ASSESSING FOREST GOVERNANCE IN THAILAND
IDENTIFYING KEY CHALLENGES AND INTERVENTIONS TO STRENGTHEN GOVERNANCE
Summary

Thailand's central government has made a priority of achieving good governance of its forests, with corresponding targets and legislation. But there are some concerns about ground-level practices, in particular around the governance capacity of local institutions, inter-agency coordination, and crucially, the precarious forest tenure of local communities. RECOFTC – The Center for People and Forests, working with civil society partners as part of the European Union-funded Voices for the Mekong Forests (V4MF) project, is seeking to better understand the governance challenges and opportunities in Thailand's forestry sector, as well as putting forward a programme to address these through the empowerment of non-state actors (NSAs). To this end, a participatory forest governance assessment was carried out in late 2017 and early 2018. The findings, outlined in this brief, include a need to improve the monitoring and strengthening of forest landscape governance, and for a capacity development programme for institutions and personnel, on both technical and operational levels. The project partners will work with various stakeholders, particularly NSAs, including civil society, to implement a programme to address the challenges and opportunities identified.

Thailand's forest sector

Thailand sits at the junction of the zoo-geographical sub-regions of Sunda, Indochina and Sino-Himalaya, giving it a very rich ecological diversity. It also boasts one of the largest remaining forest tracts in the Mekong region. These include the Western Forest Complex along the Tenasserim Range, which encompasses one of the last sanctuaries for wild tigers in mainland South-East Asia. Its forests provide a range of benefits, including as an important source of livelihood for rural populations, as is the case in all countries along the Mekong.

The country's forest cover has fluctuated in the past five decades, from 53.5 percent of the national territory in 1961 down to 27.3 percent in 1990, then back up to 31.6 percent in 2015. The government has set a target of 40 percent forest cover (around 20.7 million ha) as per the National Forest Policy of 1985 and several subsequent documents.

In 2014, the government launched the Master Plan for Forest Resources Protection and Sustainable Management, with the aim to "resolve the problems of forest destruction, trespassing of public land, and sustainable management of natural resources" within 10 years. This plan lays out how local communities should be involved in projects around forest protection, restoration, and rehabilitation.

The erosion of forest cover and quality is driven by several dynamics, not least by the large-scale infrastructure development that has followed the country's economic growth in recent decades. Similarly, massive and uncontrolled agro-industrial expansion has contributed to a significant decline in forested areas, especially in the south. By contrast, in the north and northeast, controlled forest fires during the dry season continue to leave forests degraded and vulnerable. Unregulated logging was another major factor until commercial logging in natural forests was banned in 1989.

Thailand has a solid legal framework that governs its forestry sector. Some pieces of legislation are specific to forests, such as the Forest Act (1941) and the Forest Plantation Act (1992). Others are focussed on habitat conservation, such as the National Parks Act (1961) and the Wildlife Conservation and Protection Act (1992). Others still are focussed on governance, including the Anti-Money Laundering Act (1999). Pending developments include the revision of the National Parks Act and Wildlife Act, and the long-awaited passing of the Community Forestry Bill.

As part of the 2017 Constitution, the government committed to improving governance through a range of measures. These include creating more opportunities for NSAs, the private sector and local communities to work together on implementing jointly developed national programmes.

However, some of the legislation fails to safeguard stakeholders’ rights in practice. For example, Thailand’s 12th National Economic and Social Development Plan states that local and indigenous communities have rights to make sustainable use of natural resources,

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as does the 10-year Forestry Plan. But these documents do not specify the modalities for exercising or safeguarding those rights. This lack of detail is a common challenge across much of the forestry regulation and legislation.

Major governance issues persist in part because of the lack of consensus on the meaning of forest conservation between authorities and forest communities. An estimated 1 million households living in protected areas are considered illegal occupants, despite many having lived there for generations. This situation is exacerbated by overlapping, duplicate and inconsistent policies and laws, which allow arbitrary enforcement and increase mistrust between authorities and forest communities.

Several forthcoming international initiatives provide opportunities to strengthen forest governance, notably the EU Forest Law Enforcement, Governance and Trade (FLEGT) action plan, and the UN Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD+). Both programmes require inclusive and transparent multi-stakeholder participatory processes, as well as legal and institutional reform.

With regards to the FLEGT, Thailand is currently negotiating a Voluntary Partnership Agreement (VPA) to improve forest governance in timber trade. This process creates opportunities for state and NSAs to become partners in designing a robust and system for fair and legal trade.

Concerning REDD+, Thailand is currently preparing its National REDD+ Strategy 2018-2020, with the Climate Change Office (under the Department of National Parks) acting as the secretariat for REDD+. This also lays out improvements to stakeholder participation.
Assessing forest governance in Thailand

RECOFTC – The Center for People and Forests, working with the World Wide Fund for Nature (WWF) and the RAKS Thai Foundation, conducted a forest governance assessment to better understand the challenges and opportunities for strengthening forest governance in the country and the Greater Mekong Subregion as a whole. The work was carried out as part of the EU-funded V4MF project. Based on this increased understanding, the project is putting forward a programme for addressing the identified issues.

The assessment used the Enabling Environment Assessment Tool (EEAT) developed by WWF, based on the PROFOR Framework for Assessing and Monitoring Forest Governance. This framework assesses a series of indicators, divided among six cross-cutting principles and three pillars of governance (Figure 1).

First, the assessment team reviewed the indicators and tailored them to the situation of forestry in Thailand, in particular in light of ongoing FLEGT and REDD+ developments. Then the team conducted the assessment by collecting inputs from various stakeholders at national level and in the two landscapes of interest. Targeted areas were in the buffer zone of Doi Phu Kha National Park and Khun Nan National Parks in the northern province of Nan and of the Huai Kha Kheng Wildlife Sanctuary in Uthai Thani province in the west of the country.

Participants were asked to give their perception of the strength or success of various institutions, frameworks, policies and implementation measures connected to forest governance, on a scale of 1 to 5, where 1 is “failing”, 2 is “weak”, 3 is “fair”, 4 is “good”, and 5 is “close to best practice”. Qualitative comments were also collected.

Following this, the capacity development needs of relevant institutions were assessed. The challenges and opportunities identified were then used as the basis for a capacity development programme, with a focus on NSAs, mainly civil society organizations.

More than 450 individuals participated in the research. Emphasis was on a participatory and consensus-based process. This aimed to create an environment of shared understanding for the research, and also to secure stakeholder buy-in for the subsequent capacity development programme.

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Results

General findings across pillars

Overall, the assessment found that the current perceptions of the state of forest governance mostly scored between 2 and 3 (“weak” to “fair”) (Figure 2).

Across all three pillars, governance was rated slightly better at the landscape level than at national level. It was noted at both levels that local governments and communities are making inroads on various issues related to governance.

As the assessment drilled down into the pillars, participants cited several challenges to governance, notably: unsecured land tenure systems; unclear rights over forest resources; unreliable enforcement of the laws; poor concordance between the forestry sector and other sectors; and the complexity of administration structures and procedures.

Pillar 1: Policy, legal and institutional framework

The average score for Pillar 1 across all components was 2.2 out of 5 at landscape level, and 3.7 at the national level. The lowest score at the landscape level was for “institutional frameworks”. The lowest score at the national level was for “financial incentives, economic, instruments and benefit sharing” (Figure 3).
Policy and legislation

Outdated and unclear legislation: Participants felt that the National Forest Policy (1985) is dated, and fails to fit with current realities on the ground. This was compounded by the feeling that many forest-related laws are too complex and create unnecessary burdens for relevant agencies to implement. Many forest policies, laws and regulations require individual interpretation by law enforcers in their application. This creates divergent standards in execution, leading to confusion, subjectivity and room for corruption in some instances.

Inadequate protection of local communities’ rights: There is a perceived lack of recognition of the rights of communities to use forest lands and resources, and of their traditional knowledge in forest management, which contributes to the perception of poor governance. Although the new Constitution reaffirms the rights of local and indigenous communities to manage and benefit from natural resources, this not felt to be reflected in the most important legal and judicial instruments, nor in decision-making processes. Participants felt that forest-related laws and policies too often overlook the interests of local communities, and fail to recognize co-management agreements between local communities and administrative agencies.

Concordance of sectoral-level policy

Impacts on forestry from other sectors: There are clauses on sustainability in Thailand’s development goals at national and sectoral levels. However, these are often inconsistent with good forestry governance at social and environmental levels, especially in sectors that affect forests. In agriculture, energy, and mining, there is typically a sidelining of forest conservation priorities in sectoral planning and policies, according to participants’ perception. Specifically, there are no clear obligations on individuals or businesses in those sectors to rehabilitate, manage, and conserve forests affected by those activities.

Potential for cross-sectoral coordination: On a more positive note, there are mechanisms within the government that can facilitate cross-sectoral policy making, planning and implementation, including at the landscape level. These include the Protected Areas Committee (PAC) and the Western Forest Complex Conservation Committee (WEFCOM).

Institutional framework

Loopholes in current institutional framework: Forest governance is currently undermined by a number of loopholes, according to participants. These include: inconsistencies in the forest administrative structure; lack of clarity in agencies’ mandates; little incentive for cooperation between sectors and between agencies; and lack of a proper information management system related to forests.

Under-resourced agencies: The agencies responsible for forests also suffer inadequate resources to effectively fulfil their roles with regards to enforcement, social programmes, and maintenance of buildings and equipment. The most cited example is the poor financial incentives given to park rangers.

Financial incentives, economic instruments, and benefit sharing

Limited scope of legislation on sharing forest benefits: The forest legislation has some provisions for sharing benefits from forest management among stakeholders. But this is limited to protected areas, and does not extend to other types of forest management areas.

Unsustainable implementation of incentives: Recent laws include financial support for establishing forest plantations, but fail to ensure that this income is used sustainably. Also, no incentives or support are available for smallholders and small-scale forest enterprises to use or process forest resources. This is due to the prevailing perception within government that these activities automatically constitute a threat to forested areas.

Opportunity for sustainable economic forestry activities: Most forest laws in Thailand have so far focussed on suppressing illegal logging and other unsustainable extraction of forest products. But the current government is shifting towards legislating for sustainable, legal economic forest production, contributing eventually to a full timber legality assurance system under FLEGT.
Pillar 2: Planning and decision-making processes

The average scores for Pillar 2 across all components were 2.3 at landscape level and 3.2 at national level. Particularly low scores at landscape level were related to political, legislative, and judicial decision-making processes (Figure 4).

Stakeholder participation

Inadequate consultation processes: Forest legislation calls for stakeholder participation, but provides no clear guidance on how to implement it. On the whole, government agencies generally have limited financial and personnel resources to engage stakeholders in decision-making, it was reported. Community-level consultations suffer from a lack of technical information about the issues on both sides, or from excessively short notification periods regarding policy decisions. The results of dialogues between communities and forest agencies are not rigorously referenced in final decision making, participants reported. Moreover, there was a reported feeling that vulnerable and disadvantaged groups, especially ethnic communities, do not have adequate mechanisms to ensure their meaningful participation.

Mechanisms available for consultation: With regards to international agreements, participants report an awareness of several platforms for NSAs to provide input to government negotiations and ratifications. At the national level, the National Legislative Assembly (NLA) is the platform where legislators are informed about forest-sector issues. At the landscape level, respondents cited the platform of the Protected Areas Committee (PAC).

Transparency and accountability

Limited public access to information: Agencies often fail to share relevant information on government decisions with the public in a complete, useful or timely manner, despite the provisions of the Public Information Act (1997).

Flexible leniency: According to participants, when apparent breaches of transparency or accountability are detected, suspects who have special connections may obtain settlements that ignore the requirements of the law. Those with influence are also sometimes able to make sudden changes to policies, laws or plans in their favour, due to a lack of mechanisms for third parties to prevent such manoeuvres. One platform was cited as an effective forum for airing grievances at the landscape level, namely the Tambon (sub-district) Authority Organization (TAO).

No standardized planning information: The data underpinning the systems for land zoning in forest parks, protected forests, agriculture, economic developments and other purposes are collected at different scales and standards from one state agency to the next, often due to budget limitations. This can lead to unclear or inaccurate boundaries and conflicts over tenure.
Stakeholder capacity

Strong awareness of institutions: Local communities showed a good awareness of government actions that may affect them, as well as their own opportunities to participate in decision-making, with support from civil society organizations and community networks. The participants view these bodies as active, independent and potentially effective in participation. The research found that small to medium-sized businesses generally are well able to organize their representation.

Opportunity for better media contribution: Not many independent media outlets act as watchdogs over the government’s intentions and actions regarding the forestry sector. News organizations are more focused on the occasional headline-grabbing case than on ongoing coverage of the forest issues to help inform stakeholders. It was felt that most of the public - who are ultimately stakeholders as consumers of forestry products - are more concerned about the price and quality of those products, and pay little attention to origin, legality and sustainability issues around forestry.

Political, legislative, and judicial decision making

Consultations strong on process, less so on outcome: Participants perceive that legislative activities are generally conducted in an open and transparent manner. However, inputs from stakeholders are heard but ultimately not considered, they felt. Furthermore, government agencies often make decisions according to political interference rather than sound technical rationale, they stated.

Redress mechanisms clear but not fair: Mechanisms for processing complaints and disputes exist, but disfavour the stakeholders. The main reasons cited were that the cost of legal counsel or assistance is usually too high for local communities or individuals, and the paperwork is usually complicated and demanding.

No status for traditional conflict resolution: Traditional systems are not recognized by the state. This is a missed opportunity to process more expeditiously disputes over forests and land tenure rights, which consequently must go through overloaded official mechanisms and often fail to be resolved in a fair and timely manner. This leads to the unnecessary persistence of problems around unclear boundaries and rights over forest resources.

Pillar 3: Implementation, enforcement and compliance

The average scores of the indicators across this component were 2.4 at landscape level and 3.0 at national level. The performances of the administration of forest resources and land tenure were ranked poorly on all sides, particularly in both landscapes. Cooperation and coordination between government agencies was ranked higher in the sites that have status as World Heritage. Both landscapes showed low scores in relation to corruption in the forestry sector and measures to address it, whereas this issue was assessed marginally more positively at national level (Figure 5).

Figure 5. Average score per component of Pillar 3
**Administration of forest resources and land tenure**

Poor administration of resources and tenure: Participants rated the component of administration of forest resources and land tenure poorly. Several areas of concern were cited: data management; monitoring and evaluation; staff capacity; tenure security; on-the-ground management; research and education; and market-related issues.

Promising uptake of technology: There has been strong adoption and use of information technologies by forest agency staff, notably global positioning systems (GPS), remote sensing, smartphones, and ad hoc applications. One concrete example is the institution-wide adoption of the app-based SMART patrolling system for park rangers.

Opportunity for data use: However, the data collected is not always used in the most effective ways to inform forest management decisions, e.g. forest inventories or ranger patrols. Also, technology initiatives are mainly driven by third parties, such as international organizations, private sector or academic institutions. This is less sustainable than if they were supported and funded nationally.

Challenges with regards to human resources: Participants listed a range of challenges related to human resource management in forest agencies. These include: lack of capacities; lack of oversight; diversion from expected duties; lack of financial incentives and material support; low compensation compared to responsibility and risks; lack of qualifications compared to assignments; undue promotion; concentration of most capable staff in central offices; and lack of a clear and coordinated organizational culture. They also said the budget for research and education in the forestry sector was limited, especially compared with other sectors.

Precarious land tenure: Land tenure rights remain a tricky issue in Thailand, as they are not well recognized or protected in practice. Land acquisition and titling remain prone to controversy. When government expropriation takes place, it is considered to be enforced in accordance with the rules, but compensation rarely reflects the value of the expropriated property. In general, forest-dependent people do not feel secure enough in their rights to make long-term investments in forestry resources, for example as smallholders or small-business entrepreneurs.

Low market incentives for sustainable production: Participants also felt that the market for forest products in Thailand does not promote sustainability. The market price of legally sourced timber is prohibitive relative to timber from illegal sources, due to the tremendous costs along the supply chain, such as taxes, logistics, procedures and certification fees. It was also felt that the government is not putting enough effort into promoting sustainable products to the public, and that there is little material available to educate concerned stakeholders – although there is some information on exported forest goods available at the Thai Customs Department. Large, land-based enterprises in agriculture and mining as well as forestry generally fail to keep or even make any zero-deforestation pledges.

Inadequate safeguards of local and indigenous rights: Thailand banned the allocation of forest concessions for private-sector exploitation in 1980, in part to preserve the rights of local and indigenous communities to access and use forest resources. But the land-use licences currently issued by the Royal Forestry Department (RFD) still fail to safeguard the adequate and equitable access to the forest resources by forest-dependent communities, those communities say. Activities allowed by those licences include public use, forest plantation, education, living and agriculture, recreation, mining and extraction, petrochemical exploration and development, and religion.

Poor document and information management: Currently, the administration of the documentation related to forest resources and land tenure is seen as relatively poor. For example, data on exported logs is not shared between the RFD and the Customs Department. Also, there is little tracking of the payments made to communities from forest agencies as part of benefit-sharing schemes.

**Law enforcement**

Performances in law enforcement and crime suppression are seen as comparatively better than some of the other components. However, challenges remain in the form of: unclear guidelines; inadequate budget; lack of equipment and training; shortage of field staff; poor supervision or delegation of authority; and gaps in legal counselling.

Excessive and impractical bureaucracy: High levels of bureaucracy severely limit the efficiency and timeliness of actions by the state’s forest agencies. The emphasis on adhering to policy guidance and the chain of command can restrict the ability of officials to make appropriate decisions. Furthermore, and despite this apparent rigour in sticking to protocol, there does not appear to be any real effort to ensure consistency in actual decisions from one case to the next.

Selective leniency: Identified suspects sometimes may go unpunished thanks to their social status or financial power rather than by due legal process, participants said. In theory, penalties for forest sector-related offences are severe enough to be a deterrent. In practice, however, sanctions or convictions often get relaxed.
Perceived political will to address forest infractions: On a positive note, participants acknowledged current attempts by the government to address root causes of forest sector-related infractions. These include: inequitable forest access; unnecessarily burdensome regulations; and the lack of alternative to forest use for poor rural people.

Cooperation and coordination between government agencies
Mechanism in place, but effectiveness unclear: A mechanism is in place for cross-sectoral cooperation on forest-related policy, planning, and practice issues. However, this mechanism could be more effective, according to participants. They questioned whether officials of non-forest sectors really adjust their plans after coordination meetings with forestry representatives.

Measures to address corruption
Established anti-corruption institutions: Participants rated the anti-corruption measures in the public sector as fair. Agencies have a suite of legal, capacity building and managerial tools to discourage bribery, kickbacks, conflicts of interest, and other forms of corruption. They have capacity to assess, collect, and account for rents, fees, tariffs, and taxes, and audit. Dedicated, independent anti-corruption institutions include the National Anti-Corruption Commission (NACC) and the Office of Auditor General of Thailand (OAG).

Some gaps in the anti-corruption institutions: One concern is the perceived weakness of the whistle-blower protection law. Furthermore, it was perceived that private-sector businesses in the forest trade have no internal management systems to discourage corruption.

Unfair distribution of forest revenues: Participants felt that the distribution of forest sector revenues, especially between government and forest communities, is not fair, effective and transparent. There are no clear guidelines on benefit sharing, and not all agency staff and private-sector operators in the forest sector are seen as honest or trustworthy.
Priority issues and suggested interventions

The results of this participatory assessment conducted together with an accompanying capacity development need assessment (CDNA) highlighted a number of priority issues and targeted interventions to improve forest governance.

Integrate sustainable forest management in the development of policies and plans
- Identify mechanisms for NSAs to engage in policy dialogues and the government’s decision-making processes.
- Draw an impact pathway from the initial engagement of NSAs in forest-related policy dialogues to actual policy reform.

Clarify forest-related policies and regulations
- Review key forest regulations to clarify the mandates, rights and duties of respective parties, including state agencies, NSAs and other stakeholders.
- Develop clear implementation guidelines to minimize confusion and subjectivity, and promote them among state agencies and NSAs.
- Raise stakeholders’ awareness about the rules and punishments related to forest crimes.

Improve cooperation between actors of the forest sector
- Ensure clear mandates as per previous recommendation.
- Identify and support regular communication channels between state agencies and NSAs about their respective roles and responsibilities, legislative processes and ongoing developments in forest related laws and policies.

Improve stakeholder participation
- Raise awareness of changes to forestry policies and laws that may impact local communities, to give them a chance to defend their rights. Such measures include environmental policies or regulations, laws associated with forestry operations, legal rights and customary tenures, or the designation of high-conservation value areas.
- Identify and support opportunities offered in policy dialogues related to sustainable livelihood and land use planning and management, and strengthen the engagement of NSAs in them.
- Assess and support the development of skills needed to improve NSA representation and participation in government-led consultations related to forest management.
- Support development of ad hoc agreements and communication channels between state agencies and NSAs to enhance roles and responsibilities and coordinate activities.
- Improve the capture of best practices and lessons learned.

Improve processes for allocating of land-use units
- Promote the participatory identification of high conservation value areas in the landscapes, and raise the awareness of all concerned stakeholders about their importance ahead of land-use allocation initiatives.

Secure forest tenure
- Improve the documentation of legal and customary land use rights by ethnic communities residing in protected areas.
- Develop a platform to document and disseminate best practices, including ad hoc and informal measures that benefit forest-dependent people.
- Increase awareness of the problems caused by conventional zoning regulations for forest-dependent communities.

Review the value chains of forest products
- Help NSAs engage in policy dialogues on economic incentives for plantation smallholders, such as direct subsidy payments, favourable tax laws, provision of loans, and price support for forest products.
- Develop a system to track sustainable use of forest resources at household and community levels, including monitoring land use licences to ensure compliance with any sustainability certifications.
- Advocate for smallholders whose plots do not meet the current minimum size requirements for sustainability certification.

Improve law enforcement
- Advocate for a participatory mechanism regarding the translation of the laws into rules and regulations.
- Advocate for a revamp of the state-run sanction system to be more effective, including the fair enforcement of sanctions.
- Advocate for the recognition of existing customary rules, as well as the collective rules set out by community forest management committees, which include a grievance redress mechanism.

Boost use of information technology
- Expand the application of technologies for monitoring change in forest cover and resources in protected areas, as well as for chain-of-custody verification for forestry products.
The Voices for Mekong Forests (V4MF) is a 5-year project funded by the European Union that aims to strengthen the voices of non-state actors (NSA) to improve the governance of the forests in the Mekong region, particularly in the context of FLEGT-VPA and REDD+ processes. V4MF is implemented by RECOFTC – The Center for People and Forests with eight regional and national partners in three trans-boundary landscapes across the five Mekong countries.

**Audit and evaluate performances**
- Establish a participatory monitoring and evaluation mechanism that supports the measuring of performances of forest agencies and concerned communities, thus ensuring accountability.

**Support anti-corruption drive**
- Raise the public's awareness of its roles, responsibilities and potential influences in anti-corruption actions in the forest sector.
- Identify and strengthen channels to express grievances and seek redress in forest-related issues.

**Increase forest actors’ awareness to strengthen forest governance**
- Facilitate processes and platforms aiming to raise public awareness about forest policy implications at the local and provincial levels.
- Support a documentation process by state agencies together with NSAs if policies and laws are likely not to be applicable in the local context or would negatively affect parties.

**Promote non-state actors as forest stewards**
- Advocate for NSAs to contribute to a system to monitor for land-use change, forest encroachment and forest fire.
- Support the compilation of related documents and a repository to register commitments of local stakeholders to sustainable forest management and their compliance.
- Publicize evidence of community-based livelihood activities that make sustainable use of forest resources, improve forest-dependent livelihoods, and share benefits.

**Improve forest actors’ capacity to strengthen forest governance**
- Establish a systematic and coordinated capacity development programme. Include elements to increase the knowledge and skills of civil society on both technical (e.g. timber legality) and operational (e.g. project management) issues. Emphasize the younger generation, as well as women’s groups.

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**RECOFTC’s mission is to enhance capacities for stronger rights, improved governance and fairer benefits for local people in sustainable forested landscapes in the Asia and the Pacific region.**

RECOFTC holds a unique and important place in the world of forestry. It is the only international not-for-profit organization that specializes in capacity development for community forestry. RECOFTC engages in strategic networks and effective partnerships with governments, nongovernmental organizations, civil society, the private sector, local people and research and educational institutes throughout the Asia-Pacific region and beyond. With over 30 years of international experience and a dynamic approach to capacity development – involving research and analysis, demonstration sites and training products – RECOFTC delivers innovative solutions for people and forests.

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