

*Translated from Spanish*

## **Permanent Mission of the Argentine Republic to the United Nations**

N.U. No. 120/04/100

The Permanent Mission of the Argentine Republic to the United Nations presents its compliments to the United Nations Secretariat, Department for Disarmament Affairs, Conventional Arms Branch and, pursuant to paragraph 13 of General Assembly resolution 58/241 entitled “The illicit trade in small arms and light weapons in all its aspects”, has the honour to transmit herewith the 2003 report of the Argentine Republic on the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

The Permanent Mission of the Argentine Republic to the United Nations takes this opportunity to convey to the United Nations Secretariat, Department for Disarmament Affairs, Conventional Arms Branch, the renewed assurances of its highest consideration.

New York, 4 May 2004

United Nations Secretariat  
Department for Disarmament Affairs  
Conventional Arms Branch  
New York

# **Report of the Argentine Republic on the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects**

## **I. National level**

### **1. National coordinating agency and national point of contact**

The Department of International Security and Nuclear and Space Issues of the Ministry of Foreign Affairs, International Trade and Worship is the contact point.

### **2. Legislation, regulations and administrative procedures**

#### **Production**

Under the Argentine system, in order to manufacture weapons, firms or companies must first complete the application for registration with the National Arms Registry (RENAR) in the category "Weapons and/or Ammunition Manufacturer". They must submit production reports every month and, every quarter, the entries in the logbook that records to whom the weapons and/or ammunition (which is also registered) was sold, the sale or purchase vouchers (invoice or receipt) and full data on the weapons and/or ammunition sold (type of weapon, firing mechanism, trademark, model, calibre and serial number; type of ammunition, type of point, trademark, calibre and lot number). Everyone participating in a commercial transaction must prove that he is a legitimate commercial user (wholesaler or retailer), who must record the receipt of the materials in his logbook, or a legitimate individual user, who buys from the wholesaler or retailer and is the end-user in one of the categories; the latter must submit the prior authorization for possession issued by RENAR. In the case of ammunition, the ammunition control card, which limits the maximum quantity of ammunition that can be purchased annually by a legitimate user, must be submitted.

#### **Trading: classification of legitimate users**

Physical or legal persons authorized to carry out any activity involving weapons, ammunition or any controlled items (bullet-proof vests, armoured plates or panels, armoured vehicles, electronic defence devices, chemical weapons, etc.), including their manufacture, trading, transfer, use, possession, import, export, etc., must be registered with and authorized by RENAR, in any of the legitimate user categories. These are: individual, collective (institutions that use controlled items for their own security: for example, bank security, company security, or to provide security to third parties: for example, transporters of valuables, private security agencies, private police agents, etc.), commercial (firms whose commercial activities involve controlled material: for example, importers, exporters, wholesalers, retailers, etc.), collectors (who must have a collection consisting of at least 10 firearms or 100 collectors' cartridges, and must adopt special security measures to avoid robbery or theft from the collection) and shooting clubs.

**Export**

In the case of exports of weapons for civil use and conditional civil use, Decree No. 760/92 obliges export firms to apply for authorization and ensure that material to be exported is verified and registered by RENAR. They must submit an international import certificate from the destination country, showing the importer, the exporter, and the goods to be imported; the document must be authenticated by the consulate of the Argentine Republic in the country concerned. Executive Decree No. 603/92, as amended by Decree No. 437/2000, requires exports of military weapons (for the exclusive use of the armed forces) and sensitive material to be authorized by the National Commission for the Control of Sensitive Exports and Military Materiel (involving the Ministries of Foreign Affairs, Defence and the Economy).

For imports (and this is applicable, mutatis mutandis, to exports), article 30 of Decree No. 395/75 establishes that all material entering or leaving the country must be verified by a quadripartite committee (RENAR, customs, the aeronautical police, the police, the national gendarmerie (in general, the local law enforcement authorities) and the customs broker or importer).

To this end, an official document is drawn up with information on the type of weapon, firing mechanism, trademark, calibre, quantity and lot number. In the case of ammunition, the document gives the trademark, calibre, quantity and lot number. All the information in the document is entered into the RENAR national computerized database.

**3. Penalties for illicit arms manufacture or trafficking**

With regard to firearms that are not classified as weapons of war, Argentina punishes the person who is not a legitimate user for stockpiling (four to eight years' imprisonment) and supply (three months' to one year's imprisonment) (Penal Code, art. 189 bis, para. 5, and art. 189 ter), and imposes a similar prison sentence for recidivism in the sale of arms (art. 189 ter, second part). The same penalties apply, respectively, to persons who possess or stockpile ammunition for weapons of war, pieces of such ammunition, or the means of producing them.

Likewise, the Argentine Republic punishes stockpiling weapons of war (or parts of such weapons or the means of producing them, and ammunition); smuggling is an aggravating circumstance.

There are laws that punish illicit association to commit undetermined unlawful acts and, if constitutional provisions are endangered, this constitutes an aggravating circumstance. The attempt to commit any of these acts is also punished, as is participation in the commission of a crime (art. 45 of the Penal Code) (assisting, facilitating, advising, etc.) and incitement (instigation) (art. 45 of the Penal Code).

Article 1 of Act No. 24,492 forbids the transfer of any kind of firearm, whatever its classification and whether or not payment is involved, to a person who cannot prove that he is a legitimate user with the specific official authorization issued by the National Arms Registry (RENAR).

This Act also makes carrying firearms for civilian use without the proper authorization an offence punishable by six months' to three years' imprisonment.

Currently, a draft law to include carrying arms for civilian use as an offence in the Penal Code is on its way to being adopted by the legislature.

Article 3 of Act No. 25,086 punishes any person who provides a firearm to someone who has not been able to prove that he is a legitimate user with three months' to one year's imprisonment, without prejudice to the corresponding administrative sanctions.

Section XII (Penal provisions), Title I (Customs offences), chapter I (Smuggling), article 863 of the Customs Code establishes that "Any person who by any act or omission impedes or obstructs, by deceit or guile, the proper exercise of the authority given by law to the customs service to monitor imports and exports shall be punished by six months' to eight years' imprisonment". Article 865, paragraph (g), establishes that, if any of the cases described in articles 863 and 864 involve nuclear materials, explosives, chemical weapons or related materials, weapons, ammunition or material considered to be military material, or substances or elements that because of their nature, quantity or characteristics could affect public safety, the sentence shall be 2 to 10 years' imprisonment. The penalty for the acts described in this paragraph shall be applied unless special laws impose a stricter penalty". Article 867 of this Code establishes that, in the cases described in articles 865 and 866, exemption from prison, release on bail or conditional sentence are not applicable.

#### **4. Management and security of arms depots**

As regards the National Arms Registry, the list of minimum requirements for facilities used for weapons and ammunition depots are as follows. Such depots must:

- Have adequate systems for circulating and renewing the air in order to ensure that employees enjoy healthy working conditions, to reduce humidity, and to protect the stored material against corrosion. To this end, a grille should be unfolded in the entrance, so that the door of the depot remains open when the employees are working inside, providing the facility with increased security and natural ventilation, and reducing the temperature. Mechanical systems to renew the air (extractors) should also be installed, controlled by automatic timers.
- Have an on-site alarm system or remote monitoring.
- Install a push-button alarm inside the depot to be used in emergencies; it must be connected to the security or guards' office.
- Possess the fire-fighting devices that are necessary and adequate for the risk posed by the stored materials.
- The depot must be tidy and in condition to be inspected at all times.
- Marking systems must be provided (signs, letters, numbers, etc.) to allow one or several weapons to be located, specifying their origin or the depositor (Provincial Registers, Judgement No., etc.).
- A period of time should be established (90-180 days is recommended) for submitting requests for a ministerial resolution from the Ministry of Defence

ordering the destruction of weapons or their donation to museums or to the armed and security forces.

- The person in charge and his deputy, their supervisors and authorized persons (accompanied by the person in charge) will have exclusive access to the depot to oversee the delivery and reception of materials.
- The depot will have a single set of keys in use, which will be kept by the person in charge, and the code for disabling the alarm system should be known only to the person in charge and his deputy.
- The most senior authority of the organization should keep a second set of keys and the code for disabling the alarm; they must be kept in a closed envelope, sealed with sealing wax, and this envelope may be opened only in case of a duly justified emergency or force majeure, in the presence of two witnesses.
- Special care will be taken to verify that the weapons received are not loaded and to ensure safe handling of such weapons, their ammunition, gunpowder, grenades, etc., which must be stored separately, with appropriate identification. Verified and unloaded weapons should be identified with a self-adhesive label giving the corresponding reference or position code.
- An official consecutively numbered record must be kept certifying the entry and exit of materials into and from the depot.
- The information in such records must be entered in a computerized database, in order to establish the depot's official inventory of controlled materials and weapons.
- There must be a special ledger recording the periodic verifications, which confirms inspections, oversight and monitoring of the depot, and provides an overview of its organization, security, maintenance, presentation and cleanliness. Supervisors should conduct these checks, as well as random checking of the weapons in the inventory, at least every 15 days or whenever they consider it advisable.
- When the authorities in charge of the depot or their supervisors change, an inventory will be drawn up of the goods stored there; this must be signed by the outgoing and incoming authorities, and countersigned by the person who supervises and the person who monitors the procedure.

## **5. Collection and handing over of weapons**

The National Arms Registry (RENAR) has destroyed weapons publicly on four occasions, at a steel mill on the outskirts of Buenos Aires. As mentioned in the 2002 report, 3,131 firearms were destroyed on 13 September 2002 and 4,265 firearms were destroyed on 2 May 2003. On 14 August 2003, 8,000 firearms were destroyed and on 22 December 2003, 4,500 firearms were destroyed. All the information has been forwarded to the United Nations Department for Disarmament Affairs.

The weapons destroyed were:

- confiscated during police actions, and lacking a registered owner or with their numbers erased;

- handed over by courts for destruction on completion of the corresponding judicial proceedings;
- registered and unregistered, handed over by individuals to be destroyed;
- police surplus.

The method used was to melt weapons made of steel in an electric smelting furnace and to destroy weapons made of alloys, by adding scoria at high temperature.

The events were widely publicized in the major television and newspaper media.

In the province of Mendoza, 5,005 firearms and munitions were destroyed with the assistance of the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC). As part of the same process, the weapons storage facilities of the province's law enforcement and judicial authorities were renovated. These activities were carried out as part of the Weapons Exchange Plan launched to coincide with the first meeting of provincial authorities and State agencies involved in this area, held during the forum entitled "Weapons: Towards a Plan of Action" (see 10, below).

## **6. Export controls**

A system of export and/or import licences or authorizations for explosives and other related materials.

Decree No. 760/92 establishes that in the case of exports of arms for civil and conditional civil use, exporting firms must apply to RENAR for an export authorization and also request that the Registry provide a subsequent export verification certificate for the material registered for export.

Imports and exports: to engage in this activity, firms must be previously registered with RENAR as a commercial importer or exporter. Documentation required: an international import certificate provided by the destination country, bearing the names of the importer, the exporter and the goods to be imported, and certified by the Argentine Consulate in the country of destination.

Proof of the existence of the importing company is required. If the material is imported into Argentina, it must be accompanied by the original invoice, cargo manifest, bill of lading, packing list, the official customs clearance, etc.

Individuals may not import arms; they may import one handgun and one rifle or shotgun in each calendar year, which may not be sold for two years.

Moreover, according to Executive Decree No. 603 (amended by Decree No. 437/2000), the export of weapons of a highly military character must be authorized by the National Commission for the Control of Sensitive Exports and Military Materiel (involving the Ministries of Foreign Affairs, Defence and the Economy), which controls the transfer of nuclear, chemical, bacteriological or missile-related material, equipment, technology, technical assistance and/or services.

According to the regulations, prior authorization must be obtained for the exports described in the Decree. Applications are examined on a case-by-case basis and a decision is made, taking into consideration Argentina's firm commitment to

non-proliferation, international conditions (the individual and regional framework, etc.) and the specific conditions established for each particular case.

Decree No. 657 of 8 May 1995 establishes that, before authorizing exports, the National Commission for the Control of Sensitive Exports and Military Materiel must require an “end-use certificate”, certifying who will be the final recipient of the military materiel and that it will not be re-exported without the authorization of the competent Argentine authorities. The end-user certificate must contain certification from the Ministry of Defence or the competent authority of the issuing country, with information on the purchaser and the end-user of the military materiel sold; it should list the materiel that is being purchased and attach all the documentation formally accrediting the operation, and reserve the right to authorize or forbid the said end-user to re-export the materiel.

This Decree also establishes that the Embassy of the Argentine Republic in the purchaser’s country should certify that the signatures appearing on the “end-user certificate” mentioned in the Decree are authentic and pertain to the competent authority authorized to issue the certificate.

## **7. Marking, registration and tracking of weapons**

### **Marking**

Article 11 of appendix I to Decree No. 395/75, which regulates the National Arms and Explosives Act, No. 20,429, establishes that “All weapons of war manufactured in Argentina shall bear, in addition to the trademark, consecutive numbering (a serial number) for each type of weapon, placed on the most important parts (barrels, frames, slides, bolts, magazines, etc.). Weapons for civilian use shall bear the trademark and the consecutive numbering on an essential part, so that it is visible without disassembling part of the weapon”.

The second paragraph states that firearms brought into the country must also bear a trademark and numbering. In their absence, the provisions of article 13 of the regulation will apply. This article stipulates that weapons of war imported or brought into the country which do not have the trademarks or numbering required by article 11 shall be marked and numbered as established by the National Arms Registry, when they are sent to the Registry. The local oversight authorities will proceed in the same way for weapons for civilian use, following the guidelines established by the National Arms Registry.

### **Confiscation**

Article 36, paragraph 6, of the National Arms and Explosives Act, No. 20,429, provides for forfeiture of material which has not complied with the law as one of the applicable penalties. Likewise, article 141 of appendix I to Decree No. 395/75, which regulates Act No. 20,429, provides that “The provisional suspension of the authorization permit, the provisional sealing, and the confiscation of material which has not complied with the law may be decided by the competent authority when justified for security reasons or to avoid the commission of new offences and until a final decision is delivered. The forfeiture and destruction of the confiscated material may be ordered for urgent security reasons”.

### **Tracking and identification of firearms**

Legally manufactured and traded weapons are registered with the pertinent government agency, the National Arms Registry, in the national computerized database (Act No. 24,492, art. 2). The Act stipulates that any judicial order relating to weapons must be officially communicated to the National Arms Registry.

Records have been kept since 1993.

### **8. Intermediaries**

With regard to the proposal to create a register of intermediaries within the framework of the Model Regulations of the Organization of American States (OAS), the Argentine National Arms Registry keeps a record of “commercial users”, where the activities of firearms exporters and purchasers are registered and monitored. If the legislation in force is amended, this system, which is computerized, could be adapted to include the category of intermediaries in the commercial users register, once the scope of an intermediary’s activities has been defined.

### **9. National Coordination**

On 30 September and 1 October 2003, the “Arms Forum: Towards a Plan of Action” was organized by the Department of National Security of the Ministry of Justice, Security and Human Rights, in partnership with the Commission on National Security of the Senate, the Association for Public Policy, a local non-governmental organization (NGO), and SaferAfrica, an NGO which provided financial assistance to organize the Forum.

The Forum was attended by the Argentine provincial authorities and the relevant agencies of the central Government. It was the first gathering convened to implement a comprehensive policy for firearms control in the country.

The objective of the Forum was to analyse the nature of the problem of illicit arms trafficking, including control, regulatory aspects, and issues of arms supply, demand and transfer, with a view to developing a national plan of action to prevent, combat and eliminate the illicit trafficking of firearms.

Among the most revealing outcomes were the need to manage arms depots, create a national registry of decommissioned weapons, build capacity and conduct disarmament campaigns within civil society. It was also determined that greater cooperation and coordination must be instituted at the international and subregional levels in order to set standards that would help to prevent and combat illicit firearms trafficking.

## **II. Regional level**

### **1. Binding legal instruments**

CIFTA: Argentina ratified the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (Washington, 14 November 1997) on 9 October 2001; certain aspects of this Convention are complementary to the provisions of the counter-terrorism treaties.

## 2. Subregional Cooperation

### **MERCOSUR**

**Register of Weapons Buyers and Sellers.** The States members of MERCOSUR established in 1998, by decision MERCOSUR/CMC/DCN7/98, the Joint Machinery for the Registration of Buyers and Sellers of Firearms, Ammunition, Explosives and Other Related Materials.

### **Firearms Group of MERCOSUR, Bolivia and Chile**

In December 2001, the Presidents of the member countries of MERCOSUR, Bolivia and Chile signed a joint communiqué instructing the Political Consultation and Coordination Forum to establish a working group comprising representatives of the Ministries of Foreign Affairs, Justice, and the Interior, as well as other governmental bodies, to study the harmonization of their national legislations on firearms and ammunition and the coordination of the relevant policies.

On 17 November 2003, the fourth meeting of the Firearms Group was held in Montevideo. This provided an opportunity to submit to the Political Consultation and Coordination Forum draft memorandums of understanding for exchanges of information on the illicit manufacturing and trafficking of firearms, ammunition, explosives and other related materials among the MERCOSUR member States and between MERCOSUR and associated States. In addition, a model formula for consultation on firearms, ammunition, explosives and other related materials was drafted. It will form part of the aforementioned memorandums of understanding once they are approved by the member States.

The Project Coordinator of UN-LiREC made a presentation on the various projects being developed at the Centre and offered to cooperate in the implementation of the agreed regional initiatives.

Taking into account the need to maintain regular dialogue with civil society, the working group decided that non-governmental organizations would be invited to its meetings. In that connection, a representative of Viva Río, a Brazilian NGO specializing in the implementation of strategies for curbing urban violence, presented a paper on the control of small arms in MERCOSUR, in which government and civil society machinery and efforts to prevent the proliferation of firearms in the subregion were analysed.

### **Bilateral Cooperation**

On 16 October 2003, a memorandum of understanding was concluded with the Federal Republic of Brazil to create a permanent mechanism for exchanges of information on the illicit movement and trafficking of firearms, ammunition, explosives and other related materials. The permanent mechanism would be used to share data on arms registration and on import and export licensing of arms for civilian and military use. The sharing of information would also be extended to the identification of groups responsible for the illicit trafficking of firearms, ammunition, explosives and other related materials and their modus operandi.

In its preamble, the memorandum recognizes the initiatives contained in the United Nations Programme of Action and the machinery created under CIFTA with regard to the development of bilateral arrangements for mutual cooperation. The

permanent mechanism for information-sharing is also considered a basic tool for implementing the MERCOSUR Joint Machinery for the Registration of Buyers and Sellers of Firearms, Ammunition, Explosives and Other Related Materials, adopted in 1998.

### III. Global level

#### 1. International instruments to combat crime and terrorism

- *Convention on Offences and Certain other Acts Committed on Board Aircraft, Tokyo, 14 September 1963.*

Adoption: Act No. 18,730

Accession: 23 July 1971

Entry into force: 21 October 1971.

- *Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 16 December 1970.*

Signature: 16 December 1970

Adoption: Act No. 19,793

Ratification: 11 September 1972

Entry into force: 11 October 1972.

- *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 23 September 1971.*

Signature: 23 September 1971

Adoption: Act No. 20,411

Ratification: 26 November 1973

Entry into force: 26 December 1973.

- *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, New York, 14 December 1973.*

Adoption: Act No. 22,509

Accession: 18 March 1982

Entry into force: 18 March 1982.

- *International Convention against the Taking of Hostages, New York, 17 December 1979.*

Adoption: Act No. 23,956

Accession: 18 September 1991

Entry into force: 18 October 1991.

- *Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980.*

Signature: 28 February 1986

Adoption: Act No. 23,620

Ratification: 6 April 1989

Entry into force: 6 May 1989.

- *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementing the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 24 February 1988.*

Signature: 24 February 1988  
Adoption: Act No. 23,915  
Ratification: 12 February 1992  
Entry into force: 12 March 1992.

- *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome, 10 March 1988.*

Adoption: Act No. 24,209/93  
Ratification: 17 August 1993  
Entry into force: 15 November 1993.

- *Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal, 1 March 1991.*

Signature: 1 March 1991  
Adoption: Act No. 24,722  
Ratification: 8 March 1999  
Entry into force: 7 May 1999.

- *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 10 March 1988.*

Ratification: 26 November 2003  
Entry into force: 24 February 2004.

- *International Convention for the Suppression of Terrorist Bombings, New York, 15 December 1997.*

Under consideration in the legislature.

- *International Convention for the Suppression of the Financing of Terrorism, New York, 9 December 1999.*

Under consideration in the legislature.

- *United Nations Convention against Transnational Organized Crime; Protocol against the Smuggling of Migrants by Land, Sea and Air.*

Ratification: 19 November 2002.

- *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, New York, 15 November 2000.*

Ratification: 19 November 2002.

- *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, New York, 31 May 2001, supplementing the aforesaid Convention.*

Signature: 7 October 2002.

– *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 1988.*

State party since 26 July 1993.

**Embargoes:** Regarding the arms embargoes established by the United Nations Security Council, a decree issued by the executive branch instructed the executive branch, federal departments and public bodies, the provinces, the municipalities and the autonomous city of Buenos Aires to adopt, within their respective jurisdictions, whatever measures may be necessary to comply with the decisions contained in the resolutions on arms embargoes.

## **2. International cooperation and assistance**

The Act on International Cooperation on Criminal Matters regulates the provision of legal assistance to other countries to help them obtain evidence and take other measures to facilitate the pertinent investigation and prosecution proceedings.

Central authority responsible for formulating and receiving requests for mutual legal assistance: by Decree No. 1052/98, the executive branch delegated the powers established in articles 22 and 36 of Act No. 24,787 to the Ministry of Foreign Affairs, International Trade and Worship.

Under the provisions of this Act, Argentina takes part in cooperation on legal issues, extradition, and other matters related to the implementation of the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA).

On the occasion of a regional meeting held in Buenos Aires in May, direct contact was made with Interpol officials to learn about the services provided by the tracking system and increase opportunities for cooperation. This possibility was discussed at the meeting of the MERCOSUR Firearms Group.

## **3. Training, capacity-building and research**

Argentina assigns high priority to all programmes designed to increase capacity to implement the Programme of Action effectively, and considers that international cooperation and assistance are essential to achieve this goal.

In January 2003, an Argentine official took part in the Lancaster House Conference organized by the Government of the United Kingdom. The purpose of the conference was to exchange views on strengthening export controls, so as to develop consensus on the movement of small arms in order to prevent them from being diverted to the illegal market.

Within the framework of the activities set out in the Programme of Action, in April 2003 Argentine officials from different government departments — invited by the non-governmental organization “SaferAfrica” — took part in an exchange of experiences on the implementation of the programme in both regions. This provided an opportunity to observe SaferAfrica’s experience in providing technical assistance and training to countries and blocs in the region, by designing a methodology to follow in order to set up focal points; by weapons mapping, in order to identify national priorities for action; and by assistance in the final implementation of the programme. The weapons policies and legislation in force in Argentina and in the

region of southern Africa were examined, and also the contribution that civil society can offer the State in this area. To that end, its potential role sharing relevant experiences in South American countries was underscored, and this is already under way in one subregion.

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