

# PERSPECTIVE

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## **The Death of EDCA and Philippine-U.S. Security Relations**

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### **EXECUTIVE SUMMARY**

- The actions of regional states are changing the terms of the United States (U.S.)-China rivalry in Southeast Asia.
- President Duterte's February 2020 withdrawal from the 1999 Visiting Forces Agreement treaty with the U.S. has fomented the greatest crisis in the bilateral alliance in a quarter century.
- The withdrawal is consistent with Duterte's China-friendly view of U.S.-China relations and his rhetoric on the U.S.-Philippine alliance.
- It renders the 2014 Enhanced Defense Cooperation Agreement (EDCA) between the two allies inoperable and questions the future of the 1951 Mutual Defense Treaty.
- The looming end of the VFA will weaken American strategic foothold in the region and help pave the way for the emergence of a Sinocentric order in Southeast Asia.

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## **INTRODUCTION**

At the end of the Aquino administration in mid-2016, Philippine-U.S. security relations were the strongest in a quarter-century, focused on the growing threat from China in the South China Sea, and on enhancing the U.S. forward presence in Southeast Asia. Less than four years later, due to President Rodrigo Duterte, the opposite is true.

The 2014 Enhanced Defense Cooperation Agreement (EDCA) reinvigorated the alliance for both countries. President Duterte's February 2020 decision to withdraw the Philippines from the 1999 Visiting Forces Agreement (VFA) with the U.S., if consummated, will therefore render EDCA inoperable; put the 1951 Mutual Defense Treaty into further question; weaken the U.S. forward presence in Southeast Asia; and strengthen China's position in the South China Sea.

This Perspective provides a detailed account of how President Duterte's approach to Philippine-U.S. security relations has led to arguably the greatest crisis for this alliance.

## **THE IMPORTANCE OF EDCA**

On January 12, 2016, the Philippine Supreme Court upheld the constitutionality of EDCA. The decision paved the way for the return of forward-deployed American forces for the first time in a quarter century to five Philippine Air Force (PAF) facilities across the country. The 10-year agreement was a calculated effort by Manila and Washington to make the Philippines a major staging base again for projecting American naval and air power in the face of China's maritime expansion in the South China Sea.

Philippine and American defense officials expected that the immediate effect of EDCA's implementation would enhance U.S. military assistance to the Armed Forces of the Philippines' (AFP) modernization programme. EDCA states that "both parties share the goal of improving the interoperability of their armed services and for the AFP to address short-term capabilities gap, promoting long-term modernization, and helping to maintain and develop additional maritime security, maritime domain awareness, and humanitarian assistance/disaster relief capabilities."<sup>1</sup>

The agreement authorizes U.S. forces "to have access and use of agreed locations on a rotational basis."<sup>2</sup> The U.S. military would shoulder the cost of upgrading AFP's infrastructure in the agreed-upon bases for both Philippine and American use, boost disaster response readiness through pre-positioned supplies, and facilitate further training between AFP and U.S. military units in maritime security and territorial defense. These improvements would include airfields, radars, hangars, and training facilities. The AFP could focus on acquiring basic military hardware and oversee a shift from internal to territorial defense.

Both allies hoped that the rotational U.S. military presence would strengthen Manila's resolve to uphold its territorial claims in the South China Sea as well as test Washington's credibility in honouring its defense commitment to the country. Access to air and naval infrastructure across the Philippines would facilitate the rapid and massive deployment of American forces in case of an armed confrontation in the South China Sea, possibly in East China Sea, and even in the Taiwan Strait. Though the South China Sea imbroglio will be a

long-term security challenge and will never be solved solely through force, an effective U.S. deterrent force, based in the Philippines on a rotational basis, would minimize the possibility of armed conflict in the disputed waters. EDCA, if implemented as planned, would serve the interests of regional security and all Southeast Asian states facing the growing threat from China in the South China Sea.

### **EDCA and the Duterte Administration**

The goals of EDCA will not be realized during the term of the current Philippine president. Immediately after becoming the 16<sup>th</sup> president of the Philippines in June 2016, former Davao City Mayor Rodrigo Duterte began to distance the Philippines from its only security ally, the U.S., as he sought China's assistance for the building of drug-rehabilitation centres for Filipino drug dependents, as well as soft loans for the construction of railways in Mindanao, and the purchase of China-made weapons for the AFP. During his October 2016 state visit to China, Duterte announced his decision to separate the Philippines from the U.S. and to gravitate closer to its peer competitors, China and Russia. This was a dramatic and radical break from the Philippines' long-standing policy of maintaining close security ties with the U.S. The new situation in turn led to the non-implementation of the EDCA and the current crisis in Philippine-U.S. security relations signified by the Philippine withdrawal from the VFA that underpins EDCA.

#### *Early steps*

President Duterte was determined to take advantage of China's emergence as a major economic power. For him, the Philippines' only choice was to foster economic interdependence with China which would ease tensions and the risks of outright armed confrontation in the contested waters. This meant unraveling the Aquino administration's geopolitical strategy towards China in the South China Sea dispute which involved strengthening the Philippine-U.S. alliance by allowing the rotational presence of American forward-deployed forces in the country. For Duterte, this unraveling requires downgrading Philippine-U.S. security arrangements while prioritizing Philippine-China economic ties.

On September 12, 2016, President Duterte argued that the contingent of U.S. Special Forces must leave Mindanao because there could be no peace in the southern island as long as these troops were operating there.<sup>3</sup> The following day, he declared that the Philippine Navy would stop joint patrols with the U.S. Navy in the Philippines' Exclusive Economic Zone (EEZ) to avoid upsetting China.<sup>4</sup> During his two-day official visit in Vietnam in late September 2016, he announced that the Philippine-U.S. Amphibious Landing Exercise (PHILBEX) 2016, which took place from 4-12 October 2016, would be the last military exercise between the two allies during his six-year term.<sup>5</sup> President Duterte explained that while he pledged to honour the long-standing defense treaty with the U.S., China opposes joint military drills in the Philippines. This left him no choice but to serve notice to the U.S. about the end of the joint amphibious exercise between the two allies.<sup>6</sup> He also warned of reassessing and possibly unilaterally abrogating EDCA.

During his subsequent October state visit to Beijing, President Duterte declared his separation from the U.S. and his realignment with China which favours resolving the South China Sea dispute through bilateral negotiations. His declaration was considered a serious

setback for the U.S., and a great Chinese diplomatic victory as it would have a radiating effect and bring other estranged neighbours in the region closer to China's orbit.<sup>7</sup>

After his return to Manila, however, Duterte clarified that he did not mean severing his country's alliance with the U.S. By "separation" he merely wants to chart an independent course in Philippine foreign policy. As such, Philippine foreign policy will not always dovetail with that of the U.S. When asked if his "separation" would affect defense agreements with the U.S. such as the Mutual Defense Treaty, the VFA and EDCA, President Duterte responded "Maybe." Then, quickly, he said that he "would have to consult the military, the police, and everybody first because, at the end of the day, it is all (about) security."<sup>8</sup>

On November 8, 2016, Defense Secretary Lorenzana announced that the Philippine-U.S. security alliance would not be abrogated and that EDCA would be implemented.<sup>9</sup> He said that during the cabinet meeting, the president decided to keep the Philippine-U.S. alliance intact and to implement EDCA. He added that joint military trainings would continue but would be scaled down into small unit exercises focusing on Special Forces operations and counter-terrorism/narcotics campaigns. Similarly, the annual *Balikatan* (Shoulder-to-Shoulder) exercises involving thousands of American and Filipino troops would be reoriented from warfighting scenarios to humanitarian, engineering, and civil activities.<sup>10</sup>

### *Non-Implementation*

In December 2016, then Foreign Secretary Perfecto Yasay said that it would be beneficial for the Philippines and the U.S. to reassess their relationship in the light of current geopolitical realities.<sup>11</sup> Apparently, he was referring to Duterte's earlier statement "that China now is the power (in East Asia), and they (the Chinese) have military superiority in the region."<sup>12</sup> Parroting China's rhetoric on the South China Sea dispute, Yasay commented that, "the present circumstances, such as the South China Sea (dispute), may no longer require a strategy based on the old concept of the Cold War."<sup>13</sup> He specified that the Duterte Administration intends to utilize EDCA for "coming up with a rapid response during natural calamities, to address terrorism, and to enhance Philippine law-enforcement capabilities."<sup>14</sup> He added that "joint military exercises will not be given focus or just down-graded, at least."<sup>15</sup>

In effect, according to then Secretary Yasay, "the continued existence of the Philippine-U.S. alliance and the EDCA would revolve around the Duterte Administration's war on drugs, humanitarian assistance and disaster relief (HADR), and counter-terrorism operations against Islamic militants in Mindanao." This thrust has essentially rendered the alliance strategically useless in deterring China's maritime expansion in the South China Sea.

In January 2017, Secretary Lorenzana announced that the EDCA was still in effect as U.S. forces would commence constructing facilities in Basa Airbase near Manila, Bautista Air Base in Palawan, and Lumbia Airfield in Cagayan De Oro, Mindanao.<sup>16</sup> He said that these may include runways, facilities for their troops, and storage facilities for their equipment. However, the Department of National Defense (DND) emphasized that while the implementation of EDCA would continue, it would focus on HADR, counter-terrorism, and anti-narcotics operations.<sup>17</sup>

The Pentagon and DND assured President Duterte that the EDCA-related facilities that would be constructed in the three PAF airbases would be for the above-mentioned purposes and not for war-fighting. Secretary Lorenzana said that Duterte approved the construction because he earlier said that (his administration) would honour all agreements entered into by the previous government.<sup>18</sup> Despite being informed by his defense secretary about the planned construction of EDCA-related facilities, Duterte accused the U.S. of building arms depots that were permanent facilities and therefore, unconstitutional.<sup>19</sup> He claimed that the planned construction would put the country in danger.<sup>20</sup>

He accused the Americans of building permanent structures to house arms that might include nuclear tipped weapons that they were unloading in the Philippines.<sup>21</sup> He even raised the spectre that “The missiles of China are pointed at the American military assets ... The Philippines will be hit first. They will hit Cagayan, Palawan, and Basa Airbase in Luzon.”<sup>22</sup> Duterte warned the U.S. that he would unilaterally abrogate EDCA because he received information that American forces were building permanent arms depots in violation of the agreement and the Philippine Constitution.<sup>23</sup>

President Duterte’s threat of abrogating EDCA was followed by Defense Secretary Lorenzana’s statement “that absent a U.S. guarantee of support to its ally, the Philippines would consider scrapping the EDCA to avoid becoming entangled with the U.S. just in case war breaks out in the South China Sea.”<sup>24</sup> In late March 2017, President Duterte continued his rant against the U.S. arguing that the U.S. Navy’s Freedom of Navigation Operations (FONOPs), risked a “miscalculation” that could trigger a conflict in the South China Sea.<sup>25</sup> He also accused the Obama Administration of having pushed the Philippines to provoke China without any guarantee of American support.<sup>26</sup>

President Duterte’s unfounded allegations against the construction of the EDCA-related facilities caused a one-year delay in the implementation of the agreement. The AFP contradicted the president’s allegation that the Americans were unloading nuclear-tipped weapons and other munitions in the Philippines. The AFP maintained that “there was no confirmed incident of this nature (storing of nuclear tipped weapons) and EDCA, like what was announced, is geared for the preparedness (of our forces) to respond to HADR situations faster.”<sup>27</sup>

The AFP argued that the construction of warehouses or storage areas for equipment would only be allowed if they were oriented for HADR.<sup>28</sup> Nevertheless, DND announced that it was reviewing the agreement’s provision on allowable infrastructure to make sure that their commander-in-chief’s instructions were followed.<sup>29</sup> Consequently, though both American and Philippine defense officials indicated that the discussions on EDCA-related construction were still ongoing, little in the way of specifics was unveiled until 2018.<sup>30</sup>

In April 2018, the first EDCA-related project was launched—the construction of a HADR fusion centre in Basa Air Base. The facility would be used to preposition equipment and supplies critical to the two allies’ ability to respond to regional humanitarian crises.<sup>31</sup> Other planned EDCA-related facilities inside Basa Air Base include an aircraft hangar and fuel storage facilities that are used during joint military exercises, and HADR operations.<sup>32</sup> The construction of other EDCA-related projects in Mactan and Bautista Air Bases are currently on hold because of the encroachments of business-related activities into the agreed locations.<sup>33</sup> A prominent security analyst insightfully wrote:

The key questions for EDCA lie further ahead. All told, progress on implementation has already been slower than defense policymakers on both sides had initially envisioned, and that has had implications for how Washington thinks about the shape of its military posture in Southeast Asia, for the evolution of the alliance, and for the development of the Philippines' own limited capabilities and its ability to confront a wide range of security challenges.<sup>34</sup>

Developments in the early 2020, however, further complicated EDCA's implementation.

### **THE 2020 CRISIS IN THE ALLIANCE**

In late January 2020, President Duterte said in an interview that a conflict in the South China Sea would crush the Philippines, and he was wary that the American troops would take advantage and the conflict would spiral out of control.<sup>35</sup> He expressed his fears of a U.S. intervention that would push any conflict in the South China Sea in an unforeseen direction.<sup>36</sup> Clearly, he does not consider the Philippine-U.S. alliance a stabilizing factor in the South China Sea dispute or a deterrence against external aggression. Rather, he sees it as a fuse that can ignite a major conflict in East Asia.

On February 11, President Duterte directed Foreign Secretary Teodoro Locsin to notify the U.S. that he was terminating the VFA.<sup>37</sup> Presidential Spokesperson Salvador Panelo announced that Secretary Locsin had signed the Philippines' notice of termination and sent it to the U.S. government through the U.S. Embassy in Manila.<sup>38</sup> As a result, the termination of the VFA officially takes place 180 days or six months after the U.S. government received the written notification.

Panelo announced that "the President will not entertain any initiative from the U.S. government to salvage the VFA; neither will he accept any official invitation to visit the United States."<sup>39</sup> The Duterte administration explained that the main reason behind its decision to terminate the 1999 agreement was the cancellation of the U.S. visa of presidential friend and former Philippine National Police (PNP) chief and now Senator, Ronald De La Rosa. The cancellation of the senator's visa was due to the U.S. Senate resolution calling for the Philippine government to release from detention the president's most strident critic, Senator Leila De Lima. Accordingly, Duterte's decision to terminate the VFA is a consequence of a series of U.S. legislative and executive actions that bordered on allegedly assaulting Philippine sovereignty and disrespecting the country's judicial system.<sup>40</sup>

During the February 7, 2020, Senate hearing on the VFA, Secretary Locsin warned that the VFA's abrogation would turn the 1951 Mutual Defense Treaty and EDCA into mere pieces of paper. By sending the notice of termination to the U.S. government on February 12, President Duterte effectively rendered these agreements so. Further implementation of EDCA-related projects is on hold given the Duterte Administration's abrogation of the VFA. Funds for EDCA-related projects are sourced from the budget allocated for joint Philippine-American military exercises in the Philippines. If these military exercises are

suspended because of the absence of a VFA, the funds cannot be used for EDCA-related projects.

The presidential spokesperson's recent pronouncements have also implied that President Duterte plans to cancel the 1951 Mutual Defense Treaty and EDCA. Panelo said that abrogating the Philippines' security treaties with the U.S. was "consistent with his stand that the Philippines must stand on its own, that will mean strengthening its own resources, and not leaning on other countries."<sup>41</sup>

## **LOOKING FORWARD**

Two years before his six-year term ends in 2022, President Duterte believes that preventing EDCA's implementation, and redirecting the Philippine-U.S. alliance away from confronting the China challenge in the South China Sea to counter-terrorism and HADR are not enough to show his sensitivity to Chinese security interests. Rather, he should effectuate the country's total separation from the U.S. by abrogating the Philippine-U.S. alliance.

There are three reasons behind this. First, he believes that the AFP would now support his move as he has increased the defense budget, funded the modernization program, and promoted senior officers who would be loyal to their commander-in-chief. Second, is his view on U.S.-China strategic competition. Finally, despite his efforts to prevent the Philippine-U.S. alliance from being directed against China, the AFP and the U.S. armed services incrementally reoriented their joint training exercises in the South China Sea to ones with China as the hypothetical opponent.

Since he became the commander-in-chief in 2016, President Duterte has shown continuous support for the improvement of the conditions of all military personnel and providing funds for the modernization programme. Since 2017, he made sure that the government allocates Php25billion (estimated US\$500million) for the AFP modernization programme so that it could acquire new attack and utility helicopters, tanks, supersonic jet fighters, and other military hardware.<sup>42</sup> He also supported Congress' Joint Resolution Authorizing the Increase in Base Pay of Military and Uniformed Personnel of January 1, 2018. Consequently, during the first three years of his term, the base pay of the military and the Philippine National Police (PNP) has doubled.<sup>43</sup> These two measures ensure that the AFP and the PNP will extend to him their unconditional support until the end of his term in 2022.

In the face of the U.S-China strategic competition, President Duterte thinks that China is now the paramount power in East Asia, and the Chinese have military superiority over the Americans. He believes that his country must play an important role in improving the permissive environment for China to create a new strategic equilibrium where it will gain strategic predominance over the U.S. This requires undermining the U.S.' strategic advantage in its competition with China: America's alliances. President Duterte is showing the world that an explicitly anti-China alliance under U.S. leadership will fail and that Southeast Asian countries, even American allies, can accept an illiberal Sino-centric regional order.

In November 2016, President Duterte entered into a tacit understanding with the AFP that he would maintain the Philippine-U.S. alliance on condition that it would be directed away

from China and instead focus on counter-insurgency and HADR. However, the 2017 siege of Marawi City by Islamic militants, and the realization of the Philippine military's glaring weakness in both conventional and unconventional warfare gave the U.S. an opportunity to provide hardware to the AFP and continue the two allies' conduct of joint exercises in the South China Sea with China as the hypothetical enemy. To show his sensitivity to China's security interests, Duterte found it necessary to reverse this trend and, later, to effectuate a total break from the U.S.

President Duterte's moves to annul in practice the Philippine-U.S. alliance are being hindered by two developments: the Department of Foreign Affairs' efforts to come up with a new Status of Forces Agreement (SOFA) with the U.S. to replace the VFA; and the Senate's legal challenge against Duterte's decision to unilaterally abrogate treaties in general, and the VFA in particular. On February 29, Philippine Ambassador to the U.S., Jose Manuel Romualdez, announced that he and the U.S. Ambassador to the Philippines, Sung Kin, were looking into Manila's SOFA with Australia as a possible template for a VFA replacement. On March 2, the Philippine Senate voted 12-0-8 to pass Senate Resolution No. 337 that will ask for the Philippine Supreme Court's concurrence. On March 9, the president of the Philippine Senate filed a petition with the Supreme Court asking it to define the limits of presidential powers in the termination of the VFA.

Despite these challenges, however, President Duterte remained defiant as he declared that he would not succumb to (bureaucratic and legal) pressure to revive the VFA. EDCA's non-implementation, the VFA's termination, and the subsequent undercutting of the Philippine-U.S. alliance will weaken American strategic foothold in the region, and help pave the way for the emergence of a Sinocentric order in Southeast Asia.

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<sup>1</sup> "Agreement between the Government of the Republic of the Philippines and the Government of the United States of America on Enhanced Defense Cooperation (EDCA)" in *Forging Partnerships: Philippine Defense Cooperation under Constitutional and International Law* (Eds.) J. Eduardo Malaya and Maria Antonina Mendoza-Oblena (Manila: Foreign Service Institute and U.P. Law Center, 2016). 86.

<sup>2</sup> *Ibid.* 86.

<sup>3</sup> David Cagahastian, "Malacanang Duterte Statement Kick-out of U.S. Troops in Mindanao," *BM News*, (September 13, 2013).3.

<sup>4</sup> *Ibid.* 3.

<sup>5</sup> Julie Aurelio, Duterte Out to End War Games with the U.S.: Bilateral Relations Get More Uncertain," *Philippine Daily Inquirer*, (September 30, 2016).1.

<sup>6</sup> *Ibid.* 1.

<sup>7</sup> Neil Morales and Karen Lema, "The Philippines is Preparing a Major Pivot toward China amid Tension with the U.S." *Business Insider* (October 11, 2016).1.

<sup>8</sup> "Philippine President Pushes Break with U.S. Most Filipinos Hold Favorable View of U.S." *Jane's Defense Weekly* (October 27, 2016), A-7.

<sup>9</sup> Asia New Monitor, "Philippines-United States: Philippines Scaling Back, Not Scrapping, Military Work with U.S.," *Asia News Monitor*, (November 11, 2016). 1.

<sup>10</sup> *Ibid.* 1.

<sup>11</sup> Ronron Calunsod, Philippines Says Review of U.S. Relations Good for Both Sides. *Kyodo News Service*, (22 December 2016). 1.

<sup>12</sup> David Cagashastian, "Malacanang Shelves Ruling for Better Relations with China," *Business Mirror* (December 21, 2016) 1.

<sup>13</sup> *Ibid.* 1.



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<sup>14</sup> *Ibid.* 1.

<sup>15</sup> *Ibid.* 1.

<sup>16</sup> The Philippines News Agency, “EDCA Still in Effect, U.S. to Start Construction in 3 Philippine Airfields—DND Chief,” *The Philippine News Agency*, (January 26, 2017). 1.

<sup>17</sup> *Ibid.* 1.

<sup>18</sup> *Ibid.* 1.

<sup>19</sup> Real Estate Monitor Worldwide, “Duterte Tells U.S. to Stop Planned Construction in PH Bases,” *Real Estate Monitor Worldwide* (January 30, 2017). 1.

<sup>20</sup> *Ibid.* 1.

<sup>21</sup> *Ibid.* 1.

<sup>22</sup> Business Mirror, “U.S. Told: Do not Build Permanent Arms Depot,” *Business Mirror*, (January 20, 2017). 1.

<sup>23</sup> Sheldon Simon, “Mixed Messages,” *Comparative Connections* 19, 1, (May 2017): 42.

<sup>24</sup> *Ibid.* 42.

<sup>25</sup> *Ibid.* 42.

<sup>26</sup> *Ibid.* 42.

<sup>27</sup> *Ibid.* 1.

<sup>28</sup> *Ibid.* 1.

<sup>29</sup> Asia News Monitor, “United States/Philippines: DND Says U.S. Will not be Allowed to Build Military Depots in EDCA Bases,” *Asia News Monitor* (February 1, 2017). 1.

<sup>30</sup> Prashanth Parameswaran, “Why the New U.S.-Philippines Military Pact’s First Project Launch Matters,” *The Diplomat* (April 19, 2018). 2.

<sup>31</sup> *Ibid.* 2.

<sup>32</sup> Interview with an anonymous U.S. Navy officer, U.S. Embassy in Manila, March 2, 2020.

<sup>33</sup> *Ibid.*

<sup>34</sup> Parameswaran, “Why the New U.S.-Philippines Military Pact’s First Project Launch Matters,” 2.

<sup>35</sup> Julie M. Aurelio, “Duterte Wary of U.S. Role in the South China Sea Dispute,” *Philippine Daily Inquirer* (January 25, 2020). 1.

<sup>36</sup> *Ibid.* 1.

<sup>37</sup> The 1999 VFA is a Status of Forces Agreement (SOFA) that provided the legal regulatory mechanism for the treatment of American military and civilian personnel visiting the Philippines for joint military exercises and for other matters. Malaya and Mendoza-Oblena, “Forging Partnerships.” 53.

<sup>38</sup> Sofia Tomacruz, “Philippines Sends VFA notice of termination to U.S.,” *Rappler* (February 11, 2020). 1.

<sup>39</sup> Dona Z. Pazzibugan, Marlon Ramos, and Julie M. Aurelio, “Duterte Firm against VFA,” *Philippine Daily Inquirer* (February 12, 2020). 2.

<sup>40</sup> *Ibid.* A2.

<sup>41</sup> Leila B. Salaverria, and Julie M. Aurelio, “Ending VFA OK with Trump: It will Save a Lot of Money,” *Philippine Daily Inquirer* (February 14, 2020). A8.

<sup>42</sup> The Philippine News Agency (PNA), “P25 B set aside for 2018 AFP Modernization Program,” *The Philippine News Agency* (January 7, 2018). 1.

<sup>43</sup> The Philippine News Agency, “PRRD Lauded for AFP modernization, doubling of Troops Pay,” *The Philippine News Agency* (July 18, 2019). 1.

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