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Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the special meeting on 19 March 2011**

**Follow-up on the incident in the Philippines on 23 August 2010
involving a tour group from Hong Kong : actions taken by the
Administration in relation to the coroner's inquest**

Purpose

This paper summarizes relevant discussions of the Panel on Security ("the Panel") on the Administration's follow-up work on the incident in the Philippines on 23 August 2010 involving a tour group from Hong Kong ("the incident").

Background

2. On 23 August 2010, a Hong Kong tour group was taken hostage in Manila, Philippines, which resulted in serious casualties. Of the 21 affected tour group members (including a tour escort from Hong Kong), two returned to Hong Kong on 24 August 2010 under the escort of officers of the Immigration Department. In the evening of 25 August 2010, another eight tour group members, the bodies of eight deceased members, as well as their accompanying relatives returned to Hong Kong from Manila on the Government's chartered flight, accompanied by a support team. Two injured tour group members and their accompanying relatives were brought back later by air ambulances respectively. A chronology of the actions taken by the Government in relation to the incident is in **Appendix I**.

Deliberations of the Panel

3. The Panel discussed the Administration's follow-up work on the incident at its meeting on 26 August 2010. Members were disappointed at the way the Philippine authorities had handled the incident. They considered that the

Philippine police had failed to take decisive action to rescue the hostages, and the Philippine Government was responsible for allowing the situation to get out of control and end up with deaths and casualties. While commending the Administration for its speedy and proactive response to the incident, members held the view that the Government of the Hong Kong Special Administrative Region ("HKSAR") should solemnly demand the Philippine Government to expeditiously conduct a thorough investigation into the incident, so as to find out the truth. The investigation report should give a full account of the incident and be based on solid evidence. It should also be made available to the injured and family members of the deceased, once available.

Investigation undertaken by the Philippine Government into the incident

4. Regarding the investigation undertaken by the Philippine Government, members considered that the Administration should request the Philippine Government to allow representatives of the HKSAR Government to participate in the investigation work and if necessary, the HKSAR Government should exert political pressure through the Central People's Government to make the Philippine Government accede to the request. Some members considered that the HKSAR Government should take the initiative to conduct its own investigation, and the Philippine Government should be requested to provide HKSAR with the necessary support and assistance to facilitate the Police's investigation and a possible hearing of the Coroner's Court.

5. The Administration shared the views of members that the Philippine Government should conduct a thorough investigation into the incident in a fair, open and impartial manner. It advised that the Chief Executive had written to Mr Benigno S AQUINO III, the President of the Philippines, after the incident to request the provision of a full investigation report substantiated with facts and evidence at the earliest possible time. Upon learning the incident in the morning of 23 August 2010, the Administration had immediately mobilized its resources and emergency measures to provide support to the victims in Manila. The HKSAR Government sent a support team, led by the Under Secretary for Security and comprising government officers, medical experts, social worker and clinical psychologists, to render assistance in Manila. On 24 August 2010, the Under Secretary for Security and the Deputy Secretary for Security joined the Chinese Ambassador to the Philippines, Mr LIU Jianchao, for a meeting with the President of the Philippines to discuss the incident. The request that an investigation should be conducted in the most impartial, thorough and professional manner was raised with the President of the Philippines at the meeting.

6. The Administration further advised that it fully understood members' concerns over the investigation. It had conveyed to the Philippine authorities through the Ministry of Foreign Affairs of the People's Republic of China issues which it considered important and should be addressed in the investigation. The President of the Philippines had undertaken to conduct a full and fair investigation into the incident and provide the HKSAR Government with a copy of the report as soon as possible.

7. The Administration informed the Panel that it had, in accordance with the law, reported to the Coroner regarding the eight bodies that were brought back to Hong Kong on 25 August 2010. On receipt of the report, the Coroner had decided that an investigation into the death by the Police should be carried out, taking into account all relevant considerations in accordance with the law. The Coroner had also made eight respective orders to perform an autopsy on the eight bodies.

Outbound Travel Alert for the Philippines

8. Some members considered that the "Black" Outbound Travel Alert ("Black alert") issued for the Philippines in the wake of the incident should remain in force before the Philippine Government completed the investigation and found out the truth about the incident, and the threat to the personal safety of Hong Kong travellers was removed.

9. The Administration advised that following the incident, it had raised the Outbound Travel Alert for the Philippines to "Black", urging Hong Kong residents to avoid all travel to the country. The Black alert would remain in force until the risk of travelling to the Philippines was removed.

Mechanism for handling similar incidents in the future

10. Members considered it necessary for the HKSAR Government to devise a viable and effective mechanism to deal with similar incidents in the future in case Hong Kong residents outside the Chinese territory were involved in unexpected incidents. In their view, the HKSAR Government should assume a more proactive role in negotiation and liaison with other overseas authorities, with a view to providing timely protection and assistance to Hong Kong residents for evacuation from dangerous areas when an unexpected incident took place.

11. The Administration advised that -
- (a) according to Article 13 of the Basic Law, the Central People's Government was responsible for foreign affairs relating to HKSAR. Against this background, on learning of the incident on 23 August 2010, the HKSAR Government urged the Philippine Government, through the Chinese Embassy in the Philippines and the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in Hong Kong ("OCMFA") that ensuring the safety of the hostages was of utmost importance in the rescue action. The HKSAR Government also requested that the incident be resolved in a peaceful manner. The Chinese Embassy in the Philippines had immediately made representations with the Philippine side and required the latter to undertake all-out rescue efforts whilst ensuring the safety of the hostages;
 - (b) it fully shared members' views that the investigation by the Philippine Government should be conducted in the most independent, thorough and professional manner. Indeed, the HKSAR Government had requested the Philippine Government to provide in its investigation report a full account of the incident, including the rescue operation mounted by the Philippine police in the evening of 23 August 2010 and the causes of death and injuries. If major deficiencies were identified in the investigation report of the Philippine Government, the HKSAR Government would not hesitate to follow up;
 - (c) it understood members' views that the HKSAR Government should seek to participate directly in the investigation by the Philippine Government. According to the advice obtained from OCMFA, this might however constitute an infringement of the sovereignty or jurisdiction of the Philippine Government. Additionally, there was no precedent in which a foreign jurisdiction participated directly in the investigation of criminal cases undertaken by another sovereign government;
 - (d) notwithstanding the above, the Police's forensic experts in the support team which had flown to Manila to support the victims immediately after the incident had, with the prior consent of the Philippine authorities, observed the investigation of the causes of death during the autopsy performed on two dead bodies and collected relevant evidence at the scene. The Police would, based on information available, compile its own investigation report for

submission to the Coroner. The purpose of the Police's independent investigation was to find out the causes of and the circumstances connected with the death of those eight Hong Kong residents. The Police would ensure that its own investigation into the incident would be conducted in an impartial and objective manner;

- (e) at the working level, law enforcement agencies in Hong Kong, including the Police, had all along been maintaining close cooperation with their overseas counterparts through regular and established liaison channels. The Philippine Government was one of those jurisdictions with which Hong Kong had entered into bilateral agreements on mutual legal assistance in criminal matters ("MLA"). Under the said MLA agreement, the Philippine Government had an obligation to provide Hong Kong with assistance and support in the investigation and prosecution of criminal offences and in the proceedings relating to criminal matters, pursuant to its own law;
- (f) the issue of travel alerts under the Outbound Travel Alert System aimed to assist the public to better understand the risk or threat to personal safety when travelling outside Hong Kong. Travellers should avoid all travel to a city/country under a Black alert, the highest level in the three-tier Outbound Travel Alert System, in view of the severe threat to personal safety. The issue of Black alert should not be construed as a means to pressurize the Philippine Government; and
- (g) there were established mechanism and procedures for handling sudden and unexpected incidents outside Hong Kong which had widespread impact on or posed significant threat to the personal safety of Hong Kong residents travelling abroad. The Administration would keep the mechanism under review from time to time, having regard to the prevailing situation.

12. Regarding the scope of assistance provided under the MLA agreement signed with the Philippines, the Administration advised that the assistance by other jurisdictions to criminal investigations conducted in Hong Kong could come in many forms, including -

- (a) obtaining and delivery of statements and evidence;
- (b) facilitating the attendance of witnesses;

- (c) obtaining production of judicial or official records;
- (d) effecting the temporary transfer of persons in custody to appear as witnesses in court; and
- (e) providing information, documents and records.

Assistance to victims in the incident

13. On the measures taken by the Administration to assist the victims in the incident, the Administration assured members that the victims and their families had received prompt and comprehensive assistance after the incident, with designated social workers acting as case managers to provide and coordinate cross-bureaux/departments services including emotional support, counselling, medical treatment and education etc. These professional social workers would continue to follow up individual cases to address victims' various needs, so as to ensure that they could overcome the difficulties arising from the traumatic incident. The Administration further advised that the Tung Wah Group of Hospitals had also announced the establishment of an education fund for the young tour members to cover their educational expenses to be incurred in future.

14. Some members held the view that the Administration should consider posthumously awarding the tour escort Mr TSE Ting-chun and the tour member Mr LEUNG Kam-wing the Medal for Bravery in recognition of the utmost bravery and self-sacrifice they displayed during the incident. They also suggested that the Medal for Bravery be awarded to Mrs FU TSANG Yee-lai to recognize the exemplary bravery and unselfishness that she had displayed in extreme danger. They enquired about the arrangement of funeral services for the eight Hong Kong residents who died in the incident, and whether they could be buried in the Tribute Garden.

15. The Administration advised that earth burials in the Tribute Garden were permitted for those who were posthumously awarded bravery medals by the Chief Executive. The Home Affairs Bureau was looking into the matter alongside with the proposal of awarding members of the tour group the Medal for Bravery for the courage and self-sacrifice they displayed during the incident.

16. The Panel agreed at its meeting on 26 August 2010 that -

- (a) the President be requested to call a special meeting of the Council under Rule 15(2) of the Rules of Procedure for the purpose of holding a motion debate on the incident; and

- (b) the motion in **Appendix II** be moved by Hon Miriam LAU in her capacity as the Chairman of the House Committee at the special meeting of the Council.

17. The motion was carried at the special Council meeting of 2 September 2010.

Compensation for the victims and review of the mechanism for handling similar incidents in the future

18. The Panel further followed up the incident at its meeting on 2 November 2010. Some members considered that the Philippine Government had moral as well as legal responsibilities to offer the injured and family members of the deceased a sincere apology and reasonable compensation. They urged the HKSAR Government to raise the issue with the Philippine Government on behalf of the victims and their families. They also considered that there was room for improvement in the Government's handling of unexpected events outside Hong Kong. Members asked whether the Administration had reviewed its established mechanism and procedures for handling sudden and unexpected incidents outside Hong Kong which had widespread impact on or posed significant threat to the personal safety of Hong Kong residents travelling abroad.

19. The Administration advised that -

- (a) the HKSAR Government had an established emergency response mechanism to help Hong Kong residents caught in distress overseas. With a view to enhancing the mechanism, a total of 30 improvement measures were implemented following a review of the contingency plan in 2009. The measures included enhancement of training and equipment of emergency response team members, and agreement with local airlines on seats arrangement. The experience in handling the hostage-taking incident in Manila demonstrated the effectiveness of the enhanced emergency response mechanism. The Administration would keep the mechanism under regular review having regard to the prevailing situation to ensure that it remained effective;
- (b) the close communication between the HKSAR Government and OCMFA as well as the assistance rendered by the local Chinese Diplomatic and Consular Missions ("CDCM") were an integral part of the emergency response mechanism for Hong Kong residents in distress outside Hong Kong. Close liaison had been established among ImmD, OCMFA and the Embassy right from the beginning

of the incident. The direct and close communication among the three parties had been instrumental to the swift response to the situation. Building on this strong foundation, the Administration was exchanging views with OCMFA to explore ways to further enhance mutual cooperation on crisis management, for instance, to offer familiarization briefings on the work of Assistance to Hong Kong Residents Unit of ImmD for more CDCM staff and to enhance direct communication and liaison between the staff members of CDCM and ImmD; and

- (c) on the issue of demanding the Philippine Government to offer a public and solemn apology as well as compensation to the injured and family members of the deceased, the Administration would definitely follow up the question of accountability upon the completion of the investigation in accordance with the wishes of the victims and their family members.

First report of the Incident Investigation and Review Committee

20. The view of the Administration was sought on the observations and findings of the Incident Investigation and Review Committee ("IIRC") set up by the Philippine Government as contained in its first report. Concern had also been raised on the possibility that the findings of the Police's investigation might be in great contrast to the findings of IIRC and follow-up actions to be taken by the Administration in respect of the findings of the two sides.

21. According to the Administration -

- (a) it issued a press statement on 20 September 2010 announcing its receipt of IIRC's first report on the incident. IIRC's report gave a detailed account of the incident and contained severe criticisms of the key responsible Philippine officials. Final conclusions, however, had yet to be drawn as IIRC advised that the causes of the eight deaths and seven injuries needed further investigation. The Administration hoped that the Philippine authorities would step up their efforts to complete the work as soon as possible. It would continue to work with the Philippine authorities on follow-up forensic and ballistic examinations;
- (b) the HKSAR Government issued a further statement on 12 October 2010 expressing its disappointment at the decision of the Philippine Government, after reviewing the report of IIRC, to lessen the punitive actions recommended by IIRC against relevant officers named in the report; and

- (c) the Administration was equally concerned about the progress of the investigation undertaken by the Police. The Police had submitted a progress report on the investigation to the Coroner's Office in early October 2010, and was seeking to submit the formal report at the earliest possible time. After considering the report, the Coroner would decide whether or not to conduct a death inquest. The death inquest, if held, would be open to the public. It was inappropriate to unveil the details of the Police's investigation or disclose the content of its investigation report before its submission to the Coroner.

Autopsies on the deceased

22. Members noted that medico-legal officers of the Philippine police had conducted autopsies on five victims before the bodies of the eight deceased tour group members were returned to Hong Kong on 25 August 2010. There was concern on whether the Police had opportunities to observe the Philippine investigation of the causes of death during the autopsies performed on those five dead bodies, and whether the autopsies conducted by the Philippine police had in any way affected the validity of the subsequent autopsies on all the eight victims conducted in Hong Kong by the Police.

23. The Administration advised that the Police's forensic experts in the support team which had flown immediately to Manila to support the victims after the incident had, with the prior consent of the Philippine authorities, observed the autopsies performed on two dead bodies and collected relevant evidence at the scene. The Police had compiled a report on its observation afterwards. After the bodies of the eight deceased tour group members were returned to Hong Kong on 25 August 2010 by a charter flight, the Coroner had, by virtue of the Coroners Ordinance, issued an autopsy order and requested the Police to investigate into the death. On 27 August 2010, the Police's forensic pathologists had conducted independent and thorough autopsies on all the eight dead bodies.

Latest development

24. The Coroner announced on 30 November 2010 that an inquest into the death of tour group members who died in the incident would be held in Hong Kong in February 2011. The death inquest commenced on 14 February 2011.

25. On 11 March 2011, the Administration issued a statement confirming that the Department of Justice had received a reply from the Philippine Department of Justice approving the taking of evidence from Mr Gregoria Mendoza, brother of the hostage taker, in the Philippines by videolink facilities. The Coroner had been immediately informed of the reply. The Hong Kong Police responsible for assisting the Coroner had been making all the necessary preparations to take evidence by way of videolink and officers would travel to Manila on 13 March 2011 for this purpose. They would be accompanied by a Senior Government Counsel from the Department of Justice who would ensure that the necessary procedures were properly complied with. The Government was doing its utmost to facilitate the taking of evidence from the Philippine witnesses. It would continue to communicate with the Philippine authorities in this regard and do all that was necessary to effect the taking of evidence from overseas witnesses.

Relevant papers

26. A list of the relevant papers on the Legislative Council website is in **Appendix III**.

Council Business Division 2
Legislative Council Secretariat
18 March 2011

Follow-up to the 23 August 2010 Philippine Tour Group Incident

A chronology of government actions

23 August 2010

- At around 11:00 am, the tourism trade reported to the Immigration Department (ImmD) “1868” hotline that a Hong Kong tour group in Manila, Philippines, comprising 20 members and a tour guide was held hostage by a gunman in a coach.
- The ImmD immediately rang the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region (OCMFA) and the Chinese Embassy in the Philippines (the Embassy), requesting for incident updates and assistance.
- The OCMFA informed the ImmD at 12:20 pm that Embassy staff were already at the scene to provide assistance.
- The Security Bureau (SB) rang the Philippine Consulate-General in Hong Kong stressing that the safety of the hostages was of utmost importance and requesting that the incident be resolved in a peaceful manner so that all tour group members could be released safe and early. The Consulate-General acknowledged that the above were mutual objectives and undertook to relay our requests to the responsible authorities in Manila.
- At a press briefing around noon, the Secretary for Security (S for S) gave an account of the latest developments, which included (1) an inter-departmental task force was set up in the Government to handle the incident; (2) three immigration officers and one police officer were sent to Manila to provide assistance; (3) the OCMFA and the Embassy were taking follow-up actions and rendering assistance; (4) upon the request of the SB, the Philippine Consulate-General in

Hong Kong undertook to ensure the safety of the Hong Kong tourists; and (5) efforts had been made to contact the families of the tour group members in Hong Kong and offer assistance.

- Three immigration officers departed for Manila at the 2:45 pm flight, a police officer also arrived in Manila the same evening. Upon arrival, the officers immediately joined the Embassy staff at the scene and met the released tour group members at the hotel respectively.
- The situation took a sharp turn for the worse after 7 pm when gunfire broke out at the scene. It was reported that the hostages were killed. The Chief Secretary for Administration (CS) and the S for S immediately summoned the Philippine Consulate-General in Hong Kong to express tremendous disappointment and regret over the Philippine Government's departure from their earlier undertaking in handling the incident.
- At the same time, the Chief Executive (CE) convened a high-level meeting to map out a large-scale relief operation. At a press briefing at 11 pm, the CE, accompanied by the CS and the S for S, announced the following decisions/actions by the HKSAR Government (the Government):
 - (1) Chartered flights be arranged immediately to bring the family members of the affected Hong Kong residents to Manila. They would be accompanied by a support team from Hong Kong led by the Under Secretary for Security, comprising medical staff, social worker, clinical psychologists, police and immigration officers, as well as other relevant officers, to provide assistance in Manila;
 - (2) Black Outbound Travel Alert be issued for the Philippines. All Hong Kong tour groups in the country were requested to return as soon as possible, whereas groups due to depart for the Philippines should cancel their journey. The Government would reserve sufficient seats with airlines for Hong Kong residents in the Philippines to return as soon as possible;

- (3) The HKSAR Flag would fly at half-mast the following day, i.e. 24 August, and all principal officials would cancel unnecessary public activities; and
- (4) The Philippine Government was requested to confirm all follow-up arrangements and to give an explanation for the incident as early as possible.

24 August 2010

- The chartered flight departed for Manila at 1:30 am and arrived at 4:00 am.
- The support team took immediate actions, including: visiting the injured at hotels and hospitals, comforting their families, offering professional medical advice upon learning the conditions of the injured and confirming the names of the deceased¹, etc. Through the Chinese Ambassador to the Philippines, the Under Secretary for Security expressed our strong request to the Philippine Government on the early repatriation of the bodies of the deceased to Hong Kong via the chartered flight, as well as the provision of the best possible medical care to the injured.

At noon, the CS summoned the Philippine Consulate-General in Hong Kong again and requested for full assistance in dealing with the aftermath of the incident, including prompt assistance in the repatriation of the bodies of the deceased and provision of appropriate medical care to the injured Hong Kong residents. He also asked for a comprehensive and thorough investigation. The Consulate-General undertook to convey our requests to the top authorities of the Philippines.

¹ There are a total of 21 members in the tour group (including the tour escort), of whom eight died, seven were injured and six released.

The inter-departmental task force met and decided on the following:

- (1) Since the Philippine Government had yet been able to issue death certificates and other relevant approval documents for transporting the bodies of the deceased, the chartered flight would standby in Manila until the bodies, other tour group members and their families could return to Hong Kong;
 - (2) Two members of the tour group and their families confirming their readiness to travel would return to Hong Kong on a scheduled flight on the same day in the company of immigration officers;
 - (3) The Social Welfare Department would assign a case manager to each of the affected families to provide welfare and other assistances, and help coordinate support services provided by various government departments; and
 - (4) The Home Affairs Bureau would set up condolence points in 18 districts throughout the territory; a government website would also be set up for the public to send condolences and pay respects to the victims.
- In the afternoon, the Under Secretary for Security and the Chinese Ambassador to the Philippines met with the President and Vice-President of the Philippines to discuss the incident in which Hong Kong tourists were held hostage and gunned down. The Philippine authorities were requested to provide a comprehensive and thorough investigation report on the incident, appropriate medical care for the injured, assistance to expedite the repatriation of the bodies of the deceased to Hong Kong, as well as full assistance to the work of our support team in Manila.
 - In the evening, the CE convened the high-level meeting again and, in the light of further developments, sought to bring the bodies of the deceased, all other tour group members and their families back to Hong Kong as soon as possible, and to handle all follow-up and support work in Hong Kong properly.

- Taking account of the progress of the Philippine Government in processing the death certificates and the relevant approval documents for transporting the bodies, the Government actively prepared for the return of most of the tour group members, their families as well as the bodies of the deceased to Hong Kong via a chartered flight in the afternoon of 25 August.
- Two tour group members returned to Hong Kong on a scheduled flight in the evening, accompanied by immigration officers. They were met by their family members and social workers upon arrival at the airport and escorted home.

25 August 2010

- Upon the strong request of the support team and with great assistance from the Ministry of Foreign Affairs, the Philippine Government issued the death certificates and all necessary approval documents for the repatriation of the bodies in the morning.
- The Government chartered flight departed Manila at 6 pm and arrived Hong Kong at around 7 pm, carrying a total of eight bodies and all tour group members who were fit for travel. Their relatives and support team members were also onboard the flight.
- The CS together with the directors of the relevant bureaux, the representatives of the Central Government Offices in the HKSAR and the President of the Legislative Council received the tour group at the airport. Condolences were offered to the tour group members and a brief ceremony was held to receive the eight deceased members.
- Two injured tour group members (including one brought back to Hong Kong on a separate air ambulance later in the evening) were immediately transferred to the Prince of Wales Hospital for treatment under the arrangement of the SB and the Hospital Authority.
- The bodies of the eight deceased members were transferred to the Kwai Chung Public Mortuary in the accompany of their families.

- Case managers of the Social Welfare Department were in the company of the tour group members and their families throughout to understand their needs and provide necessary assistance.

26 August 2010

- Taking into account professional advice, the SB and the Food and Health Bureau were actively following up on the last tour group member who sustained serious injury, including his medical care or arrangements to bring him back to Hong Kong.

(Translation)

**Motion on
“The incident of a Hong Kong tour group being taken
hostage in the Philippines”
moved by Hon Miriam LAU Kin-ye
at the special meeting of the Legislative Council
on Thursday, 2 September 2010**

Wording of the Motion

That this Council is deeply shocked and saddened that the taking of a Hong Kong tour group as hostages by a gunman on 23 August this year during its visit to the Philippines has ended up in a tragedy with heavy casualties, and wishes to express its profound condolences to the Hong Kong people who died and extend its deepest sympathy to those who were injured and to the family members of the deceased and injured; this Council expresses its strong dissatisfaction at the serious failures that had obviously occurred in the Philippine Government's operation to rescue the hostages which resulted in innocent Hong Kong people being killed, and urges the SAR Government to:

- (a) solemnly demand the Philippine Government to expeditiously conduct an investigation into the incident; proactively strive to directly take part in the investigation work concerned to find out the truth about the incident and make public the investigation report so as to give a clear account to the deceased and injured and their family members; and demand the Philippine Government to offer a public apology and compensation to the deceased and injured and their family members;
- (b) expeditiously take measures and actions to render full assistance to the injured and survivors as well as the family members of the deceased and injured;
- (c) formulate a contingency mechanism to deal with similar incidents in the future and clearly define the negotiation channels for the SAR Government and its role in incidents involving Hong Kong people in distress overseas; and
- (d) discuss with the tourism sector the relevant follow-up work.

**Relevant papers on the incident in the Philippines on 23 August 2010
involving a tour group from Hong Kong**

Committee	Date of meeting	Paper
Panel on Security	26.8.2010	Agenda Minutes
Legislative Council	2.9.2010	Official Record of Proceedings of the Special Meeting
Panel on Security	2.11.2010 (Item IV)	Agenda Minutes

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