help transform their economies, but which also have serious impacts on the environment like natural gas, coal, oil etc. Secondly, most of the countries are been advised to diversify their economies and avoid carbon footprint, yet the rate of unemployment is still very high, as it is for the initial cost of investment in a green economy which is also very much dependent on electric machines/ technology as opposed to human labour. This kind of transition can lead to people losing jobs especially since most of the economies are still not stable. From the African perspective, a continent highly vulnerable to the negative impacts of climate change, the concept of Response Measures has not very well been integrated as policy option as the countries are still highly dependent on non-renewable energy sources as opposed to most of the approaches

championed under the RM, which are not very relevant/applicable in reality for most of the African countries. These calls for a gradual rather than drastic transition to renewables in Africa.

Africa is significantly arid and semi-arid with the irony of overdependence on rain-fed agriculture as the source of food which makes adaptation the most urgent response strategy thus shifting the focus from mitigation which has been the focus of response measure as an agenda item under the UNFCCC. Under the Paris Agreement Work Programme (PAWP), some of the response measures that are being discussed which are largely mitigation measures include:- GHG emission reduction target; Energy efficiency and Renewable Energy target; Carbon labelling; EU-emission trading scheme; Regulating methane emissions; Capping annual coal consumption (China); emission regulations by sectors; subsidies to promote low-carbon development; grid/off-grid solar PV target, Just Transition etc.

Background

According to the United Nations Framework Convention on Climate Change (UNFCCC), Parties shall take into full consideration, in the implementation of Article 4 (commitments of the convention¹), the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures. Though the threshold for the ratification of the second face of the Kyoto Protocol (KP) has not been reached, the KP in addressing climate change concerns, commits

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Parties to strive to minimize adverse economic, social and environmental impacts on other Parties, especially developing country Parties, and in particular those identified in Articles 4.8 and 4.9 of the Convention, taking into account Article 3 of the Convention. Article 4.8 of the Convention and Articles 2.3 and 3.14 of the Kyoto Protocol provide a basis for addressing the impact of the implementation of response measures. Response measures are further being addressed in the context of the Bali Roadmap process, the Cancun Agreements and the Durban Outcome².

Since there is a transition period between the Kyoto Protocol and the Paris Agreement, the new regime for addressing climate change is the Paris Agreement (PA). In Decision 1/CP.21 -Adoption of the Paris Agreement - 8th paragraph of the preamble, acknowledges the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures.3. In COP 24, the PA further institutionalized the discussion on response measures by creating the Katowice Committee of Experts on Impacts of Implementation of Response Measures (also referred to as the Katowice Committee on Impacts (KIC)) with its first meeting, June 13th – 14th, 2019. The Katowice Committee on Impacts will support the work of the forum on the impact of the implementation of response measures and to operate in accordance with the terms of reference contained in the annex of decision 7/CMA 14.

Chronology and Key Milestones

Towards the realization of its objective of stabilizing the greenhouse gas concentrations at a level that will keep the global temperature increase below 1.5°C, Article 3.2 of the Convention states that "The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration." In terms of vulnerability and weight of burden, Article 4.8 of the Convention makes specific reference to the countries that are considered most vulnerable to the impacts of climate change.

Article 3.14 of the Kyoto Protocol requires developed countries to "strive to implement" their Kyoto commitments "in such a way so as to minimise adverse social, environmental and economic impacts on developing country Parties," particularly those identified above.

Since 1997, important progress has been made in the implementation of Articles 4.8 and 4.9⁵ which is specific to the developing and least developed country Parties as far as vulnerability and weight of burden is concerned.

Workshops have been convened since
 2000 to unpack these articles and to
 create a responsive architecture and

 $^{^{\}rm 2}$ https://unfccc.int/topics/mitigation/workstreams/response-measures

https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf

https://unfccc.int/sites/default/files/resource/cma2018_3_a dd1_advance.pdf

 $[\]frac{https://unfccc.int/files/cooperation_and_support/ldc/applica}{\underline{tion/pdf/article4.pdf}}$

methodologies for implementation. Most of these workshops highlighted the particular needs of vulnerable developing countries and also identified economic diversification as a potentially effective means to reduce the adverse effects of response measures, in energy exporting countries6.

In 2001 at COP-6, the issue of adverse effects/impacts received much attention. The Bonn Agreement (Decision 5/CP.6) contains several adverse effects/impacts provisions, which were eventually adopted by COP-7 as part of the Marrakesh Accords2. These include the establishment of a Special Climate Change Fund (SCCF) that has been funding inter alia adaptation, technology transfer and activities to assist those Developing Countries (DCs) in Article 4.8 to diversify their economies; a provision that requests Annex I Parties to provide annual information on how they are striving to minimise adverse social, environmental and economic impacts on DCs as they seek to fulfil their Kyoto commitments; and the establishment of a LDC fund (under the Convention) and an Adaptation fund (under the Kyoto Protocol, to be financed by 2 percent of the share of proceeds on Clean Development Mechanism projects)7.

IPCC's Third Assessment Report (TAR), *Climate Change 2001*, was another key milestone in the implementation of Articles 4.8 and 4.9. First, it defined a number of important

terms8:

- a) Vulnerability: "the degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including variability and extremes"
- b) Adaptive capacity: "the ability of a system to adjust to climate change (including climate variability and extremes) to moderate potential damages, to take advantage of opportunities, or to cope with the consequences." (McCarthy et al 2001:6).

Second, the report drew a direct link between the strengthening of adaptive capacity and sustainable development. Third, it assembled important information on possible effects on different geographical regions. It however provided little coverage on socioeconomic issues, particularly the impact of response measures.

- Buenos Aires programme of work on adaptation and response measures9. Under the programme, the UNFCCC secretariat was requested to organize three regional workshops, reflecting regional priorities and one expert meeting for small island developing States, reflecting issues of priority identified by that group.
- In the subsequent SBI meetings from SBI
 22, the focus shifted to the implementation of the Buenos Aires

⁶ UNFCCC Workshop on Economic Diversification

Teheran, Islamic Republic of Iran 18-19 October 2000

⁷ Decision 5/CP.71

⁸ IPCC Third Assessment Report

⁹ Decision 1/CP.10

programme of work on adaptation and response measures (decision 1/CP.10). The first of the three workshops was convened from 18th to 20th April 2006 in Lima, Peru for the Latin and Central American region. The second was convened for Africa region from 21 – 23 September in Accra Ghana. This was the most important workshop for the East African Countries which is significantly least developed with only Kenya being a developing country among the East African Countries. This particular workshop aimed at facilitating exchange of information and integrated assessments in order to assist in identifying Africa's needs and concerns related to adaptation. The highlight of the workshop was its success in fostering an exchange of experience on good practices on adaptation, many of which could be replicated. The workshop also provided for a fruitful sharing of information between African participants support organizations, such as the GEF and its implementing agencies, or bilateral institutions with a strong focus on the African region. From this, an evident need emerged for enhanced access to funding and broadening the sources of support for adaptation activities, particularly those that build upon indigenous coping strategies. A session devoted to South-South revealed cooperation ample opportunities for further promoting such collaboration and streamlining its effectiveness¹⁰.

Forum on the impact of the implementation of response measures

At COP 17, Parties adopted a work programme the objective of improving understanding of the impact the implementation of response measures in eight distinct areas. In addition, the COP decided to establish the forum on the impact of the implementation response of mandated to meet twice a year under a joint agenda item of the subsidiary bodies. The forum consolidates all progressive discussions related to response measures under the Convention and the Kyoto Protocol

At COP 21, Parties decided that the Forum on the Implementation of response measures, under the subsidiary bodies, shall continue, and shall serve the Agreement. Through decision 11/CP.21 paragraph 1, Parties also decided to continue and improve the forum which shall provide a platform allowing Countries to share (in an interactive manner) information, experiences, case studies, best practices and views, and to facilitate assessment and analysis of the impact of the implementation of response measures, with a view of recommending specific actions. The improved forum, among other things, will focus on the provision of concrete examples, case studies and practices in order to enhance the capacity of Parties, in particular developing country Parties, to deal with the impact of the implementation of response

¹⁰ Report of the African regional workshop on adaptation

measures, as explained in paragraph 2 of the same decision.

In the Subsequent SBI meeting, the subsidiary bodies convened the first meeting of the improved forum on the impact of the implementation of response measures and agreed to implement a three-year work programme. The work programme was adopted under the same decision in paragraph 5 and comprises two areas: Economic diversification and transformation; and Just transition of the workforce, and the creation of decent work and quality jobs. Two other areas were added in COP 24 under part II of the annex to decision 7/CMA. 1, that are: Assessing and analysing the impacts of the implementation of response measures; and Facilitating the development of tools and methodologies to assess the impacts of the implementation of response measures.

In Marrakech in COP 22, the subsidiary bodies held an in-forum discussion and agreed to advance the technical work on the impact of the implementation of response measures by constituting an Ad hoc Technical Expert Group (TEG). They also agreed that the ad hoc TEG should elaborate on the ideas of the work programme as listed above. The first meeting of the TEG was convened in May 2017 during the 46th session of Subsidiary Bodies where various groups and intergovernmental organizations shared a range of experiences dealing with economic diversification and transformation and just transition of the workforce and the creation of decent work and quality jobs.11

The Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI) as indicated in the introductory part, the KCI was created to support the forum on the impact of implementation of response measures to implement its work programme. According to the terms of reference defined in the annex of decision 7/CMA. 1, KCI shall meet twice a year; shall be composed of 14 members, two members for each of the United Nations reginal groups, one member from the least developed countries, one member from the small island developing States and two members from relevant international organizations; members shall serve in their expert capacity and should have relevant qualifications expertise; members shall be nominated by their respective groups and shall serve a term of two years (eligible for two consecutive terms); Cochairs shall be elected from the members through consensus etc.

COP 24 Outcomes on Response Measures – Development of the Paris Rulebook

In COP 24, developing country Parties especially the Africa Group were keen on a 5-year work plan that is aligned to NDCs and GST which they did not get. Instead, what was achieved is a 6-year workplan with a provision for mid-term review of the workplan of the forum, starting from the fifty-sixth sessions of the subsidiary bodies (June 2022), with a view to enhancing the effectiveness of the forum. This will be an opportunity to improve the work being done,

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address gaps and summarize issues for the Global Stocktake as relevant.

The concern of the Africa Group was that the decision on response measures in the Paris Agreement was a biased one because its development was not participatory. This continues to haunt developing country Parties even as the work programme kicks in. This of course is premised on the history that response measures have always been negotiated through the lenses of oil economies like Saudi Arabia, and not based on the challenges in other developing and least developed countries. It has been argued that the additional aspects of the work programme of the forum: Assessing and analysing the impacts of the implementation of response measures; and Facilitating the development of tools and methodologies to assess the impacts of the implementation of response measures, still focuses more on these oil economies.

The implication of COP 24 decision especially for the Africa Group is that the, AGN policy issue of concern - trade - was not addressed at Katowice as part of the work program. African economies cannot allow themselves to fall behind on trade and investments (including fossil fuels), a key element of many of their national development plans as a result of the impact of the implementation of response measures. This gives the continent the opportunity to include the issue in the workplan to the extent possible as well as other issues of concern for AGN parties. In his opening statement at COP 24, the Chair of the African Group of Negotiators reiterated the significance of response measures as a considerable development challenge to the continent, including unilateral measures against climate change and unjustifiable discrimination on international trade. The fact that the programme did not have a section on trade was a setback to the group.

The forum will have the following functions as stipulated in the modalities, work programme and functions of the forum annexed in the Paris Rulebook (decision 7/CMA):

- Provide a platform allowing Parties to share, in an interactive manner, information, experiences, case studies, best practices and views, and to facilitate assessment and analysis of the impact of implementation the of response measures, including the use and development of modelling tools and methodologies, with to recommending specific actions;
- Provide recommendations to the subsidiary bodies on the actions in part (a) above for their consideration, with a view to recommending those actions, as appropriate, to the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the Conference of the Parties serving as the meeting of the Parties to the Parties Agreement;
- Provide concrete examples, case studies and practices, in order to enhance the capacity of Parties, in particular developing country Parties, to deal with the impact of the implementation of response measures;
- Address the effects of the implementation of response measures under the Convention, the Kyoto Protocol and the Paris Agreement by

enhancing cooperation among Parties, stakeholders, external organizations, experts and institutions by enhancing capacity and the understanding of Parties of the impacts of mitigation actions and by enabling the exchange of information, experience and best practices among Parties to raise their resilience to these impacts;

- Respond and take into consideration the relevant outcomes of different processes under the Paris Agreement;
- Promote action to minimize the adverse impacts and maximize the positive impacts of the implementation of response measures.

After 20 years of negotiations, the Expert Group on the Implementation of Response Measures (Katowice Committee of Experts) was finally created. However, the attempt by the DCs and LDCs to have the group meet intercessional was thwarted. For the workplan, Parties had up to 15th April to send the work plan submissions. By the time the UNFCCC intercessional meetings were being convened in Bonn, the AGN and LDCs had not made any submissions. However, South Africa and Indonesia had made submissions which could reflect the position of developing countries. In its submission, South Africa noted that the work plan activities must take into account that even though response measures are understood in the broader context of the transition towards low greenhouse gas emissions, such measures must be objectively and coherently evaluated, as African economies cannot allow themselves to fall behind on trade and investment, a key element of many of their national development plans. The challenge now remains the lack of a specific provision for financing.

Response Measures within the Enhanced Transparency Framework

Within the enhanced transparency framework which is the new MRV framework under the Paris Agreement regime, response measures are considered under Chapter III, Section C (Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4 of the Paris Agreement). Paragraph 78 of the Modalities, Procedures and Guidelines for the Enhanced Transparency Framework states that, "For each Party with an NDC under Article 4 that consists of adaptation actions and/or economic diversification plans resulting in mitigation co-benefits consistent with Article 4, paragraph 7, of the Paris Agreement, it shall provide the information necessary to track implementation progress on the achievement of the domestic policies and measures implemented to address the social and economic consequences of response measures, including:

- (a) Sectors and activities associated with response measures;
- (b) Social and economic consequences from the response measures action;
- (c) Challenges and barriers to address the consequences;

(d) Actions to address the consequences¹²."

In section D, paragraph 90, "Each Party is encouraged to provide detailed information, to the extent possible, on the assessment of economic and social impacts of response measures." There are several opportunities that come with this paragraph especially for developing and least developed countries. The only way to effectively report is to have the required policy, legal and institutional frameworks to facilitate the implementation and reporting. Though it remains voluntary, the DCs and the LDCs have the opportunity to demonstrate their specific needs through these assessments and attract relevant support. Through different financing channels, there is also the opportunity to apply for financial support to put in place the relevant policy, legal institutional frameworks, including facilitating institutional capacity building to undertake the assessments themselves.

There is work ahead which has its share of challenges, especially since negotiations rely on consensus and many countries have different views on response measures and the possible priority areas for the workplan. Some of these challenges are highlighted below which could turn into opportunities if the Africa region gets its priorities captured.

Challenges and Opportunities

The development of a robust 6-year workplan to implement actions on Response measures.

This is the only opportunity for the African

group to include aspects that are of interest to them, but which were not incorporated into the work programme. These aspects are:

- AGNs trade issues which is of utmost interest to the continent. International trade on fossil fuel resources stand to be affected by the transition to a low carbon pathway. Many developing countries are just discovering some of these resources and therefore stands to be affected, for example export of oil which is the backbone of some economies.
- Key activities to raise awareness and build capacity on Response Measures (RM). The work plan should incorporate education, awareness and capacity building activities.
- Gathering regional and national data on impacts of RM and develop measures to address the challenges. The capacity constraints in the developing world has to be considered, especially when there are technical requirements. Gathering the required data aligns with specific expertise which most of developing and LD countries might not have.

Coalition coordination

How to deal with the notion of parties building resilience when many G77 parties are in support of this. The term 'resilience is interpreted differently in negotiations and its use in the context of response measures creates discomfort among most developing and least developed countries. The impact of the implementation of

¹² Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement

response measures as per provisions is a mitigation and not an adaptation issue. Africa cannot build resilience against the negative impacts of response measures, as such, the Forum is expected to facilitate pre-emptive cooperation to avert deeper developmental challenges and risks emerging for African countries from the impacts of the implementation of response measures.

Planning and timing

To facilitate stocktaking, Africa proposes development of a full three-year work plan for the first three years, have place holders for last three years and update these last three years after the midterm review. This has been reiterated by the group of G77 and China through their submission, in which they note, 'the Forum's six-year workplan should be a rolling workplan with the first three years fully developed with activities. The last three years should have thematic areas and be filled with emerging activities and follow up work recommended after the first three years and the mid-term review.'

Receiving inputs from Countries to facilitate a strong position in workplan development

So far, only five submissions have been made, with only two from developing countries, that is, Indonesia and South Africa.

Building awareness in African group on Response Measures

Parties have mandated UNFCCC/ILO to have regional awareness creation workshops which

are ongoing and the AGN should liaise and see how this can be systematically used to raise awareness in the region.

Workplan finalisation

During SB's held in Bonn, Germany on 17th -27th June 2019 the Forum and KCI work plan was supposed to be finalised but that was not realized. The African Group of Negotiators in its statement, on Response Measures noted the disappointment of the group about the lack of progress made in Bonn in fulfilling the mandate to develop the six-year work plan of the forum and its KCI. They noted that the failure delays work needed to position ourselves for the implementation of NDCs. They urged developed country parties to constructively to finalize the work plan in COP 25"¹³.

Selection of experts

There will be need for a selection of experts to the KCI who will ensure AGN interests are protected as well as have the requisite technical knowledge. The terms of reference for the selection of KCI members requires the members to have requisite experience and expertise. This is in itself a challenge especially for Least Developed Countries. Though there could be relevant experts on response measures, most of them are not active in climate change negotiations processes and therefore not able to understand the interface between their expertise and climate change negotiations. Many people who negotiate these agenda items are not necessarily people with the relevant academic background but people who have consistently

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¹³ Closing Statement of the African Group of Negotiators during SB50 held in Bonn, Germany on 27th June, 2019

followed the issues in negotiations. It will therefore be a challenge to identify and financially support these experts in the long term. The other challenge is the politics of who is well placed to protect the interests of the developing countries and the least developed countries, especially since this is also a political process.

The best way to address this challenge is for the DCs and LDCs, to create an Experts Group on Response Measures at the regional level that brings together all the experts on response measures. Members of this group can then be trained on climate negotiations and equipped with the skills to negotiate on behalf of their countries or even the regional groupings. This arrangement will facilitate the development of technical papers on response measures based on the circumstances of the specific regions while also ensuring that the representatives in the KCI have the relevant capacity.

Conclusion

Response Measures is a very important subject for the developing countries. Economic diversification and transformation; transition of the workforce and the creation of decent work and quality jobs; and assessing and analysing the impacts of implementation of response measures are all important subjects for developing countries, whose economies are struggling with high levels of unemployment. A lot of progress has been made at the technical level to elaborate aspects of response measures which make the KCI a key milestone. Further work is therefore going to be informed by the work plan of the Forum and the KCI which must ensure continuity of the work of the COP on all matters relating to the impact of the

implementation of response measures. As per the obligation in the Paris Agreement, the Forum and the KCI's work plan must address the concerns of Countries with economies most affected by the impacts of response measures, particularly developing country Parties.

As such the workplan activities must: (a) adhere in scope to the agreed definition of response measures as contained under the Convention; (b) produce outputs that ensure that those response measures to climate change, taken by developed country parties, are assessed comprehensively and such impacts reported transparently in order to identify and facilitate the requisite support (funding, and transfer of technology); (c) identify what action (funding and transfer of technology) is necessary by developed countries to minimise the negative socio-economic consequences of the impact of response measures.

The work plan activities must take into account that even though response measures understood in the broader context of the transition towards low greenhouse emissions, such measures must be objectively and coherently evaluated, as African economies cannot allow themselves to fall behind on trade and investment, a key element of many of their national development plans. The overall suitability and efficacy of the 6-year workplan will be determined by its ability to reach measured and comprehensive specific actions and recommendations, with respect the impacts of the implementation of response measures and unilateral measures that produce adverse crossborder socio economic impacts. Developing countries are therefore keen on a balanced and progressive workplan that effectively takes into account relevant policy issues of concern to developing countries most vulnerable to the adverse impacts of climate change and measures taken in response to such.

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