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Antal bilag

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Togo Country Report on Human Rights Practices for 1996

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TOGO

President General Gnassingbe Eyadema and his Assembly of the Togolese People (RPT) party, strongly backed by the military, continue to dominate the exercise of political power. During the year, the RPT party was able to persuade three opposition Assembly deputies to vote with it, thus gaining an effective majority in the legislature. The RPT then manipulated the rules governing the electoral process, and thus further consolidated its majority in the legislature through by-elections held in August. Despite an effort to create a government of national unity, the opposition's refusal to participate resulted in a new government formed in the wake of the by-elections with an overwhelming majority of RPT ministers. The Eyadema Government, which also exerts control over the judiciary, made little progress in its professed intention to move from an authoritarian legacy to democracy.

The security forces consist primarily of the army (including the elite Presidential Guard), navy, air force, the Surete Nationale (including the national police), and the Gendarmerie. Approximately 90 percent of the army's officers and 70 percent of its soldiers come from the President's northern (Kabye) ethnic group. The Minister of the Interior, an army colonel, is in charge of the national police and the Defense Minister has nominal authority over the other security forces. In practice there is little differentiation between civilian and military authorities. Security forces remain overwhelmingly loyal to their chief, President Eyadema, subject to his direct control, and carry out his orders. Some members of the security forces committed serious human rights abuses.

About 80 percent of the country's estimated 4.25 million people are engaged in subsistence agriculture, but there is also an active commercial sector. The main exports are phosphates, cotton, and cocoa, which along with revenue from Lome's port, are the leading source of foreign exchange. Annual per capita gross domestic product is around \$300. The country is slowly moving toward structural adjustment under programs of international financial institutions and has resumed moderate growth.

The Government's human rights record continued to be poor. The Government restricted citizens' right to change their government. Security forces were responsible for extrajudicial killings, beatings, arbitrary detentions, and interference with citizens' movement and privacy rights. The Government did not, in general, investigate or

effectively punish those who committed such abuses. Prolonged pretrial detention was commonplace, and prison conditions remained very harsh. The Government continued to influence the judiciary, defendants' rights to fair and expeditious trials are not ensured, and some detainees wait years to be judged. There were instances of infringement of freedom of speech and the press by security forces and the Government, including investigative detention to harass journalists and political opponents, and suspension to newspaper publication. Societal discrimination and violence against women, as well as abuse of children, continued.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person Including Freedom from:

a. Political and Other Extrajudicial Killing

A heavy security presence combined with habitual impunity enjoyed by members of the security forces has created a climate in which excessive force can be used without legal consequences. The security forces were responsible for at least three extrajudicial killings.

Captain Philippe Azote of the Togolese Armed Forces was shot in the back and killed at a security checkpoint in Lome by security forces on January 7. As was his longstanding practice, Azote was jogging when stopped and questioned. The Government claimed that Captain Azote was mistaken for a terrorist since he was armed. Azote had been dismissed from the military earlier in his career for suspicion of taking part in the killing of General Amegee, and sources close to the military claim Azote's death was revenge by a military faction which supported Amegee. The soldier who shot Azote was originally commended for his antiterrorism work; after Azote was identified, the soldier was arrested. There has been no trial.

Security forces killed Thomas Rupprecht, a German embassy employee with diplomatic status, at a security checkpoint in Lome on March 27. An investigation report indicates that Rupprecht was shot numerous times while attempting to drive away after arguing about a demand to be searched. Two soldiers were arrested, and the Government has given compensation to the family, but there has not been a trial for the accused perpetrators.

A Togolese soldier at a security checkpoint shot and killed Anthony Dogbo, a Ghanaian taxi driver, on the outskirts of Lome on April 11. Despite several requests from the Ghanian Embassy to compensate the deceased's family or to punish the perpetrator, the Government has not responded, and there has been no known investigation.

In addition to these confirmed incidents, opponents of the Government alleged other killings linked to security forces. Unidentified persons in military uniform were responsible for the murder of Rose Lebene Woenagno on January 26. State Inspector Amouzou Efoe Paul Adjakly, whose responsibilities gave him access to sensitive government accounting files, was killed on February 17 by unknown persons. Adjakly was found by a road outside Lome with injuries to his head; his motorcycle revealed no signs of an accident, and his briefcase lay untouched next

to him. On April 29, a group of unidentified persons carrying machine guns tortured and killed retired mason Komlavi Yebesse. Media coverage of the Yebesse incident, insinuating security force involvement, led to the suspension of an opposition newspaper (see Section 2.a.).

On October 14, three soldiers manning an armed security checkpoint in Lome near the Ghana border were killed by gunfire. The attack was credibly alleged to be carried out by opposition elements and a previously unknown group, the Interior Committee for Democracy and Salvation, claimed responsibility.

Numerous prisoners died due to lack of medical facilities and widespread disease in prisons (see Section 1.c.).

There were no developments in the 1995 murder in Ghana of opposition leader Lt Vincent Tokofai, the 1994 killing of Gaston

Edeh, or the 1992 killings of Marc Atidepe and Tavio Amorin.

b. Disappearance

There were no reports of politically motivated disappearances.

There were, however, no developments in the 1994 disappearance of David Bruce, or in the disappearance of Afougnilede Essiba, Adanou Igbe, Kobono Kowouvi, and another companion, all four of whom were arrested by soldiers at an armed security checkpoint in Adetikope in 1994. In 1994 the Government began an investigation of the Bruce disappearance but has not reported any results.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits these practices, but security forces often beat detainees immediately after arresting them. Some suspects have credibly claimed to have been tortured, including beatings and lack of access to food and medical attention. The Government did not investigate, prosecute, or punish any officials for these abuses.

Prison conditions remained very harsh, with serious overcrowding and inadequate sanitation and food. Medical facilities are practically nonexistent, and widespread disease in prisons led to an estimated 15 deaths of incarcerated individuals. Prison guards in the overcrowded Civil Prison of Lome charge prisoners a small fee to shower, use the toilet, or have a place to sleep. Children are often incarcerated with convicted adults. Women are housed separately. International and local private organizations have access to prisons for monitoring purposes.

d. Arbitrary Arrest, Detention, or Exile

The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. In practice, detainees can be and often are detained without bail for lengthy periods with or without the approval of a judge. Family members and attorneys officially have access to a detainee after the initial 48- or 96-hour detention period, but

authorities often delay, and sometimes deny, access.

Judges or senior police officials issue warrants. Although detainees have the right to be informed of the charges against them, police sometimes ignore this right. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail. However, a shortage of judges and other qualified personnel plus official indifference have resulted in lengthy pretrial detentions—in some cases several years—and confinement of prisoners beyond their sentences. An estimated 50 percent of the prison population were pretrial detainees. Increasingly, the Government used brief investigative detentions of less than 48 hours to harass and intimidate opponents and journalists for alleged defamation of Government officials (see Section 2.a.). The Government often resorts to false charges of common crimes to detain and intimidate opponents.

There were instances of arbitrary arrests and detention. Nicoue Broohm. Counselor for Social Affairs and Human Rights for Prime Minister Kodjo and member of Kodjo's Democratic Union of Togo Party (UTD), was arrested by gendarmes in June and detained for 3 days for allegedly helping a student with a study of the President's chances of winning a referendum on the Constitution. Kokouvi Adakou, a UTD Vice President, was arrested by gendarmes and questioned a week before legislative by-elections in Notse. Adakou was released the same day. David Oladokoun, a UTD leader in Atakpame, was arrested by gendarmes in May and detained for 3 days for expressing his opinion on the 1998 presidential elections. He was released and arrested again within 24 hours, but again released 2 days later. Alfred Adomayakpo, former chief of security for Kodjo and former Director of National Security, was arrested by gendarmes on July 10 for allegedly editing tracts calling for armed revolt. Denied access to a lawyer for 10 days, he was not released until September 23. The Gendarmarie arrested Minister of Rural Development and Tourism, Yao Doh-Feli, also of the UTD, on August 13, and released him 2 hours later.

Commander of the Gendarmarie Pitalouani Laokpessi claimed that security forces were looking for another person of the same last name.

The Constitution prohibits exile, and the Government respects this prohibition.

e. Denial of Fair Public Trial

Although the Constitution provides for an independent judiciary, in practice the executive branch continued to influence the judiciary.

The Supreme Court stands at the apex of the court system. The civil judiciary system includes the Sessions (Court of Assizes) and Appeals Courts. A military tribunal exists for crimes committed by security forces, but its proceedings are closed. Traditional law discriminates against women, particularly in the area of inheritance.

The court system remained overburdened and understaffed (see Section l.d.). Magistrates, like most government employees, are not always paid on time. The judicial system employs both African traditional law and the Napoleonic Code in trying criminal and civil cases. Trials are open

to the public, and judicial procedures are generally respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses, present evidence, and enjoy a presumption of innocence. In rural areas, the village chief or council of elders may try minor criminal and civil cases. Those who reject the traditional ruling may take their cases to the regular court system, which is the starting point for cases in urban areas.

The Government released political prisoners in late 1994 and early 1995 under the December 1994 general amnesty. The amnesty law, however, was not consistently applied. Dodji Agbaglo, Alex Kpayedo, Paul Hooper, Pierre Hooper, and Edmond Atto, members of the radical youth opposition group M05 arrested in 1994 for an alleged plot to blow up an electrical station at the state-owned Togolese Office of Phosphates, were sentenced on July 3 to between 5 and 7 years in prison. Despite the apparent political motivation of the crime, the State Prosecutor exercised his discretion and refused to apply the December 1994 general amnesty law to this case. Other members of M05 were released under the General Amnesty.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

In criminal cases, a judge or senior police official may authorize searches of private residences. In political and national security cases, the security forces need no prior authorization. Police conducted searches without warrants, searching for dissidents' arms caches as well as for criminals, often under the guise of searching for identity cards. Armed security checkpoints exist throughout the country, and security forces arbitrarily interfere with privacy by searching vehicles, baggage, and individuals in the name of security. The Government monitors telephones and correspondence and maintains the police and Gendarmerie as domestic intelligence services.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government generally respects these rights in practice although on occasion it intimidated journalists through threats, detention, and persecution.

There is a lively press consisting of approximately 10 independent newspapers, some of which are often extremely critical of President Eyadema. There are four independent radio stations, and two private television companies retransmitting international satellite stations, but none of the independent broadcasters provides any reporting of local or national events. The official media consist of one radio station, one television station, and one daily newspaper. Although they were generally slanted in favor of President Eyadema and the Government, they allowed the opposition limited access.

There were instances of detention and censorship. Moreover, intimidation of the press leads to self-censorship. Moudassirou Katakpaou Toure, director of the opposition newspaper, The Letter of Tchaoudjo, was

sentenced on January 17 without being present at the trial or sentencing to 5 years in prison and a \$10,000 fine for "defamation of the Chief of State." The Letter of Tchaoudjo was suspended indefinitely. On June 19, the opposition newspaper, The Tribune of Democrats, was fined \$6,000, suspended for 6 months, and its director of publication, Eric Lawson, was sentenced without being present at the trial or sentencing to 5 years in prison for "inciting hate and spreading false news" regarding a series of articles blaming a murder on an unidentified commando squad of persons in uniform. The Government never exercised its right of reply nor called on the paper to print a retraction, and the trial was held in secret without informing The Tribune or Lawson of the charges against them. In September the opposition newspaper, The Crocodile, claimed uniformed security forces harassed its vendors in northern Togo and, through intimidation, prevented the distribution of independent newspapers.

In November journalists from three opposition newspapers: Le Combat du Peuple; Le Crocodile; and Forum Hebo, were detained and questioned for periods up to 48 hours, ostensibly for articles accusing a gendarme of killing his wife. However, Lucien Messan, Director of Publication for Le Combat du Peuple, was questioned concerning his intentions for printing an article accusing security forces personnel of participating in a stolen car ring. Messan's interrogators included Gendarmerie commander Laokpessi, who was among those implicated in the article.

At the University of Benin, Togo's sole university, academic freedom is constrained by concern among professors about potential harassment by the Government or antiopposition militants and the lack of a faculty-elected rector. Opposition student groups are intimidated by an informer system that has led in the past to government persecution. The only recognized student group is pro-Eyadema.

b. Freedom of Peaceful Assembly and Association

Under the Constitution, citizens are free to organize in associations and political parties, and in practice political parties are able to hold congresses, elect officers, register, and meet. However, fear of informants and harsh reaction from the Government has reduced public demonstrations. In August a preelection rally by Prime Minister Kodjo in Mango was forced to be relocated, then canceled, when RPT activists, some with machetes, disrupted the event. On November 16 and 17, a delegation of CAR leaders was harassed when roadblocks were set up outside towns in Amou prefecture where they were to hold political rallies. While the rallies ultimately took place, the delegation had to transit numerous barricades, and at one point members of the delegation were assaulted by an RPT supporter. There are many active nongovernmental organizations.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, however, armed security checkpoints and arbitrary searches of vehicles and individuals are commonplace. The lack of discipline of the soldiers manning the roadblocks and their actions, such as firing at vehicles and frequently demanding bribes before allowing citizens to pass, impede free movement within the country.

The Government generally cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. While there is no legislated body to determine asylum or refugee status, the Government routinely accepts the decision of the UNHCR office resident in Lome. The Government provides first asylum (and provided it to approximately 400 persons in 1996). Although in June the Government provided medical supplies, foodstuffs, and water to a Liberian refugee ship, the Zolotitsa, which had been searching the coast for a port to disembark its 435 passengers, it did not authorize disembarkation. With the exception of the Zolotitsa incident, there were no reports of forced return of persons to a country where they feared persecution.

The August 1995 agreement with UNHCR for the repatriation of an estimated 45,000 Togolese refugees living in Benin and 75,000 to 80,000 living in Ghana neared completion by year's end. The UNHCR estimates there will be 25,000 refugees remaining at year's end. They have extended the repatriation program to April 1997, at which time they estimate 15,000 refugees will remain expatriated. The Government also accommodates roughly 8,500 refugees, mainly Ghanaians.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for the right of citizens peacefully to change their government. In recent elections, however, this right was only partly respected. In August by-elections, President Eyadema and his RPT party manipulated the rules governing the electoral process and thus further consolidated their majority in the legislature. There were reports of security forces visiting towns weeks in advance of the election and warning their populations of violence if opposition candidates were elected. An RPT parliamentarian threatened at a public meeting in Mango that opposition candidates would be killed if they won.

Institutions created to ensure transparency in electoral procedures and to adjudicate election disputes, such as the National Electoral Commission and the Constitutional Court, are either controlled by the President or still not in place. International observers found the 1993 presidential election to be seriously flawed. Eyadema maintains a highly centralized government, including influencing important nominations of ministers, prefects, mayors, and traditional chiefs. The Government does not openly restrict the functioning of political opponents, but the President uses the strength of the military and his government allies to intimidate and harass citizens and opposition groups. Eyadema also continues to influence the judiciary.

The Constitution provides for universal suffrage and a secret ballot, and these provisions are respected in practice.

There are no legal restrictions on the participation of women or members of ethnic minorities in politics or government. Although many women are members of political parties, there was only one female minister in government and one female deputy in the National Assembly.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are several local private human rights groups, including the Togolese Human Rights League and the Center of Observation and Promotion of the Rule of Law. In general the Government allows groups access to investigate alleged violations of human rights. However, the Government usually does not follow up on investigations of abuses. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights monitors to end their public activities.

The Government includes a Ministry of Justice and Human Rights. The National Assembly voted in November to enact a ministerial decree to reorganize the government-sponsored and government-funded National Human Rights Commission (CNDH). The opposition, which boycotted the assembly vote, criticized the new law for allowing the President to control the composition, and ultimately the actions, of the CNDH. In practice neither the Ministry of Justice and Human Rights nor the CNDH operate independently from the President. The International Committee of the Red Cross has a permanent representative in Togo.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal political or other convictions. However, the Government does not provide effective redress for discrimination complaints, and discrimination based on both ethnic group and sex is common.

Women

Violence against women continues. Although mechanisms exist within both the traditional extended family and formal judicial structures for redress, the police rarely intervene in traditional or domestic violence cases. Wife beating affects an estimated 10 percent of married women and continues with impunity. Local houses of prostitution exist, and some trafficking in Togolese women for the purposes of prostitution or for exploiting women as domestic servants occurs with no visible effort by the Government to curtail these abuses. There is a Ministry of Feminine Promotion and Social Protection, which, along with independent women's groups and related nongovernmental organizations, have active campaigns to inform women of their rights.

Despite a constitutional declaration of equality under the law, women continue to experience discrimination, especially in education, pension benefits, inheritance, and as a consequence of traditional law A husband may legally oppose his wife's right to work and control her earnings, and he may also decide where his family will live. Employers

are often reluctant to hire women, especially for higher-level positions. Far fewer women than men attend university, and fewer women graduate from secondary school. Families traditionally give boys priority over girls when deciding who shall attend school. In urban areas, women and girls dominate local market activities and commerce with neighboring countries. However, harsh economic conditions in rural areas, where most of the population lives, leave women with little time for activities other than taxing domestic and agricultural field work. Under traditional law, which applies to the vast majority of women, a wife has no rights of survivorship in the event of divorce, separation, or the death of her husband.

Children

Although the Constitution and family code laws provide for the protection of children's rights, in practice government programs often suffer from a lack of money, materials, and enforcement. The Government provides free education in state schools, and there are social programs to provide free health care for poor children. Orphans and other needy children receive some aid from extended families or private organizations but less from the State. There are few juvenile courts, and children are often jailed with adults. There are credible reports of trafficking in children for the purpose of forced labor (see Section 6.c.).

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, remains a current, although diminishing, practice in Togo. Approximately 12 percent of Togolese girls and women have undergone FGM. Although many of the largest ethnic groups in Togo do not practice FGM, the practicing groups have rates ranging from 40 to 98 percent. In theory women and girls are protected by the Constitution from FGM, and the Government claims that it would protect any woman bringing a claim of FGM to its attention. However, in practice, the prohibition is not enforced, and traditional customs often supersede the legal system in various ethnic groups.

People with Disabilities

The Government does not mandate accessibility to public or private facilities for people with disabilities. Although the Constitution nominally obliges the Government to aid disabled persons and shelter them from social injustice, the Government provides only limited assistance in practice. While there is no overt state discrimination against disabled persons and while some hold responsible government positions, the disabled have no meaningful recourse against private sector discrimination, which compels many to beg.

National/Racial/Ethnic Minorities

Members of northern ethnic groups dominate the security forces, while southerners dominate most commerce and the professions. With a few exceptions, southerners and northerners are also divided along political lines. Civil unrest in recent years and inadequate or prejudicial law enforcement exacerbated ethnic rivalries dating from precolonial times. With the rise in north-south tensions, majority ethnic group members in

those regions have harassed and attacked their neighbors belonging to minority groups, forcing them back to their home regions. In recent years, many Togolese, predominantly southerners, fled to neighboring Benin and Ghana, and members of northern ethnic groups were internally displaced.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides most workers with the right to join unions and the right to strike. Security forces, including firemen and policemen, do not have these rights; government health care workers may join unions but may not strike. The work force in the formal (wage) sector is small, involving about 20 percent of the work force, of whom 60 to 70 percent are union members or supporters.

The Constitution also prohibits discrimination against workers for reasons of sex, origin, beliefs, or opinions. There is no specific law prohibiting retribution against strikers.

There are several major trade union federations. These include the National Confederation of Togolese Workers (CNTT), closely associated with the Government; the Labor Federation of Togolese Workers (CSTT); the National Union of Independent Syndicates (UNSIT); and the Union of Free Trade Unions.

Federations and unions are free to associate with international labor groups. The CNTT and the UNSIT are affiliates of the International Confederation of Free Trade Unions.

b. The Right to Organize and Bargain Collectively

The Labor Code nominally provides workers with the right to organize and bargain collectively. All formal sector employees are covered by a collective bargaining agreement. However, true collective bargaining is limited by the Government's role in producing a single tripartite bargaining agreement signed by the unions, management, and the Government. This agreement sets wage standards for all formal sector employees. Individual groups in the formal sector can attempt through collective bargaining to negotiate a more favorable package, and some do, but this approach is not common.

The Labor Code prohibits antiunion discrimination. The Ministry of Labor is charged with resolving labor-related complaints but does not always do so effectively.

A 1989 law allows the establishment of export processing zones (EPZ's). Many companies have EPZ status, and about 20 are currently operating. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms do not enjoy the same protection against antiunion discrimination as do other workers.

c. Prohibition of Forced or Compulsory Labor

The law does not specifically address this question, and children are sometimes engaged in forced labor, primarily as domestic servants. Credible sources have confirmed the international trafficking of children, most often to other West and Central African countries, but also to the Middle East and Asia. In rural areas, parents sometimes force young children into domestic work in other households in exchange for cash. The Government has done nothing to stop this practice.

d. Minimum Age for Employment of Children

The Labor Code prohibits the employment of children under the age of 14 in any enterprise. Some types of industrial and technical employment require a minimum age of 18. Inspectors from the Ministry of Labor enforce these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and petty trading, very young children traditionally assist in their families' work. Under the Constitution, school is mandatory for both sexes until the age of 15, but this requirement is not strictly enforced.

e. Acceptable Conditions of Work

The Government sets minimum wages for different categories, ranging from unskilled labor through professional positions. Less than the official minimum wage is often paid in practice, mostly to less-skilled workers. Official monthly minimum wages, including the 5 percent nationwide increase implemented in July, range from approximately \$30 to \$46 monthly (cfa 14,700 to cfa 23,100). The July increase represents the first since 1987, despite the 50 percent devaluation of the cfa in 1994. Many workers cannot maintain a decent standard of living at the lower official minimum wages, and many must supplement their incomes through second jobs or subsistence farming. The Ministry of Labor is ostensibly responsible for enforcement of the minimum wage system but does not enforce the law in practice. The Labor Code, which regulates labor practices, requires equal pay for equal work, regardless of sex. However, this provision is generally observed only in the formal sector.

Working hours of all employees in any enterprise, except for agricultural enterprises, normally must not exceed 40 hours per week; at least one 24-hour rest period per week is compulsory, and workers must receive 30 days of paid leave each year. The law requires overtime compensation, and there are restrictions on excessive overtime work. The Ministry of Labor's enforcement is weak, however, and employers often ignore these provisions.

A technical consulting committee in the Ministry of Labor sets workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees ostensibly have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice, the Ministry's enforcement of the various provisions of the Labor Code is limited. Large enterprises must legally provide medical services for their employees and usually attempt to respect occupational health and safety rules, but smaller firms often do not.

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