

FIRST NATIONS & CHINA



TRANSFORMING
RELATIONSHIPS

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INTRODUCTION

The BC First Nations Energy and Mining Council (FNEMC) developed this First Nations-China Strategy to promote a proactive approach to engagement with China. The goal of this strategy is to promote collaborative development between First Nations and China, particularly Chinese businesses and state-owned enterprises involved in natural resource development in Canada.

SHARING THE WEALTH

The First Nations leadership in British Columbia has been working with the provincial government over the past few years to implement the principles of the *New Relationship* – a vision of reconciling differences and building a lasting relationship based on trust and respect.

A focus of the *New Relationship* and subsequent efforts of the First Nations leadership and the government is focused on “sharing the wealth” for resource-related activities so that First Nations can fully participate in the economic development of the province. The *New Relationship* also focuses on shared-decision making – involving First Nations in the management of natural resources.

An essential component of resource development in Canada is the legal requirement to consult and accommodate First Nations whose rights might be adversely impacted by the development. Working closely with First Nations and developing partnerships based on trust, respect and recognition of First Nations rights and title will help ensure the successful development and operation of resource-related projects. By building relationships and securing agreements with First Nations, companies will avoid project risks such as costly project delays due to litigation or injunctions, challenges to permits, restriction of access for works and negative media campaigns.

Critical aspects of consultation and negotiation with First Nations on resource projects include:

- Open and honest communication throughout all aspects of the project.
- Agreement that the free, prior and informed consent of First Nations must be obtained before developing projects and activities affecting their communities.
- Negotiation of Impact and Benefit Agreements that include profit sharing, equity, and other social and economic provisions.
- Resource development must be conducted in an environmentally, ecologically, socially, culturally, economically sustainable and viable manner for the benefit of future generations.
- The inclusion of Indigenous knowledge throughout the planning and development of a project.
- Financial resources for the First Nations to engage in the consultation and negotiation process.
- Education, training and capacity to ensure full participation in the planning, construction and operations of a project.

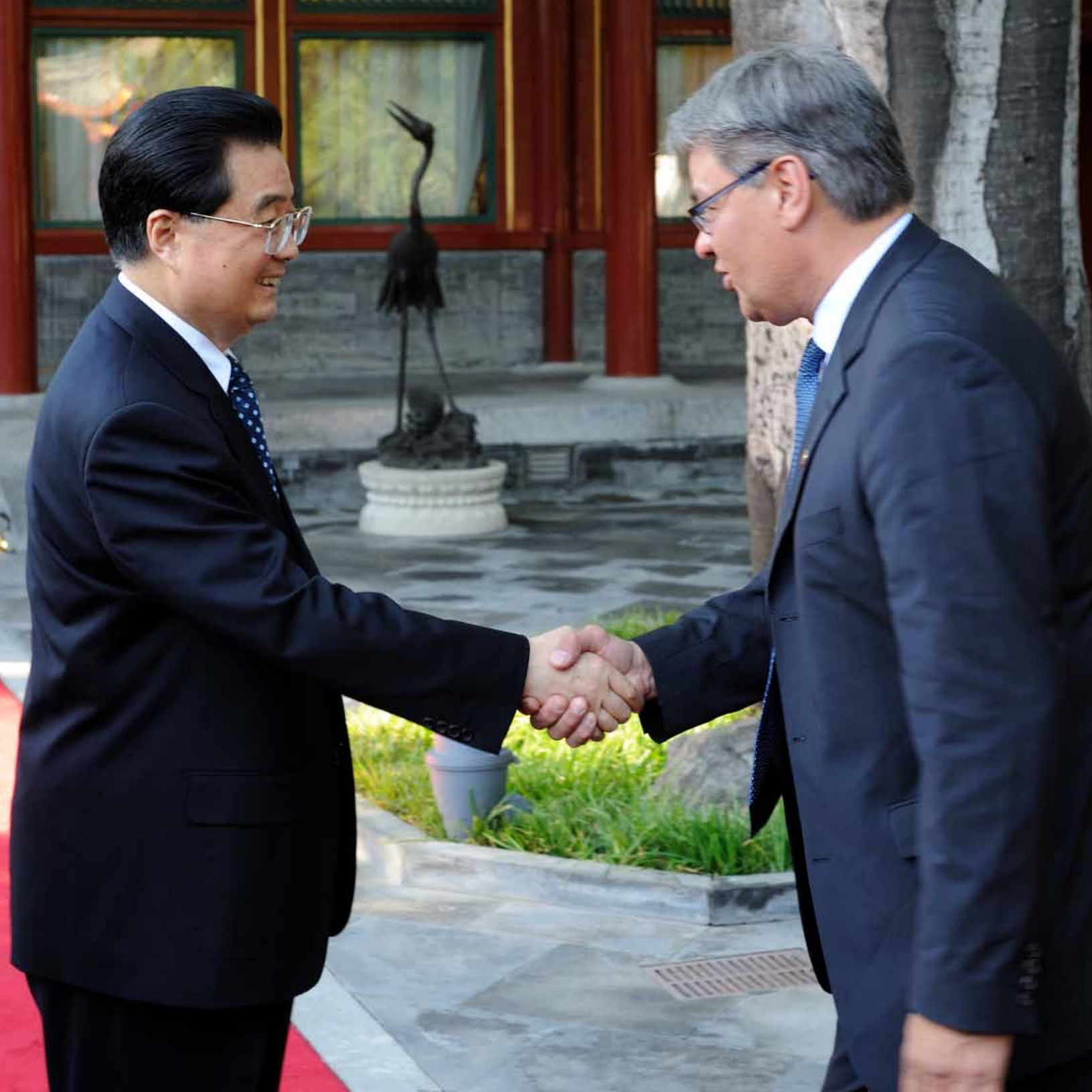
FIRST NATIONS ENERGY AND MINING COUNCIL

The First Nations Leadership Council (FNLC), comprised of the leadership of the three major First Nations political organizations in BC – the Union of BC Indian Chiefs, First Nation Summit and BC Assembly of First Nations – has created sector-specific councils and working groups to assist the 203 communities in advancing their interests. Provincial First Nation councils have been created in health, education, technology, fisheries, forestry, energy and mining. These councils are meant to equip First Nations with the institutional foundation necessary to build their capacity to effectively engage and govern for the advancement of their economic, social and cultural objectives. The Councils are accountable to, and receive direction from, the First Nations Leadership Council and the First Nations in BC.

The First Nations Energy and Mining Council (FNEMC) was created to identify priority issues for First Nations to address collectively. FNEMC's First Nations-China Strategy is guided by the advice of a group of leaders representing First Nations, business, government, academia and the legal community.

FNEMC has commissioned several reports that examine issues of interest for First Nations. These reports are available on the FNEMC website at <http://fnbc.info/fnemoc/publications/reports>.

A priority issue for FNEMC is the relationship between First Nations and China.



WHY DEVELOP A FIRST NATIONS/CHINA STRATEGY?

First Nations communities in British Columbia are being approached by numerous Chinese private companies and state-owned enterprises that are interested in gaining access to their traditional territories. Some companies are very proactive and doing the right thing by talking to First Nations communities at the earliest stages; others are unfamiliar with the existence of Aboriginal title and rights and Treaty rights within our respective traditional territories. A properly resourced First Nations-China Strategy will ensure First Nations are prepared to respond to the variety of requests and will increase the opportunities for positive benefits.

As China's economic importance grows, BC communities face significant opportunities for economic development with China.

HISTORICAL RELATIONSHIP/CULTURAL AFFINITY

The Chinese and the First Nations people have had an interesting and complex history together in British Columbia, a history that has gone largely unknown and unrecorded. The first recorded visits of Chinese to North America occurred in 1788 when boats landed at Nootka Sound; however, there is evidence of trade between First Nations and Chinese on the coast of British Columbia that pre-dates the European exchanges by hundreds of years.

Recent history also brought Chinese and First Nations together during an era of colonial repression. Chinese migrants first appeared in large numbers on Vancouver Island in 1858 at the time of the Canadian Pacific Railway development. They were treated as second class citizens by the government of that time. Many of the men inter-married with First Nations, and they lived in our communities and share a part of our modern history. Chinese railway workers made up the labour force for construction of two one-hundred mile sections of the Canadian Pacific Railway from the Pacific to Craigellachie in the Eagle Pass in British Columbia. Many Chinese workers lost their lives as the most dangerous of jobs were given to them.

The Government of Canada created *The Chinese Immigration Act, 1885*, levying a “head tax” of \$50 on any Chinese coming to Canada. When this legislation failed to deter Chinese immigration to Canada, the Government of Canada increased the tax to \$100 in 1900. In 1903, the landing fee for Chinese was increased to \$500 – an onerous fee, especially given that the equivalent fee today is \$490. The *Chinese Immigration Act, 1923*, better known as the “Chinese Exclusion Act”, replaced prohibitive fees with an outright ban on Chinese immigration to Canada with the exceptions of merchants, diplomats, students, and “special circumstances” cases.

Similarly, First Nations today still live under the *Indian Act* of 1876, legislation that forced us to live on reserves, prevented us from hiring legal counsel, and prohibited us from voting in federal and provincial elections.

In addition to our shared history of oppression in British Columbia, there is a cultural affinity between the Chinese and First Nations, which is demonstrated through various cultural exchanges both in China and in Canada. Examples include the totem pole gift to the people who lost their lives in the 2008 Wenchuan earthquake and the Four Host Nations cultural exchange in Beijing for the Beijing Olympics.

Historically, facing discrimination and oppression from the Canadian government, First Nations and Chinese communities in Canada forged a relationship of mutual support and respect. First Nations and the people of China share a common respect for tradition and elders.

CHINESE INVESTMENT AND DEVELOPMENT IN CANADA

Formal Canada-China diplomatic relations began in 1970. At that time, the annual trade volume was \$150 million per year; 40 years later this has surged to \$30 billion per year. China is now Canada's second largest trading partner and third largest export market. There are now more than 700,000 mutual visits between the two countries annually, and this is expected to rapidly increase with the Assured Destination Status that China granted Canada in 2009.

Relations with China and Canada have recently strengthened with the official state visit of President Hu Jintao prior to the G20 meetings on June 24th, 2010. At that meeting, the President hoped that bilateral trade would double to \$60 billion per year by 2015. Prime Minister Stephen Harper talked about the need to deepen cooperation on energy and resources. He mentioned that China has a number of well established energy and mineral companies and he encouraged expanding cooperation.

First Nations have a clear interest in developing business relationships with China, as evidenced in the various Aboriginal business-China trade missions in recent years. China is poised to become the world's new economic superpower. The country's economy is growing rapidly: it is doubling every seven to eight years and by 2027, it is predicted that China will overtake the US economy.

First Nations want to take advantage of the increasing economic development opportunities by building positive relationships with Chinese companies. Chinese tourism, investment and trade are fast-moving opportunities within Canada.

While most First Nations have not been actively searching for Chinese investment, it is occurring or being considered within their territories. The recent \$5.4 billion investment by PetroChina in an Encana natural gas project in north eastern British Columbia is evidence of keen Chinese investor interest in natural resource development projects in Canada. In the past, First Nations have been in a reactive mode when Chinese developers come to their territories. If there isn't some structure to the relationship, First Nations risk renouncing companies and missing out on opportunities for economic development.

First Nations will inevitably be impacted by Chinese development. There is growing recognition of the importance of being proactive in our relationships with China.

FNEMC wants investors to know that First Nation communities are looking into the future – they support sustainable resource development in their territories.

BC First Nations support collaborative development in their territories.

By proactively educating Chinese investors and developers, and addressing the need for consultation with First Nations, this project will create a better investment climate for Chinese companies seeking to invest in BC.

FIRST NATIONS RIGHTS AND TITLE

Many Chinese companies doing business in Canada, particularly those involved in resource extraction, are not aware of the requirement to consult and accommodate First Nations. Chinese companies are largely unaware that Aboriginal and Treaty rights are protected by the Constitution of Canada, the relationship that First Nations have with the land and that First Nations are actively pursuing traditional economies.

The first step is for investors to understand the Canadian Constitution, which protects the rights of First Nations, and the requirement for consultation and accommodation prior to development occurring.

Resource development in Canada requires the prior and informed consent of the Indigenous people that are impacted by the development.

The provinces and the federal government must also raise this level of understanding with the Chinese and share the message about the legal rights of Aboriginal People particularly because consultation and accommodation requirements are embedded in many provincial and federal permitting and regulatory processes.

STRENGTHENING TIES

The relationship between First Nations and China is growing, as can be seen in several recent developments:

Memorandum of Understanding with Zhejiang A & F University

FNEMC and the First Nations Forestry Council have signed an agreement with Zhejiang Agriculture & Forestry University (ZAFU) in China that outlines several areas of cooperation and exchange, including opportunities for First Nations students to study at ZAFU and internships for ZAFU students in BC.

MOU with Zhongchuan International Mining Corp. (2008)

Zhongchuan is a large privately-owned Chinese mining company that wants to do business with First Nations in British Columbia. They are committed to partnerships at the earliest stages.

Letter of Intent with Liangmu Forestry (2008)

Qingdao Liangmu Co. Ltd. and the First Nations Forestry Council/First Nations Leadership Council conducted discussions on areas of potential cooperation and trade and agree to develop a business and cooperative relationship between them. The first phase is to investigate the export of species such as western hemlock, Douglas-fir, spruce-pine-subalpine fir (SPF), etc.

China tribute totem pole

Created by First Nations carvers at Northwest Community College in Terrace, BC, this totem pole symbolizes strength, healing and the bond between First Nations and the Chinese people. It will be given to people of Beichuan at a ceremony later this year in honour of those who lost their lives in the 2008 earthquake.

Bilateral relations

Relationships are being established through contacts with government, the business community and academia in China. For instance, while in Beijing last year, Grand Chief Edward John met with the executive director of the Chinese Association for Intercultural Studies at Beijing Foreign Studies University. Both parties agreed to build this relationship. During this same visit, Grand Chief Edward John spoke at the 6th Annual Canada-China Energy and Environment Forum. FNEMC representatives have held meetings with Mr. David Mulroney, Canada's Ambassador to the People's Republic of China, Consul General Liang Shugen of the Consulate-General of the People's Republic of China in Vancouver and Zhang Junsai, Ambassador of the People's Republic of China to Canada . Meetings have also been held with Chinese banks, mining and forestry companies.

A PROACTIVE APPROACH

The First Nations-China Strategy is intended to build on the growing number of relationships between First Nations and Chinese businesses. Here are a few examples:

Silvercorp Metals Inc.

China's largest primary silver producer is developing the Silvertip high grade silver-lead-zinc mine project in northern BC. The Silvertip property lies within the traditional territory of the Kaska First Nation. Recognizing the imperative of First Nations support for their project, Silvercorp consulted with the Kaska Dena Council. The two parties signed a Resource Funding Agreement and negotiated a Traditional Knowledge Protocol and Memorandum of Understanding during the consultation process. Silvercorp and the Kaska Dena Council are negotiating an Impact and Benefits Agreement that is mutually beneficial.

Coast Tsimshian Resources

This forest company, wholly owned by the Lax Kw'alaams Band in northwest British Columbia, harvests and exports logs to China. Coast Tsimshian has opened a marketing office in Beijing to pursue economic development opportunities – a first for a First Nations company.



FIRST NATIONS-CHINA STRATEGY

GOALS

FNEMC's First Nations-China Strategy is guided by four goals:

- 1.** To take advantage of the increasing role of the Chinese government and industry as potential investors in the natural resources projects in British Columbia and to create cultural and educational opportunities for First Nations youth, elders and businesses.
- 2.** To develop First Nations policies for consideration by the Chiefs of BC as to the best practices for Chinese companies wanting to partner with First Nations.
- 3.** To create a First Nations-China desk in British Columbia to respond to inquiries.
- 4.** To facilitate opportunities for First Nations youth by creating an internship program with government and industry offices located in China.

ACTION AREAS

First Nations capacity building

Through activities such as a MOU signed with Zhejiang A & F University and engagement with the BC Ministry of Tourism, Trade and Investment and the Federal Department of Foreign Affairs and International Trade, FNEMC will improve First Nations internal capacity and engage with China on a wide variety of initiatives.

Promote opportunities for engagement with China interests

Face-to-face meetings are an important element in relationship-building. FNEMC is promoting annual missions for First Nations to China and for China representatives to travel to BC/Canada. At minimum, there will be one political delegation per year of Chiefs that travels to China to promote partnerships with First Nations. Another important aspect to this action area is developing formal and informal relationships here in Canada with Chinese organizations and associations such as the Asia Pacific Foundation of Canada.

Establish a China Desk to assist First Nations to respond to and develop business opportunities

FNEMC will create a China Desk to respond to inquiries and work with communities to build partnerships between First Nations and China. The China Desk will be one of the 'go-to' centres for First Nations that want to access the Chinese market for their products and to improve their understanding of opportunities and emerging markets in China. It would also respond to Chinese investors that want to develop relationships and economic partnerships with First Nations in BC and Canada.

The First Nations-China Strategy will create a better investment climate for Chinese companies seeking to invest in BC.

Develop best practices for engagement

FNEMC is developing principles and practices for Chinese investors and developers that promotes adequate consultation and collaboration with First Nations. FNEMC has developed a toolkit called "Sharing the Wealth" that provides information and advice on negotiating mining agreements. This document was brought to the Chiefs at the First Nations Summit and the Union of BC Indian Chiefs for formal support through a resolution.

Expand market opportunities for First Nations in China

Along with many Canadian businesses, First Nations in Canada would like to seize opportunities to market products or services in China. Tourism and forestry are two immediate opportunities to be further pursued. One example is expanding the use of BC wood products by investigating market opportunities for bioenergy with China. As part of this Action Area, FNEMC will try to access federal government funding that support Canadian organizations working to expand markets in China.

Approach the provincial and federal governments to discuss and develop mutual benefits/opportunities

FNEMC has asked the BC government and the federal Department of Foreign Affairs to appoint a joint First Nations/ Provincial and Federal technical working group. A partnership on the Asia Pacific Gateway initiative is suggested.

Create a unified message

A strong branding strategy is needed both in and outside of Canada to ensure government and business both in Canada and China see First Nations as part of the solution. FNEMC wants to ensure the voice of First Nations in BC is heard and that shared messaging will be consistent with federal and provincial goals. FNEMC will lead development of these important messages about the need to consult with First Nations and the commitment of First Nations to sustainable resource development.

This message will include a plan to work with:

- First Nations communities across Canada
- Canadian businesses
- Federal and provincial governments
- Chinese government
- Chinese businesses
- Chinese Canadian organizations and associations

MOVING FORWARD

This strategy is being presented to the Chiefs of British Columbia for their input and approval. FNEMC continues to work with the provincial and federal governments. Discussions are ongoing about the following recommendations:

- **Technical Working Group:** To enhance communications and expedite the action areas, FNEMC has recommended the appointment of a working group from the FNEMC, the BC government and the Canadian government. The technical working group would develop a formal link into the Asia Pacific Gateway Initiative.
- **Staffing of the BC First Nations-China Desk:** FNEMC has requested resources from British Columbia to hire two full-time staff members to develop relationships and economic partnerships with Chinese investors and developers.
- **Trade Mission to China, October 2011:** FNEMC representatives will organize and take part in a trade mission to China in October 2011. This mission will include meetings with government and industry.
- **Totem pole raising in Beichuan, October 2011.** Coinciding with the trade mission, a ceremony will be held to raise the totem pole created by First Nations carvers for the people of Beichuan to honour lives lost in the 2008 earthquake.
- **China internship program:** FNEMC proposes collaborating with the BC Ministry of Education and Ministry of Tourism, Trade and Investment to develop a program that could send First Nations interns to China to work in BC government trade and investment offices, the Zhejiang Agriculture and Forestry University, the Canadian embassy and consulates, and other institutions.
- **Joint Announcement of First Nations-China strategy at Council of the Federation (CoF) meeting:** FNEMC proposes a joint announcement with the Province of BC about a First Nations-China strategy at the July 21-23 CoF meeting. The meeting will feature a national discussion on Asia Pacific relations.



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