



Editorial

Integrated marine management and administration for an island state—the case for a new Marine Agency for the UK

1. Background and current system

In a previous Editorial, we argued that successful marine environmental management required 6 *Tenets* to be fulfilled (Elliott and Cutts, 2004) in that all solutions to anthropogenic problems should be: *environmentally sustainable, economically viable, technologically feasible, socially desirable* (or at least *socially tolerable*), *administratively achievable* and *legally permissible*. To this we have now decided to add a 7th *Tenet*—that the solutions will have to be *politically expedient* in order to have any chance of success. For example, management responses to climate change can fulfil the first 6 *Tenets* but if the prevailing political philosophy does not support them then they will not be enacted (*pace*, the climate change and Kyoto Agreement view of the current US President!).

On many occasions, and as is well identified in the pages of the *Marine Pollution Bulletin*, it has been shown that many countries and sea areas have an unnecessarily complex marine legislation and administration framework (e.g. Ducrotoy and Elliott, 1997; Fernandes et al., 1995; Boyes et al., 2003a,b; Boyes and Elliott, 2003). Countries have internal regional and national policies, laws and agreements, external regional agreements and laws such as the Oslo and Paris Commission for the NE Atlantic, the International Council for the Exploration of the Sea and, within Europe, the European Union and European Environment Agency. In addition to this, they are signatories to global initiatives such as the UN Convention of the Law of the Sea, the International Maritime Organisation and the Convention on Biological Diversity. They have laws, agreements and administrative bodies which control the many marine sectors such as pollution disposal, fisheries, seabed extraction of sand and gravel, oil spill response, habitat use and protection, etc.

Given each of these and the history of marine management, and the fact that most countries appear to create the same degree of complexity, there appears to be an in-built protection of that sectoral and overlapping approach to marine management. In some countries, there is also an

illogicality in the approach—for example pollution from land-based sources such as pipelines will come under a different legislation and licensing system from that emanating from boats (e.g. see McLusky and Elliott, 2004). This note aims to indicate that the situation can be changed, simplified and made more logical if the political will is present. For reasons that will become apparent, we take the example of one maritime island state, the United Kingdom (UK), but readers from other countries will probably recognise the main themes as they also relate to their region.

The complexity of marine legislation within the UK and devolved administrations has been developed piecemeal over many years as environmental threats and challenges have changed and developed. For example, whereas land-based pollution was the focus of environmental management from the 1960s until the 1990s, more recently there has been the adoption of the Ecosystem Approach together with the present emphasis on habitat and species protection (Apitz et al., 2006). These approaches have led to the creation of many departments and agencies and with overlapping duties between them. For example, coastal defence comes within local municipalities and government agencies, and nature conservation is the remit of several agencies depending on the area and habitat being managed. Despite this, and prior to the diagrams presented here, as far as we can determine the UK Government does not have any comprehensive indication of either the relevant bodies or the links between them. The situation for the UK is made more complex given its composition of four countries—Scotland, Wales, Northern Ireland and England, each of which has differing bodies and in some cases devolved powers. Within any one of the devolved administrations, many departments and bodies, both statutory and non-statutory, have responsibility for the marine environment. Furthermore, marine environmental protection is widely scattered in various pieces of legislation and administered under different departments each dealing with different marine activities. Given the many external influences shaping the marine legislation in the UK, until recently the practice has been to address each aspect of the marine

environment individually resulting in a sectoral approach. For example, legislation covering land-based pollution dif-

fering from vessel based pollution, and protection and management of wildlife differing from that for fisheries.

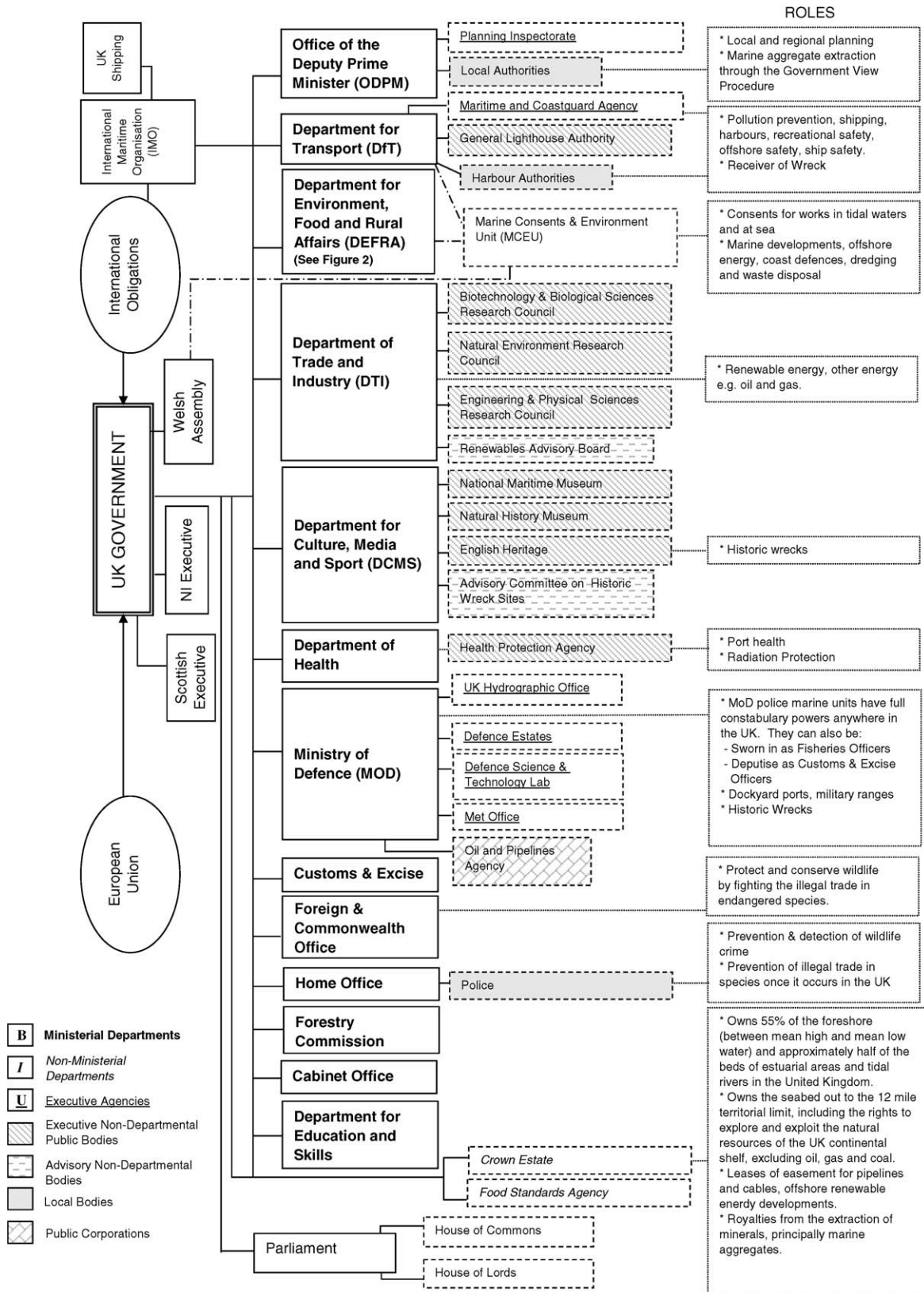


Fig. 1. The structure of environmental management in the UK, with special emphasis on England (the column 'ROLES' indicates the marine activities which could be encompassed in a Marine Agency).

Because of this, it has been increasingly argued that this sectoral approach leads to fragmented control which has the potential for not adequately protecting the marine environment.

The excessive complexity of the marine management system in England (i.e. only one part of the UK!) is high-

lighted in the ‘horrendograms’ of Figs. 1 and 2. These show the various government departments having responsibilities relating to the coast and marine environment. The linkages reflect the responsibilities and interactions between the departments and the agencies. While some links imply direct management, others imply an advisory capacity or a

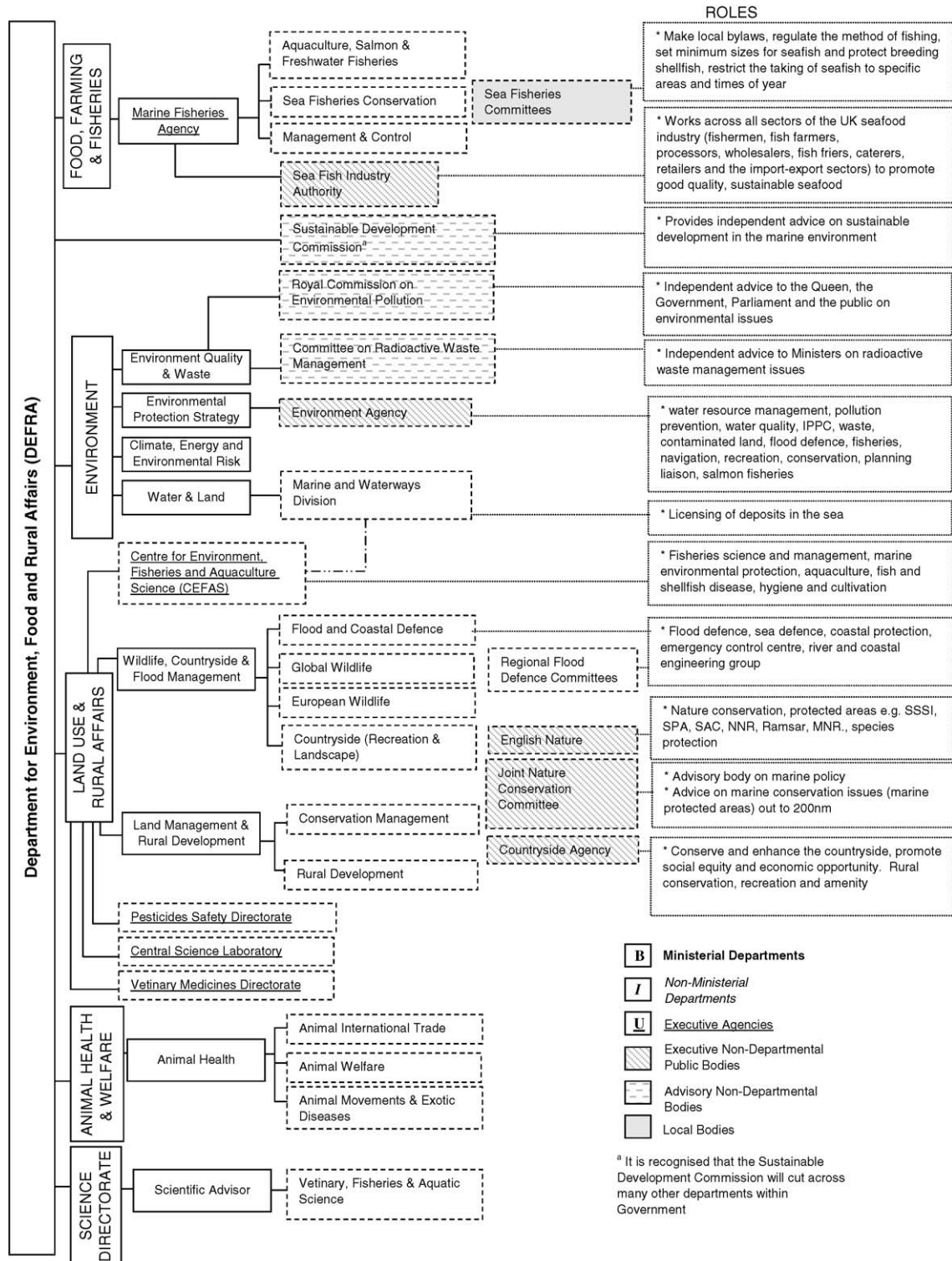


Fig. 2. The duties and responsibilities of the UK Department for Environment, Food and Rural Affairs (the column ‘ROLES’ indicates the marine activities which could be encompassed in a Marine Agency).

statutory consultee (Fig. 2). This inherent complexity and overlapping responsibilities, together with the increasing demand and desire for an integrated approach, has led to the suggestion that the UK should move away from a sectoral approach towards a more holistic, integrated approach. Such a move demands that the *administratively achievable* part of the 7 *Tenets* requires a rethink and rationalisation. That there is no single marine body with overall responsibility for the UK marine environment leads to duplication and inherent complexity.

In tandem with the extensive system of administrative bodies there is an elaborate system of statutes which indicates that, depending on how they are counted, there are between 35 and 75 main pieces of legislation which relate to the management and control of the marine environment (Boyes et al., 2003a). At present there is no well-defined and legally-binding marine spatial planning system which then also promotes an ad-hoc approach to marine management. Taken together, again with reference to the 7 *Tenets*, this means that the achievement of management fulfilling the *legally permissible* aspect is both complex and possibly inefficient. Again this leads to the conclusion that an integrated and comprehensive marine law is required.

In addition to the above developments, it is of note that all states are linked to wider blocs in order to achieve joint action to tackle cross-border and global problems. In Europe this is exemplified by the European Union, perhaps the greatest source of environmental management and protection legislation for its Member States (e.g. McLusky and Elliott, 2004). While older European legislation is sectorally based, recent EU Directives have started to view the marine environment in a holistic manner and are including many aspects of the protection and management within specific directives. Examples include the Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC), the Water Framework Directive (WFD) (2000/60/EC) and the proposed Thematic Strategy on the Protection and conservation of the Marine Environment (Marine Framework Directive) (COM(2005)504 final) (accessed via <http://europa.eu.int/comm/environment/water/marine.htm>; see also Borja, 2006). The two latter directives require Member States to adopt a wide and holistic approach to monitoring, management and protection of the marine environment, covering such aspects of pollution control and habitat protection within the same piece of legislation. In order to encompass fisheries, arguably the most damaging of marine ecosystem-modifying activities, the European Common Fisheries Policy (CFP) was also reformed in 2003 to integrate environmental protection into the CFP, again giving marine environmental management an Ecosystem Approach covering all European sea areas.

The proposed Marine Framework Directive (MFD) together with the Habitats Directive (HSD, 92/43/EEC, amended by 97/62/EC) and the CFP allow for the control of activities in sea areas covering the Exclusive Economic Zones of European states, i.e. out to 200 nm. While the

MFD goes out from the baseline (high water mark or the bay and estuarine limit closing lines), the WFD has coverage of the area to 1 nm or 3 nm depending on the feature. Hence the question of overlapping jurisdictions needs to be addressed. There is also the need to rectify differences between these directives such as the requirements to achieve Good Ecological Status (WFD), Favourable Conservation Status (HSD) and Good Environmental Status (MFD) (Apitz et al., 2006).

The above features and developments have produced the increasing realisation of the need and opportunity for simplifying a complex situation. Because of this, the UK Government is producing a Marine Bill which will include provision for a Marine Management Organisation (MMO), hence there appears to be the political will to remedy the problems. The MMO remains to be defined but could be a full-blown comprehensive marine agency or statutory department which has full control over all marine matters. However, and at the opposite end of the spectrum, it could be merely a co-ordinating committee comprised of the chief officers of the existing organisations. Whether the proposed MMO is one of these options or indeed anything in between remains to be seen. For example, one questions whether the new MMO would take on new duties itself, or leave them with the existing operators and hence merely play a co-ordinating role. Again there are alternatives of whether the MMO will be a strong organisation, taking a dominating and leading role, or whether it should be a weaker organisation which simply attempts to offer guidance and direction to the existing network. The latter of course would still allow, and perhaps even encourage, internecine competition between the bodies which will not then achieve the desired aim.

2. A proposed Marine Bill and the way ahead

A series of reports have identified the failings of the current system, for example:

- “*The... Government... should consider integrating fisheries management tasks inside a marine environment agency responsible for broader management tasks ...*” Prime Minister’s Strategy Unit report—‘Net Benefits: a sustainable and profitable future for UK Fishing:—(March 2004);
- “*The Government should consider whether a co-ordinating agency should be established to ensure that the links are made between all the many activities that may affect the marine environment*” EFRA—6th report of Session 2003/04—Marine Environment (March 2004);
- “*A single marine management agency could provide... an opportunity to join up a variety of functions and ensure that they were considered in the round... a valuable focus for marine activity*”. Defra’s Review of Marine Fisheries and Environmental Enforcement ‘The Bradley report’ (March 2004).

The UK Government has a vision for the marine environment for 'clean healthy, safe, productive and biologically diverse oceans and seas'. To help deliver this vision, its Department for Environment, Food and Rural Affairs (Defra) is preparing a Marine Bill which is due to be published in 2006. This offers a unique opportunity to rationalise and make more effective and efficient the current disparate structure of the UK government bodies with responsibility for marine planning and management. However, as is shown by the diagrams presented here, it needs the authority to ensure coordination between all government departments to achieve integration for the marine environment.

The Defra Marine Bill Forum held in London September 2005 raised a number of issues about the possibility of a potential new MMO. It queried whether a MMO would need to be independent from government departments in order to take all views on board, and if it would have significant decision making powers as some believe it should. Alternatively, a MMO could merely have the task of facilitating views thus leaving existing statutory bodies with their current powers. There was no general agreement on whether a MMO should be responsible for the licensing of marine activities, through marine consents, or the enacting of Marine Spatial Planning (MSP). Perhaps it was to be expected that many in the field fear for a MMO becoming too large, having too many responsibilities and being unable to address issues on a local scale.

It is interesting that these fears and discussions were similar to those which took place in the UK prior to 1995 when the Environment Agency was created for England and Wales, the Environment and Heritage Service in Northern Ireland and the Scottish Environmental Protection Agency in Scotland. These bodies headed in the right (integrative) direction by bringing together the pollution control responsibilities for land, water and air but, again because of fears about overlap and excessive size, missed out most of the control on fisheries and conservation as well as leaving vessel-based pollution to another body. Consequently, for example, the UK retained a nature conservation body for each country (English Nature, Countryside Council for Wales, Scottish Natural Heritage and Environment and Heritage Service for Northern Ireland) as well as the Joint Nature Conservation Committee as an overarching body. It is also of note that the then Conservative Government was against large public bodies, keeping the environmental protection agencies smaller than would have been the case had they been true EPAs covering all environment issues.

The Defra forum also discussed the spatial extent of the MMO, its national nature and whether its jurisdiction would extend to 6 nm, 12 nm or 200 nm, hence the importance of the spatial extent of EU Directives and agreements indicated above. As with all marine management meetings in the UK, there was an identified need for a data collation remit and the coordination of research, thus making its

output available to all interested bodies. On the downside, as expected there was concern from marine users and industry that they would have to bear the costs of funding the MMO. However, as the costs of funding the present fragmented system are borne by all users then a more cost-effective system would have benefits.

The comments here and discussions within the UK have emphasised the need for the simplification of planning and legislation in order to ensure a more cohesive application of management powers across the region and sectors, including better integration of the Crown Estate, as the landlord allowing use of the seabed. Perhaps the new agency can take this forward together with the streamlining of the number of departments and their function, the streamlining of the regulatory regimes for development consents and the ability to deliver objectives, better regulation, improved speed, quality and accountability.

It was surprising to us that although the management of marine affairs is spread across many departments and agencies (Figs. 1 and 2), the UK government did not have their own 'horrendogram' of the existing marine management structure, hence the value of the diagrams presented here. Because of this we make a plea here for a single Marine Agency which should have the following roles:

- an enabling organisation which can take forward the management of the continuum which extends from land and freshwaters, through estuaries and the coast out to the 200nm or midline boundaries (and thus links with the integrated pollution control activities of the environmental protection agencies throughout the UK);
- streamlining marine consents for which several government bodies are currently responsible (i.e. a one stop shop for planning and licensing for estuarine, coastal and marine activities including dredging and disposal);
- management of fisheries and enforcement (and thus include the actions of the Sea Fisheries Inspectorates and the Sea Fisheries Committees);
- implementation of marine spatial planning (MSP) and strategic environmental assessment (SEA) as well as the planning authority for Environmental Impact Assessments for marine activities;
- coordination of accident and emergency response and planning (hence incorporating the Maritime and Coastguard Agency);
- implementation of nature conservation protection and management policies including Marine Protected Areas;
- actively collating data and information and undertaking research (e.g. by incorporating the Government advisory roles of CEFAS),
- and encompassing functions from other Government Agencies, Departments and bodies.

We realise that we are being (over-)ambitious but emphasise that a major maritime state such as the UK not only needs but requires a strong and effective holistic

marine agency which can enact the Ecosystem Approach. The Marine Bill offers an opportunity to put in place a better system for delivering sustainable development of the marine and coastal environment, addressing both the use and the protection of our marine resources. It gives the opportunity to unite a variety of functions and to allow refocusing for the marine environment in a national, regional, European and international context; as such it will provide the UK with a head-start for the implementation of the European Marine Strategy and the proposed Marine Framework Directive. It requires a clear idea of what would be achieved by bringing together existing organisations. Presently there is duplication and separation, and there is danger of just increasing that. Because of this, we take the view that the Marine Bill and the creation of an effective Marine Agency gives the UK the opportunity to remove at least half the boxes in the horrendograms presented here—only time will tell if there is the political courage to do that!

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