

Redefining the “Terms of Trade?”

A Brief History of Social Protectionism

Susan Ariel Aaronson*

George Mason University and “Marketplace” Radio

At first glance, the Congressman from Kentucky and the Congressman from Missouri don’t seem to have much in common. The Kentuckian, Henry Clay lived in the beginnings of the industrial age. He struggled to foster compromise among America’s competing political and economic interests. The Missourian, Richard Gephardt, lived on the cusp of the information age.

Both men were fascinated by trade policy. Henry Clay saw tariffs as a tool for economic development; they could nurture American industry and could fund a national system of roads and bridges. In this way, northern producers could secure the southern and fledgling western market for their manufactures and commodities. National harmony and economic prosperity would be the result. Clay thought that the right approach to trade policy would help Americans achieve a wide range of important policy goals [Eckes, 1995, pp. 19-25].

Congressman Richard Gephardt, in contrast, feared that trade policies thwarted the achievement of other important policy goals such as protecting the environment. He believed “the terms of trade are also an implicit statement of moral values.”¹ Thus, trade agreements must be designed to make global markets more equitable as well as more efficient. “We must not negotiate away our jobs and our living standard based on outdated theories...about trade and international economics.” In his view, future trade agreements must be made more comprehensive and include internationally accepted rules covering the environment, human rights, labor rights, and food safety [Gephardt, 2/26/1997, p. 2].

Although the two men had different views of what trade policy should achieve, historians, economists, trade policy analysts, and other observers have described both men as “protectionists.” After all, both Gephardt and Clay believed that unencumbered trade was not always in the interest of the

* The research for this article was supported by the Ford Foundation and the University of North Texas. I am grateful to participants in seminars at the BHC, the Economic Policy Institute, and George Mason University and specifically to Professor Mira Wilkins and Professor William Becker. The “terms of trade” is an index which measures the purchasing power of a country’s exports in terms of the imports it must buy. The title is a pun on how we talk about trade.

¹ Here Congressman Gephardt is quoting the author William Greider in his speech, “Fairer Trade, Freer People,” 5/27/1997, address to the Detroit Economic Club.

American people. They both feared that freer trade could create inequity in the United States; that other nations are “unfair traders,” and that trade may undermine the ability of Americans to determine their economic and political destiny. Ironically, both men considered themselves supporters of expanded (freer) trade [Gephardt, 2/26/1997, p. 2; Eckes, 1996, pp. 21-25; Aaronson, 1/29/1998, 6a].

Nonetheless, are the two Congressmen really talking about the same thing? The world has changed dramatically since Clay’s times. There is a system of rules, the GATT/WTO system, which governs how 80% of the world’s nations may protect domestic markets.² Protectionists as well as protectionism have changed too.³

For most of our history, Americans equated protection with commercial policies – border measures such as tariffs, exchange controls, and quotas. But this definition of how nations protect does not fit global reality. Trade agreements such as the GATT/WTO have reduced many of these overt barriers to trade. Today, economists, policymakers, and business leaders find trade distortions among a wide range of policies that were once considered solely domestic such as health, safety, or environmental standards, investment and procurement regulations, and antitrust policies.

Ironically, the success of the GATT/WTO system as well as greater economic integration has brought domestic policies (such as regulations designed to protect consumers from unsafe food) under greater scrutiny as trade barriers. These domestic policies were probably not erected to distort trade, but with or without intent, may disadvantage foreign producers. They reflect national economic and political cultures. By relying on domestic policies rather than commercial policies, policymakers can “assist special interests without advertising” that they may be protecting citizens, producers, or consumers from imports [Ray, 1989, p. 23]. Not surprisingly, citizen groups have organized to preserve national autonomy over such domestic policies. Are these groups protectionist?

What is Protectionism and Who Really are Protectionists?

Protectionism is hard to define. Today many analysts label all critics of trade protectionists. For most of U.S. history, however, protectionists were *economic nationalists*, who called “for advancing the wealth and safety of the American nation through development.” They did not share free traders’ goals of maximizing wealth or improving economic welfare [Eckes, 1995, p. 29].

² The GATT is a system of rules governing how entities may trade and how nations may protect their citizens from harm. It was replaced by a formal international organization, the World Trade Organization, (WTO) in 1995. Today the WTO has 132 members.

³ When most economists talk about protectionism, they are talking about the modes of protection provided by government. In this paper, when I discuss protectionism, I am referring to protectionist entreaties by a wide variety of citizens (including government officials). For examples of how economists describe protectionism, see Bhagwati [1995]. Many of the social protectionists argue that if trade deals were rewritten to protect workers and the environment, they would not be “protectionist” Dunne [1997].

In 1982, the U.S. Trade Representative (which develops and coordinates U.S. trade policies) defined protectionism as “the setting of trade barriers high enough to discourage foreign imports or to raise their prices sufficiently to enable relatively inefficient domestic producers to compete successfully with foreigners” [United States Trade Representative, 1982, p. 149]. These trade interventions “protect” domestic producers from lower-priced foreign goods and thwart global market pricing [Irwin, 1996, p. 5]. By this definition, protectionism is an economic and political act, and protectionists tend to be individuals concerned with protecting their economic interests – producers or communities affiliated with communities hurt by imports. However, as economic interdependence have increased, different concerns have come to the fore in debating trade agreements. Many of these concerns were not new, such as the relationship of trade to consumer safety, or to how workers were treated as they produced goods for export. But many of the voices expressing concern were new to the “inside the Washington beltway” debate over trade, such as consumer activists, Christian conservatives, and environmentalists. Many of these groups had a long history of international activism.

These diverse voices have forced their way into the closed circle of elites that traditionally made U.S. trade policy (business, farm and labor leaders, economists, etc.). Despite their involvement, most Americans still divide trade into a tug of war between two camps: free traders and protectionists.

But in fact, the debate over trade is not and has never been a dialectic. Nations, including the United States, are constantly altering their mix of free market and protectionist measures. Moreover, noneconomic concerns have always been part of the trade debate. Throughout American history, Americans have argued over how freer trade policies have affected the achievement of other important policy goals, including ending slavery in the American South, or promoting democracy, free markets, or human rights abroad. However, as trade economist Jagdish Bhagwati has noted, “the legitimacy of diversity of domestic institutions and policy” and their “compatibility with free trade...has been...coming to dominate the trade agenda” [Bhagwati and Hudec, 1996, p. 1; de Jonquires, 1998, p. 19].

Traditional protectionism, which is often based on economic rationales, is different from what many analysts have termed the “new protectionism” or “social protectionism” – protectionism based on social, consumerist, or environmental rationales. Traditional protectionists want to distort trade to ensure the welfare of certain producers or proprietors within one nation. Social protectionists want to protect democratically determined systems of regulation such as health and safety standards. They see such standards threatened not by trade itself, but by the imperatives of global corporations that can pit national governments against one another to lower standards to attract such corporations [Hines and Lang in Mander and Goldsmith, eds., 1996, pp. 486, 490].

A Chandlerian analysis may provide some insights into whether or not these groups are “protectionists” [Chandler, 1962, pp. 13-15]. First, many of these groups have dissimilar objectives. For example, advocates of labor standards want to enhance the rules governing trade to include core labor

standards. They believe the system of rules governing trade (the GATT/WTO) can be made more equitable and comprehensive. Many nutritional and consumer groups, in contrast, want to take food safety out of the GATT/WTO system, because they have concluded that this system is opaque, undemocratic, and thwarts national values and objectives. Ralph Nader's consumer group Public Citizen provides a good example. Although Nader helped build the modern regulatory state with his advocacy of federal health, safety, and environmental regulations, he does not see government at the international level as a tool to regulate international business across borders [Nader, 1993]. And environmental groups are divided about trade agreements. Some want to include environmental rules, while others feel international attention would best be focused on creating an international environmental organization [Audley, 1997, pp. 27-40].

Despite their different objectives for reforming trade policies, these groups have shared a three-pronged strategy. First, they have forged both formal and informal international alliances. These alliances work to warn citizens around the world about trade, and lobby the GATT/WTO to address labor rights or environmental issues.⁴ Even Pat Buchanan and Sir James Goldsmith have worked together to foster nationalism internationally. Second, activist groups have developed a grass-roots, rather than simply "inside the beltway" strategy. On the Internet and the airwaves, in the print media and on Capitol Hill, they used every forum available to warn their fellow Americans about the dangers of globalization, its impact upon American democracy, and its costs for the American social compact [Aaronson, 1996a, pp. 143-144]. They have worked hard to educate their fellow citizens in the United States and around the world about the costs of trade and global economic interdependence. Thus, they have helped make trade policy more transparent and broadened participation in the trade debate. However, they have collaborated with isolationists, economic nationalists, and traditional protectionists to hamper trade liberalization [Aaronson, 1996, pp. 134-144; Audley, 1997, pp. 135-163; Vogel, 1995, pp. 196-217]. Their reliance on a protectionist strategy and association with traditional protectionists and other nationalist groups has directly led to the assumption that the members of these groups are "protectionists."

To summarize, some of these trade critics have protectionist objectives; others do not. All have hampered trade liberalization. Yet, are these groups truly protectionist? Many are. They recognize that internationalization of standards may undermine the comparative advantage of some developing countries that do not enforce environmental or labor standards [Bhagwati, 1995, pp. 745-759]. However, some of these groups may be thwarting

⁴ Sam Dillon, "U.S. Labor Leader Seeks Union Support in Mexico," *The New York Times*, 2/23/1998; International Confederation of Free Trade Unions, "Declaration, Building a Hemispheric Social Alliance to Confront Free Trade," Belo Horizonte, Brazil, 5/15/1997. The International Centre for Trade and Sustainable Development is an international organization set up to represent the interests of these organizations and their members at the headquarters of the World Trade Organization.

protectionism. Congressman Gephardt, for example, argues that nations and firms that engage or acquiesce in exploitive labor or environmental practices create an unfair competitive advantage. This unfair competition puts downward pressure on labor and environmental standards in other countries which produce similar products. Thus, he argues that by demanding that the world trading system address these issues, policymakers will build public support for that system and are hampering trade protectionism.⁵

Moreover, to argue that all these groups are protectionist is ahistorical. Like business groups, many are working to “grow the GATT system.” During its fifty-year history, the purview of the GATT has grown when citizens and policymakers found trade distortions in domestic policies (such as subsidies, production standards, and intellectual property) and they worked to provide rules to ensure that such policies remain nationally determined as well as the least trade restrictive [Aaronson, 1996b].

These trade critics have “redefined the terms of trade.” They have reminded policymakers, economists, and others that trade is not simply an economic activity and must be discussed more broadly. Trade issues, such as labor standards or food safety have been part of the debate over trade since the 19th century [Vogel, 1995, pp. 20; Charnovitz, May 1992, pp. 335-355].

How the Success of the GATT Encouraged Social “Protectionism”

Ironically, the roots of social protectionism can be found in the success of the world trading system and in Congressional directives. During World War II, U.S. policymakers developed a strategy for encouraging multilateral trade liberalization. In 1948, the U.S. acceded to the General Agreement on Tariffs and Trade (GATT), a system of rules governing how entities trade and how nations may protect. As a result, traditional protectionists could no longer say free trade is bad for the economy as a whole. Instead these protectionists argued “I am a free trader, but...” my sector deserves protection [Aaronson, 1996a, pp. 133-136].

But by regulating commercial policy, GATT may have encouraged policymakers to try forms of protectionism. Because of the very success of the GATT, governments have less freedom to rely on the traditional tools of trade policy (such as tariffs, quotas, and other forms of commercial policy). Governments began relying upon other less opaque, nontariff measures. By 1973, according to the noted legal scholar of the GATT, John Jackson, GATT had catalogued some 800 nontariff barriers [Jackson, 1997, pp. 75, 154].

In 1974, U.S. negotiators helped develop a set of codes to regulate the use of these nontariff barriers (such as subsidies and government procurement). To some degree, these codes helped limit the potential trade distortions of once purely national policies such as government procurement. But not all GATT signatories signed on to these additional codes [USTR, 1982, p. 6].

⁵ Congressman Richard A. Gephardt, ‘Linking Trade with Worker Rights and the Environment,’ *Economic Perspectives*, March 1998 at <http://www.usia.gov/journals/ites/0398/ijec/ejgep.htm>.

Trade policymakers gathered a wide range of evidence to show that GATT à la carte was not working. For example, in the United States and in the European Community, trade negotiators began to compile lists of trade barriers.⁶ They discovered that their trade partners used a wide range of laws, regulations, policies or practices to protect domestic producers from foreign competition or artificially stimulate exports of particular domestic products. These included “buy national” policies, intellectual property related trade barriers, and investment barriers, among others. By the 1980s, many analysts believe nontariff measures became the main protective shield [Twentieth Century Fund Task Force, 1989, p. 82; Ray, 1989, p. 68].

The United States and other nations pressed for a new round which would strengthen the GATT’s purview. Negotiators hoped to broaden the GATT’s scope to cover a broader range of trade barriers not thus far covered under the GATT codes. This effort, called the Uruguay Round, took some seven years of arduous negotiations. In the end, over 100 nations agreed to rules regarding the trade implications of some domestic policies (such as health and safety standards, subsidies, and intellectual property rules) that could distort trade flows. Finally, policymakers also created the new World Trade Organization (WTO) to govern world trade and subjected all disputes to a single dispute settlement process [Council of Economic Advisors, 1995, pp. 205-214].

But some citizens, both in the United States and overseas did not concur with this perspective about how to govern the global economy. As the Uruguay Round was being negotiated, they organized to “protect” nationally and locally determined laws and regulation. These citizens, members of consumer, environmental, safety, and public health groups, have formed the vanguard of the “social protectionists.” They joined with traditional protectionists to reinvigorate protectionism as a political movement. And they have made their voices heard on issues as diverse as U.S. policy towards China, IMF funding, immigration, and the importation of genetically altered products (such as corn) or products grown with substances banned in the United States, such as DDT.

The Role of Congress

The U.S. Congress played an important, albeit indirect, role in stimulating the new protectionism by encouraging new issues to be linked to trade. In 1974, Congress authorized the President to negotiate disciplines for nontariff barriers to trade such as procurement policies, regulatory standards,

⁶ The Office of the U.S. Trade Representative (USTR) is required by section 181 of the Trade Act of 1974 as amended by section 303 of the Trade and Tariff Act of 1988 to report on significant foreign trade barriers. Reading these reports over the last several years, one can gain a sense of how policymakers and traders began to see some domestic policies as potentially distorting trade. These Reports are called *National Trade Estimate Report on Foreign Trade Barriers*. The European Community has long published reports on U.S. trade barriers. Australia compiles a list of such trade barriers, but does not publish them.

and subsidies which could also distort trade. This legislation made “the adoption of international fair labor standards and of public petition...” explicit negotiating goals. In the 1974 act as well, Congress linked trade to a moral issue, human rights. The Jackson-Vanik amendment granted normal trade privileges (MFN) to Communist nations such as the Soviet Union or Romania if they gave their citizens emigration rights.⁷

When Congress redefined the objectives and scope of trade policy, it opened the door for new groups to introduce moral and social concerns to trade policy. And it also encouraged a wide range of Americans from the left and right to criticize trade policy for emphasizing global efficiency while ignoring issues of equity. These Americans were not widely noticed by policymakers or business leaders until President Bush proposed a free trade agreement with Mexico. During the debate over the NAFTA, a broad coalition of religious, environmental, labor, and isolationist interests found common ground in their criticism of trade.

For example, environmental activists such as Michael McCloskey, the President of the Sierra Club, or Mark Ritchie, the President of the Institute for Agriculture and Trade Policy, acknowledged trade’s benefits to the nation’s economic growth, but concluded these benefits could not outweigh the costs to the global commons, small farmers, and rural communities. Consumer activists such as Ralph Nader, Jerry Brown, and Jim Hightower feared that trade agreements which now covered product and health and safety standards threatened U.S. sovereignty – the ability of Americans to control their economic and political destiny. Human rights activists such as Holly Burkhalter (Human Rights Watch) or Gary Bauer (the Family Research Council) saw trade as a lever to be used as an incentive or a punishment for human rights improvements. These individuals have formed a fluid coalition of strange bedfellows; this political coalition transcends strong differences about what government should do and how it should do it.

The Case for Social Protection

Like traditional protectionists, social protectionists make economic, sovereignty, and constitutional arguments against freer trade. These historical arguments are easily understood by the public (who often believe that imports aggravate unemployment) and are often effective with policymakers.

For example, in both the 19th and 20th centuries, protectionists argued that U.S. workers (who were scarce relative to capital and technology) could not compete against low-wage foreign competitors [McCraw in Barfield and Schambra, eds., 1986, pp. 37-38]. They believed that protection through tariffs and quotas was the only way to preserve the American standard of living.

⁷ The Trade Act of 1974 is PL 93-618; fair labor standards are at section 121(a)(4); Jackson-Vanik is Title IV, Section 401-409. Ironically, during the recent debate over fast-track, the Republican majority argued that labor rights and environmental issues were not trade issues.

Protectionists today make a similar argument, but they believe the solution is to include labor standards in trade agreements.

Traditional protectionists also made political arguments to justify sector-specific protection. The founding fathers recognized that American sovereignty is affected when America exposes its workers and industries to foreign competition. To justify his support for increasing the number of goods protected by tariffs, John Quincy Adams said "protection is the price of allegiance. When a government ceases to protect it must cease to claim obedience or submission" [McCraw, in Barfield and Schambra, eds., 1986, p. 37]. Thus, concerns about sovereignty (which were voiced so loudly during the GATT and NAFTA debates) are not new to the debate over trade.

Finally, traditional protectionists have often made constitutional arguments against freer trade policies. These arguments were most effective after 1934, when Congress passed the Reciprocal Trade Agreements Act [Aaronson, 1996, pp. 21-22]. Some analysts believe this path-breaking legislation was a reaction to the 1930 Smoot Hawley tariff, which raised rates on many tariffs, including items the United States did not produce [Lake, 1988, pp. 7, 191; Mikesell, 1952, pp. 62-63]. The Act transferred direct responsibility for trade policy from Congress (which has constitutional responsibility for financing government) to the Executive branch (which has Constitutional responsibility for foreign policy.) It also created a system of governmental experts to decide trade policies. But the initiative for trade policy was placed in the hands of people not directly accountable to the public, allowing protectionists to argue for some 60 years that freer trade policies were both unconstitutional and not democratically determined [Aaronson, 1996, pp. 24, 174-176].

In making their case today, the new protectionists often echo old arguments such as projecting fears that economic interdependence will destroy America and the American way of life. And those "values" are more important than ideological consistency. In this regard, former California Governor Edmund G. Brown, Jr. (a new protectionist) and Pat Buchanan (an economic nationalist) sound alike. Brown noted, "Washington insiders talk as though 'free trade' were some kind of magic bullet that naturally raises wages and generates jobs." However, "whole communities, like South Central Los Angeles, Camden, New Jersey...and Toledo, Ohio...have suffered continuing economic and social decline" [Brown in Ralph Nader et al; 1993, p. 66]. Pat Buchanan says he once "was a free trader all the way," but his views shifted after touring once proud factory towns in New England. The price of "worshiping this golden calf" of the global economy will be seen "in ghost towns that once were factory towns, in the stagnant wages of an alienated working class and a middle class newly introduced to insecurity."⁸ Buchanan sees no disconnect between his espousal of free markets, his understanding that capitalism per se (and not just trade) is dynamic, and his conviction that free markets should stop at the U.S. border.

⁸ Dan Balz, "Buchanan and Forbes: Odd Couple of GOP Field," *The Washington Post*, 1/9/1995, A1, A8; Patrick Buchanan, "An American Economy for Americans," *The Wall Street Journal*, 8/24/1995.

Both traditional and new protectionists fear economic change, but the “new protectionists” do not see trade as strictly an economic problem. They believe trade policies cannot be divorced from other economic and social policies and thus they often link trade to other policies they dislike, such as immigration, foreign aid, and support for the United Nations and the World Bank. It seems that whether they come from the left or right, traditional and social protectionists today distrust policymakers and international government institutions.

A Constructive Approach

In the 1970s, some individuals from civic groups, academia, and government tried to posit a different approach to trade policy, focused on labor rights as human rights. They were building on existing GATT principles; in Article XX(e), the GATT allows countries to restrict the import of products made with prison labor. By the 1990s, this “third way” was reflected in official policy including trade concessions to developing nations (GSP) and even in the side agreements to NAFTA.⁹ This third way had few adherents. Most trade critics put little effort into devising reforms to international law or institutions. Moreover, most analysts thought the third way was simply a more sophisticated variant of protectionism, couched in values and morality. That might explain why analysts could see little difference between Clay and Gephardt. Nonetheless, one can see the influence of the “third way” in Gephardt’s speeches, where he describes what objectives should shape U.S. trade laws and policies.¹⁰ This third way may prove to be a viable middle ground in U.S. trade policy. It has certainly shaped the Clinton Administration’s recent trade policies.

Protectionist Impact upon Policy

Although Congress passed the North American Free Trade Agreement in 1993 and approved the eighth round of the GATT in 1994, the social protectionists learned from these defeats. They recognized that Congress had not delegated authority to negotiate new trade agreements since 1993. The President would need such delegated authority to begin negotiations on extending NAFTA to Chile, on a free trade agreement of the Americas, and on other upcoming trade negotiations under the WTO. In 1997, when the Clinton Administration applied for such authority, some Democrats such as Congressman Gephardt encouraged the President to include environmental and labor issues as negotiating goals. However, the Republican Congress balked; its leaders argued that these issues were not “trade” issues. The result

⁹ Interview with William Goold, Office of Congressman Bernie Sanders, September 12, 1997. Also see, Pharis J. Harvey, “International Labor Rights Fund: A Proposal for General Support,” 1997 (given to the author).

¹⁰ House Democratic Leader Richard A. Gephardt, “Preserving World Capitalism for the Next Century: A Plan of Action,” 3/3/1998, pp. 2,4.

was a stalemate: the Clinton Administration failed to craft an acceptable compromise. In the months that followed, U.S. policymakers made a number of public statements that such social issues were legitimate trade concerns.¹¹ The President seemed to be moving further towards the third way in his pronouncements.

Recent polls have revealed that social protectionists have succeeded in raising questions about the direction of U.S. trade policy.¹² In December 1997, the Chief Trade Counsel of the Senate Finance Committee called for a public debate on future U.S. policy to define how the U.S. wants to deal with the labor and environmental issues that bedeviled fast-track.¹³

There is mounting evidence that the business community and policymakers are concerned about growing protectionist sentiment. The Business Roundtable, an organization of senior executives from America's largest companies, have organized "focus groups" to study how "stakeholders" (employees, suppliers, customers, etc...) perceive trade policy, and has doubled its dues to develop a trade education program. The Secretary of Commerce gave a speech at Harvard urging business to educate the public on trade. The Commerce Department has tried to coordinate such efforts.¹⁴

Conclusion

The social protectionists have "redefined the terms of trade," by forcing free traders to admit what the debate over trade policy is really about: how our policy objectives and tools will adapt to globalization. Many trade critics question whether American policy priorities, institutions, and values of equity, openness and democratic decision making can survive in the global economy. These fears are understandable because there is no constitutional road map to guide us in a world where business, technology, capital, and even crime, are global, but where institutions, culture, and regulation remain national.

As historians, economists, and policymakers attempt to understand how global economic interdependence is changing America and the world, we need to accurately characterize citizens concerned about the environment, labor

¹¹ John Maggs, "White House Considers Scaled-Down Trade Agenda," 2/9/1998, 1A; and Kevin G. Hall, "After Fast Track's Failure, U.S. Stresses Social Issues" 3/27/1998, both in *The Journal of Commerce*.

¹² Maggs, "U.S. Voters Favor Protectionism: Poll Shows Opposition to Clinton's Trade Policy," *The Journal of Commerce*, 11/14/1995, pp. 1A, 8A; David E. Sanger, "Trade Agreement Ends Long Debate but Not Conflicts," *The New York Times*, 12/04/1995, p. A1; "Washington Wire," *Wall Street Journal*, 12/16/1994, p. A1; Andrew Kohut and Robert C. Toth, "Trade and the Public," Times Mirror Center for People and the Press, 12/13/1994, pp. 4-5.

¹³ "Finance Aide Calls for Broad Debate in Wake of Fast-Track Collapse," *Inside U.S. Trade*, 3/28/1997, p. 3.

¹⁴ Memo to Leaders in the Trade Education and Outreach Effort from Kari Dohn and Eric Biel, Office of the Secretary, "Meeting to Discuss Trade Education and Outreach Efforts by Various Entities," 2/24/1998. Remarks by Secretary of Commerce, William M. Daley, "Building the Case for Open Trade," Kennedy School, Harvard, 2/10/1998.

standards, human rights, or food safety. Some may truly be trying to erect or maintain trade barriers; but others may be trying to ensure that trade policy does not trump the achievement of other important policy goals.

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