The Social Sciences 1(3): 235-242, 2006

The Legal Regime of The International Area

Mohammed H. K. Al-Essawi
Room No. 2-508, College of Foreign Students Education,
Wuhan University, Wuhan, Hubei Province, 430072, The Peoples Republic of China

Abstract: The global economic, political and legal regimes have over the years shown us that the land is power and so are waters. Due to the demarcation in the study of a harmonious world system, the United Nations has been playing a critical, if not principal role, in creating legal space for stability in accordance with the institutions, procedures and protocols inclined with the world governing laws and agreements through world institutions. Although there are gaps within the *1982 United Nations Convention on the Law of the Sea*, the prevailing problems are being addressed at a case study level as these are of strategic and political interest and importance territorially. These comprise military technology supervision power of the seabed and the availability of viable resources. States and markets, therefore, play an essential role in these undressing these facets. This study seeks to unveil the significance of the legal characteristics of the international area while simultaneously addressing the existing problems in the context of autonomy and rights to these territories.

Key words: International area, seabed, law of the sea convention, territory

INTRODUCTION

The United Nation agreement of Sea Law put a new legal system called 'The Area', which was not found before, in the agreements and special treaties of Seas. Then such an agreement became known as The International Area since it occurs Beyond the Limits of Territorial Sovereignty of the state[1].

The International Area as it is restricted by the law of the sea is (seabed and oceans and the interior of earth Beyond the Limits of National Sovereignty[2]). Thus it does not include water above the Area or the airy space above such water[3] which submitted to the principle of free high seas.

Others define the International Area as (the sea areas which exist in the high seas and do not involve the interior waters, regional sea, bordering area, pure economic area and continental shelf and it also excludes the ground waters, straits, and canals[4]).

The International Area as mentioned in the agreement of 1982 was not previously known and definite as it's mentioned nowadays in the eleventh part of the agreement. Such a fact had been officially raised by the ambassador Dr. Arvid Pardo, the representative permanent of the state of Malta in the United Nations. He demanded to include a new article in the worktable of the twentieth- two session of the General Organization under the title of (Declaration of agreement related by using the bed of the seas and oceans, which occur Beyond the Limits of Territorial Sovereignty of the state, for peaceful purposes and using their wealth for the benefit of humanity)[1].

Was this interest in the International Area and its use a new one, and was the idea of the bed of seas and oceans a result of the Ambassador Pardo's idea in front of the General organization in 1967? Or had this area drawn the attention of previous States, as well as the researches and analysis of the Jurists before this time?

In order to know the answers for such questions there is a need to know the historical stages that the development of the idea of International Area went through up to now. Thus such deals with studying the limitation of the international Area, its beginning and its end as well as the adopted criteria for clarifying it in first chapter while the second chapter will deal with studying its economic, legal and scientific importance as well as its decisive role in the International Policy and military strategies. The last chapter is devoted to study of the legal situation of the Area and the legal system which ruled it.

BOUNDS OF THE INTERNATIONAL AREA

After internationalizing the problem of seabed's and oceans, a new problem appeared represented by specifying the bounds of an international area: to state the national sovereignty. This in turn requires specifying the area within the sovereignty of coastal states, i.e., looking for the external bounds of continental shelf, and classifying the area outside of it is an international area.

Since the regional sea and the adjacent area (which constitutes part of the pure economical area) lie before the pure economical area, and since the continental shelf lies[1]. Sometimes after the pure economical area, the research is restricted to study the external bounds of the continental shelf which its end is the beginning of the international area.

Specifying the international area is related with identifying the Beyond the Limits of Territorial Sovereignty[2]. The rest of area after specifying the sovereign authority is for the international area.

This problem has received a great attention and long and complicated negotiations in Third Sea Conference. There, they concentrated on identifying the international area by focusing on the continental shelf bounds.

Before presenting the solution adopted by the Agreement in specifying (or identifying) the bounds of an international area, it is good to focus quickly on the content of this Agreement concerning the external bounds of the continental shelf 1982.

The external bounds of continental shelf in agreement 1982: Negotiations in the Third Sea Law Conference 1982 passed many stages, and in there appeared many directions concerning the outside bounds of continental shelf and what could be within the national sovereignty of states and what could not. After long discussions and negotiations, the first committee concerned with finding a legal regime of an international area stated that finding a legal regime must be connected with the sovereignty of coastal countries on seabed's and oceans. The committee staff agreed to postpone the topic until the second committee finished identifying the external bounds of economical area and the bounds of the continental shelf within the sovereignty of coastal states[1]. The second committee reached an agreement mentioned in Articles (57, 76) of the Agreement.

Article (57) is concerned with the external bounds of the pure economical area (The pure economical area is not more than 200 sea miles of the base lines from which the regional sea width are measured, they are beyond the regional sea and adjacent to it (Article 55). Point 1/aof Article 56) of the Agreement includes the water column higher than the seabed, its land and under ground.

Article (76) of the Agreement deals with the outside bounds of continental shelf , and many standards depend on identifing these bounds(2):

The Standard of Natural Extension: Agreement 1982 gives important space for the concept of natural extension in two points of Article (76). The content of the first point is the following: the continental shelf of any coastal country contains... the bed and the underground of that lands covered with water extended to outside its regional sea in all sides of natural extension of the sea region of that country till the outside part of the continental edge...[1]. The third point is the following: (The continental edge is the covered extension of the land of the coastal country. It has seabed, underground shelf, and the slope and height(2)). It doesn't include the deep bed of the ocean with its heights, land underground, as referred in Article (76) to the standard in (1/4) considering it the drawn line from a specified distance to the continental slope[3].

The standard of distance: Article (76) depended on the standard of distance in many fields in (point/1) it extended the legal continental shelf to 200 sea miles distance of basis lines from which the regional sea width is measured if the outside part of the continental edge doesn't extend to that distance. The same standard is used to specify the natural extension if the distance is more than 200 sea miles. (point 5) specifies the outside bound of the continental shelf if it is not more than 350 sea miles, from the basis line or 100 sea miles from the depth equality on 2500 meters. Point (4 / a) specifies the extension by 60 sea miles, from the top of the continental slope.

The geological standard: Point (4/a) of Article (76) affirmed this standard when the natural extension is more than 200 sea miles, and this is done by drawing a line "...according to point[7] by going back to the farthest secondary external points where the thickness of sedimentary rocks on each one is not less than 1% of the shortest distance from this point to the top of the continental slope".

Thus Article (76) neglects the standards of depth and exploitation possibility stated in Article[1] of Geneva Agreement of continental shelf 1958. Besides, it is connected between the legal concept and the geographical concept of continental shelf on a form makes a stability between countries with geographically- wide continental extensions and those characterized with this geographical feature by nature[1].

By this interaction among the above-stated articles the Agreement has taken two interrelated legal regimes: the first one is implemented on the pure economical area and extend to 200 sea miles. The second one is implemented on the continental shelf after 200 sea miles and a distance not more than 350 sea miles[2].

In this respect, the coastal country must pay for nonliving resources of continental shelf after 200 sea miles. The payment can be monetary or substantial given to the international authority of seabed distributed

equally to all members of the Agreement, taking into consideration the benefits and needs of developing countries[3]. This means that the coastal countries act as a substantial or a concessionaire of the authority.

Specifying the international area in agreement 1982: According to what is said about specifying the outside bounds of the continental shelf, the international area in Agreement 1982 is the part of seabed and its ground coming directly from the external part of continental edge, or what comes after 200 sea miles from the basis lines from which the regional sea width is measured, if the external part of the continental edge extends to that distance.

Therefore, the national sovereignty of coastal countries will be on seabed's and oceans and their undergrounds on the bounds of continental shelf. Whatever is outside these bounds is the beginning of the International Area: these will not be within the sovereignty of any country.

For rocks not used as human residence or for economic reasons, the bounds of International Area starts from the external bound of regional sea. This is because rocks have no economic area or continental shelf[1].

For the importance of specifying the outside bounds of continental shelf and its direct influence on the bounds of the International Area of seabed's and oceans, where these bounds are the beginning of the International Area, this Agreement in its second appendix established a new system of supervision for the problem of extension, and it is called (Committee of Continental Shelf Bounds)[2].

As far as the work of the committee in specifying the external bounds of continental shelf, point[7-10] of Article (76) and[1,2] of Article (89) and Article[7] of the second appendix of the Agreement state that coastal countries specify these bounds. Then, they present the necessary data and drawings to the (Committee of Continental Shelf Bounds) which in turn just issue the necessary recommendations to the coastal countries about the conflicting issues in the report of external bounds of their continental shelf. If the coastal country doesn't agree with committee recommendations, this country must present in a reasonable period a new or modified order to the committee[1].

In this respect, the bounds stated by the coastal country on the basis of these recommendations are final and obligatory. What will happen if these countries don't adopt these recommendations in specifying these bounds? No text or reaction has been stated in the Agreement. This means leaving the door open in front of these coastal countries in specifying the external bounds of their continental shelf according to their national benefits, without any consideration to others' rights, especially those lacking geographically to these coasts. This will violate the common human heritage and rights of other countries.

This Agreement doesn't include any text referring to the defense of the area and common human heritage against violations of coastal countries. Without any exaggeration, the Agreement answered the sovereignty calls on high seas, decreasing the specified area for common human heritage for the national benefits of coastal countries. That is, these coastal countries have taken seas from other countries. In other words, in this Agreement, national benefits overweight international benefits.

It is proper to increase and activate the role of Committee of Continental Shelf Bounds. Their privileges must be obligatory resolutions, not recommendations to coastal countries for specifying the external bound of continental shelf. This is to achieve stability of Agreement decisions in this issue, and to keep the concept of common human heritage represented by the international area.

This Agreement gives no privileges to the authority, except that mentioned in point[2] of Article (84) where coastal countries must give a copy of each map or a list of all geographical coordinates, which identifying the lines of external bounds of continental shelf, to the Secretary general of authority.

IMPORTANCE OF INTERNATIONAL AREA

The importance of international area lies in the huge stock of mineral wealth that is becoming more available through modern technology, as well as the vast ecological resources. These lead to legal problems about its fair and proper exploitation. In addition the particular strategic importances of certain regions lead in turn to a number of political problems between different countries. This in turn had a negative effect on some international relationships, peace and security.

Two sub-sections will be stated here: the legal and economical importance, and the political and strategic importance.

The legal and Economical Importance of the International Area

The economical importance: Earlier the importance of Seas and oceans was restricted to their vast animal stock. Due to recent developments in technology countries have been able to gain access to huge quantities of minerals under the ocean floor. This has increased the importance of control of the international area.

Recent developments in science and geology have enabled huge existing petroleum and mineral reserves to be discovered in the seabed. The extraction off these resources is very expensive, and the process can be dangerous. The cost of exploitation is huge, needing large investments, new roads, and new advanced technical tools[1].

Therefore, this investment is restricted to Industrial States for they have both the capital and technology which other countries (particularity the developing ones) lack. For this reason, many developing countries pay vast sums of money to obtain technology for mineral extraction and exploitation. This rapidly increased the budget spent on sea and ocean research and technology.

The legal importance: The legal importance of an international area is evident in the fact that disputes over such vast natural resources were inevitable. Demand for these resources was liable to cause many legal problems which could lead to conflicts among countries. A comprehensive and general legal organization and a clear arrangement of international seabed were essential in creating an effective system. Some problems that needed to be addressed were[1]:

- defining the range of international seabed.
- exploitation and discovering these areas, and conditions organizing the rights of coastal states in discovering the area and its investment.
- considering the non coastal states, or those on closed or pseudo-closed seas.
- harmonizing the experience of discovery and exploitation made by coastal states and a high sea freedom.
- specifying damages done by exploration and exploitation and solving the related conflicts.

The strategic and political importance of an international area

The strategic (military) importance: An unknown Russian experts stated that (a state that learns to live under the sea will control it, and that state will then control the world). This statement highlights the strategic importance of seas and oceans. Because controlling the seas and oceans would give the state a strategic ability to control their coastal lands.

The strategic importance increased clearly by military exploitation of sea beds and oceans. Technological development led some states, especially the developed ones, to exploit seas and oceans for their own legal and illegal benefits, with no attention to the legal rights of other states.

Military exploitation of an international area is more costly then any other type of exploitation. Strategic use of the international sea bed was the most important issue faced by states as it decided the effective defense strategy for a region.

The political importance: The investment of an international area needed to proceed in an orderly manner to prevent conflict among countries investing in the area. Problems could arise as each country tried to implement its own policy of investment. An example of these problems could be seen between the developing countries and the developed countries, as the developed countries tried to implement all the necessary means to prevent developing ones from participating in investment.

Another example can be seen between coastal states which try to prevent noncoastal states from taking benefits of these coasts by putting obstacles and conditions[1].

Some states used of the seas as a method of control in attempt to further its own political aims.

The above-mentioned discussion presents the importance of the economical and strategic (military) sides. The developed states will use its technology to increase its economic exploitation, and in turn this will increase its control on wider lands to create their military and strategic centers. This leads to new problems in the international politics, and; therefore, there is a need for laws to order exploitation and discovery of areas and to solve critical problems that may arise.

The importance of international area resources appeared in the contrasting positions of developed and developing countries in the 3rd UN conference of Sea Law. This was especially so in discussing and considering the legal system of an international area and the fair regulation of investment. Each group aims to achieve its own benefits, in addition to the benefit conflicts among states and groups according to their technological, geographic, economic, and military situations.

THE LEGAL REGIME OF AN INTERNATIONAL AREA IN THE AGREEMENT 1982

There was no debate about the legal status of an international area before the technological development and the discovery of mineral wealth in it, where rules of high seas were implemented. After the discovery of mineral wealth the legal status become an issue of high ideological and international debate. Different jurisprudic opinions and international situations became apparent because of the different positions taken by countries.

Earlier, investment was difficult. Also exploitation for defense and economy purposes was not technically possible. As technology became more advanced countries began to take steps towards regional exploitation and investment. This highlighted the immense importance of setting up a legal regime in order to manage the exploitation and investment.

Therefore, work was started to establish and organize a suitable legal system, in a way that would prevent problems and negative reactions between international relationships and to keep peace and security.

In order to address these issues the 1982 Agreement was put together. Later, a concise summary of the legal regime of the Agreement will be given after shedding some light on the legal developments before the 1982 Agreement.

The legal situation of an international area before agreement 1982: Creating a legal regime for the area is an important issue in international Law in order to validate its discovery and investment. It was especially important to limit the conflicts raised among countries about controlling the area as a new source of political, economical, and military power.

So what is the legal situation of an area? To answer this we deal with orientations in international legal jurisprudence and international agreements involved with it.

International legal jurisprudence: International legal jurisprudences disagreed about the legal nature of this sea area. Therefore, many jurisprudic theories appeared, as follows:

- Some jurisprudents[1] affirmed that the bottom of high seas and its underground are subject to the same water column, i.e., Freedom System[2]. Both constitute one legal unit, and are therefore subject to one legal regime. That is, both sea-bed and its underground are similar to the water covering them, obtainable and uncontrollable since it is "Res Communes". Some countries obtained sea-beds when they did not necessarily have the right to do so; these were obtained by prescription, and used without any objection by the international community.
- Some jurisprudents, believe in the possibility of obtaining High sea-bed, and under its surface. To them, it is "Resnulis"; it can be controlled and obtained by any state. This state can invest and exploit it for its own national benefits, on the condition that there is no violation of high sea principle. This belief has been taken from the idea of seizure (1) in international traditional Law. Those jurisprudents believe in the validity of their belief since this idea has been regarded as a valid principle for stating the legal situation of high seas and the ground beneath it.
- There is a group of jurisprudents who distinguish between sea-beds and under the sea bed. Among those Jon Columbus who believed: (Sea-bed can't be occupied or controlled by any country and its legal situation is that of water covered it. Under Sea-bed can't be occupied, controlled or seized). Thus, they constitute two different legal unites, and are subject to two legal regimes.

Those jurisprudents explain their idea of preventing any form of Sea-bed being seized by stating that this will lead to affect freedom of sailing, freedom of seas. This explanation is incorrect since sea-bed and ocean exploitation and investment will affect the freedom of sailing and freedom of seas whether this exploitation is done for sea bed or underground.

From this, it is clear that international legal jurisprudence differed in there opinions on an appropriate legal regime to rule the area. Disagreement among jurisprudents was such there was no possibility of implementing the above mentioned opinions on sea bed.

International agreements: Geneva Agreements 1958 was one of the important agreements designed for sea exploitation in that period. We are concerned here with Geneva Agreement of Continental Shelf and High Sea, and the application of its legal regime on international sea-beds and oceans.

Geneva agreement of continental shelf: Geneva Agreement of Continental Shelf 1956 decided that coastal countries have the right of sovereignty over the continental shelf and the right to exploit its natural resources. This right has been restricted to these countries only, i.e., if these coastal countries do not exploit it, no other country will have that right unless a public approval is taken from these coastal countries. This is because these rights are individual and unconditioned, and not restricted to continental shelf investment, actual occupation, or declaration[1].

This means that this area is not a thing obtained for the first time by seizure, but it is the right of coastal countries, and no other states have such a right[2].

Thus, the Geneva Agreement declared the right of the coastal country to exploit the natural wealth found in the seabed and below the surface adjacent to its coasts. This is done on the basis that the continental shelf is an

extension of land region of the coastal country under sea, and its exploitation is based on its right of exploiting its own land, not as "Resnullis". What is taken against this agreement is that it did not specify the end of continental shelf, its external bounds, and the distance under the sovereignty of the coastal country. According to this agreement, these countries have the right to invest and exploit wide distance in sea-bed, and their right may be extended to the coast of other opposite countries.

In this way, there is no need for a particular legal regime for sea-bed since the legal regime of continental shelf has been implemented. This was the idea of implementing the legal regime of continental shelf. But this result is illegal, unacceptable, and unreasonable. As a conclusion, the idea of implementing the legal regime of continental shelf on international sea-bed is unacceptable[1] since the majority of sea space will be distributed on the coastal countries.

Geneva agreement of high seas: In Article[2] of this agreement, there is an acknowledgement for all countries to have the right of exploiting high seas, that are open in front of them, and no country has the right to control or occupy any part under its sovereignty.

This study opened the door for a big jurisprudic debate ended by the appearance of two orientations. The first orientation affirmed the countries' freedom on investing high sea-bed, its underground[2] and water covering it. The second one affirmed the countries' right of investing the upper part of sea water, and its bed in included.

We believe the first orientation since the expression (in this respect) mentioned in point[1] of Article[2] doesn't mean restriction, but it refers to the existence of other rights, not only those mentioned in it. Also, this point[1] referred to credited rights, not mentioned publicly in it[3].

Our belief doesn't include our interest in implementing this legal regime on high sea-beds. This will make the wealth in international sea-bed under the control of developed countries, not the developing ones. Thus, we don't call for implementing the legal regime of both continental shelf and high-sea according to Geneva Agreement 1956 on sea-bed and oceans since they are different in their nature, and the legal regime will be different on each one of them.

The legal regime of international area in agreement 1982: The UN Third Conference of Sea Law was determined to establish an international legal regime ruling the International Area that would work to the benefit of all countries. On this basis, the negotiations and discussion were aimed at signing an agreement that would solve the jurisprudence debate and international conflict about the legal status of the area.

The legal regime implemented on the area in the agreement is taken from the Principles Declaration credited by UN in its Resolution (2749) in 1970 to rule the area. No conflict or objection has been raised about the validity of the international characteristic of the area and accepting it as a common human heritage.

Thus, the legal regime is derived from the basic principles controlling the area mentioned in the agreement. These principles are:

The common heritage of mankind: The common heritage of mankind is not restricted by the framework of sources and wealth that are presently found in the area. Thus it includes whatever is found and will be found from these sources and wealth in the area in the present and future[1]. In addition, the sources of the area cannot be restrictive only to the present generations but they are common among all these generations and the coming ones since the man-kind involves all the people of the world from the present days till the future. Hence, the concept of mankind means not only the communities that signed on the agreement and therefore submitted to the rule of countries but also the communities that do not sign on the agreement and those that are not regarded as independent countries as well as the other entities. Thus, it is a common right for the whole of mankind in present and future and it is not permissible to use its wealth apart from the benefit of the whole of mankind[2]. Therefore, this wealth should be saved protected, invested and divided among the countries. This requires good and systematic economical management because such a heritage should be transmitted among the generations from age to age. Here the agreement stated that Activities in the area are for all people regardless of the geographical placement of coastal countries and taking into consideration the benefits of developing countries, un independent countries, and self-ruling situations credited and validated by related UN resolutions. In addition, the authority will divide the financial benefits and economical benefits equally according to a suitable formula. Moreover, rights in area resources are fixed for humanity which the authority works on behalf of. These resources are not restricted to any one a group.

It is not a permissible to declare or practice sovereignty or sovereignty rights on any part of the area or its resources : No country has the right to declare or practice sovereignty or sovereignty rights on any part of the area or its resources, as those practicing on their regional sea, pure economical area, or its continental shelf. No country,

or considerable one, or people have the right to seize any part of it. No validity and acceptance of such declaration or practice of any sovereignty rights. No country, or ordinary man, or a considerable one has the right to declare, obtain or perform rights for the area and its resources according to chapter[11] of the agreement. No validity to any practice of these forms.

The use of the area for peaceful purposes: No distinction among countries (coastal or not) about their only-peace activities in the area.

Regarding the rights and necessary benefits of coastal countries: The rights and necessary benefits of coastal countries should be taken into consideration when performing activities, in the case of extending resources exploitation in the un- sovereignty area of coastal countries.

The freedom of scientific sea-research: Freedom to perform scientific sea-research in the area for peaceful purposes and for humanity benefit.

The cooperation in the field of transmitting technology: Cooperation in technology and related scientific knowledge. Taking procedures to spread access to knowledge for all countries, especially the developing ones.

The protection of the sea environment: Taking necessary procedure to save the sea environment from the damages that may result from activities in the area.

The actual participation of the developing countries in the activities of the area: Consolidating the actual participation of the developing countries in the activities taking into consideration their rights and individual needs, especially non-coastal and geographically-defected ones.

The commitment by the rules of the agreement and the responsibility for any damage made: Obligation of all the Articles of this Agreement regarding chapter[11]. Countries and other communities are obliged to compensate for any damage for their activities.

The protection of human life: Taking necessary procedures to ensure the ultimate protection of human life in all activities in the area.

Considering other reasonable activities in the sea environment and coordinating them with activities in the area.

The protection of archeological and historical findings: Protecting archeological and historical findings found in the area, or taking measurements for humanities benefit, with complete respect to country of origin, or country of cultural, historical, or archeological origin.

The agreement about the general behavior of countries and their activities in the area with respect to the rules of the international Law: General behavior of countries and their activities inthe area coincide with principles mentioned in UN Charter and other international Laws to spread and save international peace and security.

It seems from the above mentioned that the principles controlling and ruling the international area will constitute together the legal regime of sea-bed and oceans beyond the limits of national sovereignty. As for the waters above the area and airy space , it will not be submitted to the rules that mentioned in the eleventh chapter of the area but for a special system included in the seventh chapter of the agreement that is related in the high seas.

CONCLUSION

The scientific progress and the increasing of technical faculties of the countries, especially the advanced ones, led these countries to be distinguished by there ability to exploit the wealth that is found in this area and to extend their control upon such resources. To prevent unregulated and unfair exploitation the International community decided to create an International legal system which would permit all states to exploit the resources equally. Thus, the United Nations Agreement of the law of the seas in 1982 put a comprehensive legal system including all the fields of the law of the seas on which the International Area is one of them. The Law of the International Area was not accepted by the advanced countries which made some efforts to modify some of its principles, which they did successfully with the release of the decision of the United Nations no. 263 / 48 in 28 of August 1994.

The special nature of the International Area its treatment beyond the national sovereignty of the coastal countries and in turn not submitting to the authority of any state or a person whether natural or abstract imposed a special treatment by the International community. Thus the rights and obligations of the states in this area should be treated in a special case and the management and exploitation of this area should be done by an International organization.

In order to deal with this subject, this study followed the historical origins of this area and its developing stages before and after the Maltese Proposal till the beginning of the third United Nations Conference on the law of the sea in 1973 as well as the adoption of the agreement of 1982 and ending with the negotiations which resulted in signing the modifying agreement in 1994.

The economic importance of this area with its various and vast resources and its strategic position led to different legal problems and political conflicts according to its proper management and exploitation.

As for determining and applying the legal system of the area, this requires determining the limits of the location on which this system can be applied upon. This will be done through determining the limits of the area and showing which location is submitting to the national sovereignty. This means that we should define the area which is submitting to the national sovereignty of the coastal countries through determining the outer limits of the continent shelf. Thus whatever occurs outside these areas will be regarded as an international area which will be ruled according to this special legal system.

Finally, the legal system which is applied upon the area was produced according to the mentioned principles in the agreement which constitute, as a whole, the legal framework for the management and exploitation of the area.

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