The International Seabed Authority has reached a milestone in its administration of the mineral resources of the deep seabed Area with the approval of exploration plans for cobalt-rich ferromanganese crusts by Chinese and Japanese entities as it concluded its nineteenth session a day earlier in Kingston (15-25 July).

China Ocean Mineral Resources Research and Development Association (COMRA) and Japan Oil, Gas and Metals National Corporation (JOGMEC) are to be issued contracts by the Authority following the approval of their plan of work by the Authority’s expert body, the Legal and Technical Commission and a recommendation from its Council.

In another significant decision, the Authority’s legislative body, the Assembly on the last day of the session adopted a draft decision to institute a fixed overhead charge of $47,000 to be payable annually by contractors to cover the administration and supervision of contracts as well as the review of contractors’ reports by the Authority.

Delegations hailed the first contracts being awarded for exploration for cobalt-rich ferromanganese crusts in the Area as an important development in the Authority’s work. Regulations covering the metal (ISBA/18/C/L.3) were adopted by the Authority at its eighteenth session on 26 July 2012.

Cobalt crusts are rich in iron/manganese (ferromanganese), and hydroxide/oxide deposits containing significant concentrations of cobalt, titanium, nickel, platinum, molybdenum (an essential element in human nutrition), tellurium, cerium and other metallic and rare earth elements.

The Assembly, in another decision, adopted amendments to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, as contained in the annex to the decision of the Council (ISBA/19/C/17).
Recovery of costs for administration of exploration contracts

Acting on the recommendations of the Council, the Assembly adopted a decision relating to financial and budgetary matters by which the Authority would institute a fixed overhead charge of $47,000 to be payable annually by contractors to cover the administration and supervision of contracts and review of their annual reports. The standard clauses for exploration contract in the Regulations on prospecting and exploration would also be amended by the addition of sections 10.5 and 10.6 which shall apply to contracts entered into by the Authority as a result of applications made after the date of adoption of the decision.

The new clauses read as follows:

10.5 The contractor shall pay at the time of submission of the annual report an annual overhead charge of $47,000 (or such sum as may be fixed in accordance with section 10.6 hereof) to cover the Authority’s costs of the administration and supervision of this contract and of reviewing the reports submitted in accordance with section 10.1 hereof.

10.6 The amount of the annual overhead charge may be revised by the Authority to reflect its costs actually and reasonably incurred.

The proposed fixed charges were based on recommendations originally addressed to the Assembly and the Council by the Finance Committee. By other provisions of the draft text, the Assembly requested the Secretary-General, in the case of an application for approval of a plan of work submitted prior to the adoption of the decision, to consult with the applicant prior to signature of the contract for exploration to incorporate the new clauses.

The Secretary-General would be urged to consult as soon as possible with all contractors whose contracts were entered into before the date of the adoption of the decision, to renegotiate those contracts, in accordance with section 24.2 of the standard clauses for exploration contract, for the inclusion of the new provisions.

Subject to the decision, such expenditures would be treated as actual and direct exploration expenditures as referred to in Annex 4, section 10.2 (c) of the standard clauses for exploration contract. Overhead charges would be credited to the general administrative fund of the Authority as miscellaneous income. The final paragraph of the text contains a request that the Secretary-General report annually on the implementation of all aspects of the decision.

Adoption of amendments to Nodules Regulations

The amendments to regulation 19 of the amended Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area cover the fixed fee of $500,000 for processing an application for approval of a plan of work for exploration for the metal. The fee is to be paid in full at the time of submission of an application.

By the draft text adopted by the Assembly, if the administrative costs incurred by the Authority in processing an application were less than the fixed amount, the Authority shall refund the difference to the applicant. On the other hand, if the costs incurred were more than the fixed amount, the applicant shall pay the difference to the Authority, provided that the additional amount shall not exceed 10 per cent of the fixed fee. The fixed amount shall be reviewed regularly.
Two amendments were added to the original text, one of which states that the provision of the Sulphides Regulation dealing with fees would not apply, pending the receipt of recommendations of the Legal and Technical Commission to the Council on the matter. Furthermore, the Commission was requested to review the provisions of all three regulations on Nodules, Sulphides and Cobalt-rich ferromanganese crusts relating to monopolization of activities in the Area and the option of offering an equity interest in a joint venture arrangement to possibly align all of them.

**Proposal for joint venture with the Enterprise**

The Authority’s Council decided that it was “premature” to discuss the proposal made by Nautilus Minerals, a Canadian company, to enter into a joint venture operation with the Enterprise, the future mining arm of the Authority. A report of the Interim Director-General of the Enterprise (document ISBA/19/C/4), which contains the Nautilus Minerals proposal, referred to the joint development of eight of the reserved area blocks in the Clarion-Clipperton Zone in the Pacific. Annexed to the report is a draft Heads of Agreement setting out the terms of the joint venture.

The Secretary-General, in a comment on the proposal (ISBA/19/C/6), recommended two alternative models for the governance of the Enterprise during the interim period. The first possible option would be the establishment of an independent unit within the secretariat under the leadership of the Interim Director-General.

An alternative, more cost-effective option, would be to authorize the Interim Director-General to appoint from outside the secretariat a special representative and such other technical and legal advisers as might be necessary who would be independent of the secretariat, and of Nautilus, for the purposes of conducting negotiations on behalf of the Enterprise between now and 2015. The special representative would report directly to the Council through the Interim Director-General.

In its debate on the subject, the Council agreed to request the Secretary-General, referring where appropriate to the Legal and Technical Commission and the Finance Committee, to carry out a study of the issues relating to the operation of the Enterprise as contained in ISBA/19/C/6. It would, in particular, deal with the legal, technical, and financial implications for the Authority and for States parties, taking into account the provisions of the Convention, the 1994 Agreement and the Regulations.

The Council said it was premature for the Enterprise to function independently. The joint venture proposal should not be an impediment to the consideration by the Commission and the Council of applications for reserved areas by developing countries and other qualified applicants.

**Applications for plans of work for exploration**

Six applications for approval of plans for work for exploration were received by the Legal and Technical Commission from July 2012 to April 2013. On the Commission’s recommendation, the Council approved the applications for exploration for cobalt-rich ferromanganese crusts submitted by China Ocean Mineral Resources Research and Development Association (COMRA) and Japan Oil, Gas and Metals National Corporation (JOGMEC).

At its July meeting, the Commission heard presentations of four applications submitted by the Ministry of Natural Resources and Environment of the Russian Federation, United Kingdom Seabed Resources Limited (UKSRL), the Government of India and Ocean Mineral Singapore Pty Ltd (OMS), respectively. The Commission was not able to achieve a consensus in recommending the approval of the
plan of work submitted by the Russian Federation Ministry due to the formal objection of a Commission member. It did not have time to complete its consideration of the remaining three applications, and would take up all four applications as a matter of priority at its next meeting in February 2014.

**Status of contracts for exploration**

As at 29 April 2013, the Authority had concluded 12 contracts for exploration for polymetallic nodules and two for exploration of polymetallic sulphides, including eight which were signed between 2001 and 2010. Three of the contracts approved in 2012 still remained to be signed; these were the contract with the Republic of Korea, Institut Francais de Recherche pour l'Exploitation de la Mer (IFREMER) and Marawa Research and Exploration Ltd of Kiribati. It was anticipated that all three contracts would be signed before the end of the year.

With regard to the five-year periodic review of existing contracts for exploration for polymetallic nodules, bilateral discussions were held with each contractor to convey the concerns expressed by the Legal and Technical Commission and the Council. Periodic reviews were completed with all contractors entering the final five-year period of the exploration contracts with the exception of the government of India. That review was scheduled to be completed soon after the nineteenth session.

**Legal and Technical Commission Chairman’s summary report**

The report of the Legal and Technical Commission, which was delivered by its Chairman Russell Howorth (Fiji) in the Council, was in seven sections, with two annexes (ISBA/19/C/14). It covered a range of issues such as activities of contractors; environmental implications of activities in the Area; regulatory activities of the Authority; applications for approval of plans of work for exploration in the Area and its conclusion. Annexed to the report were the Commission’s decision relating to the methodology for review of annual reports of contractors, and general comments on the reports as well as on their five-year programme of activities.

**Training programme**

Out of a total of 45 applications from 19 different members of the Authority for training opportunities, eight candidates and eight alternates were selected by the Commission. The eight training places were made available for 2013 by the China Ocean Mineral Resources Research and Development Association (COMRA), Tonga Offshore Mining Limited (TOML) and the Federal Institute for Geosciences and Natural Resources of the Federal Republic of Germany (BGR) under their contracts for exploration with the Authority. The details of the training programme and the names of the recommended candidates are contained in document ISBA/19/LTC/13.

**Annual reports of contractors**

The Commission chairman reported that all 11 contractors submitted their annual activity reports for the 2012 period in a timely manner. However, there were inconsistencies in the quality of the reports. Six additional contracts had either been signed during 2013 or were currently in the final stages of negotiation. The first reports from those contractors would be forthcoming in subsequent years. Six more applications were currently being considered. Some 17 annual reports would need to be considered in 2014. By 2015 there might be as many as 23 annual reports to be reviewed, which would represent an increase of more than 100% in the Commission’s workload.
In its conclusion, the Commission said the additional time allocated to it in 2013 enabled it to make progress on a number of important matters, including the issuance of recommendations for the guidance of contractors for the assessment of possible environmental impacts arising from exploration for mineral resources in the Area; and selection of candidates and recommendations for the guidance of contractors and sponsoring States on the implementation of training programmes. It also made progress on the alignment of the nodules regulations with the sulphides regulations, and the review of the annual reports of contractors.

The Commission said that notwithstanding the progress, there were still many outstanding matters that it did not have time to consider. These included draft regulations for exploitation; standardization of data and format of the annual reports of contractors; review of the environmental management plan for the Clarion-Clipperton Zone (due in 2014); and guidance on mechanisms of compensation for damage when neither the contractor nor the sponsoring Stat was responsible.

The Commission therefore recommended that it continue to hold two meetings in 2014 with full services for both meetings. The first meeting, to be held early in 2014, would be devoted to completing consideration of the outstanding applications and the consideration of issues relating to the exploitation code.

In general observations about the five-year programme of activities of contractors, the Commission said that it appeared to contain different levels of expectation for different contractors. A supplementary implementation plan providing details of progress against each contractor’s timeline would be useful. Furthermore, contractors should provide a detailed account of how they plan to achieve the thresholds in identifying a first-generation mine site, finalizing baseline environmental data, developing a mining system prototype and setting in place processing arrangements by the end of their respective contracts.

Seabed Mining related National Legislation

A report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters (ISBA/19/C/12), stated that 17 sponsoring States and other members of the Authority had provided texts on laws, regulations and administrative measures they had adopted. The information was requested by the Council at its session in 2012.

The 17 States are: China, the Cook Islands, the Czech Republic, France, Germany, Guyana, Japan, Mexico, Nauru, the Netherlands, New Zealand, Oman, the Republic of Korea, Tonga, the United Kingdom, the United States and Zambia. The report also states that a submission had been received from the South Pacific Commission on behalf of the Pacific Islands region.

The report added that updated information will be posted on the Authority’s website: www.isa.org.jm/en/mcode/Natleg in response to suggestions by delegations.

Development of exploitation code

A note by the secretariat on the subject observed that the potential for the exploitation for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts within the deep seabed Area was “arguably higher than at any time in history” (document ISBA/19/C/5). It identified the major organizational, fiscal and research recommendations that must be addressed, over the next three to five years, as part of an overall strategic plan to ensure the Authority’s ability to meet the challenge of developing an exploitation regime.
The secretariat proposed an internal mining inspectorate to maintain oversight and compliance with all exploration and exploitation licence activities. The high level of interest in marine mining, coupled with the need for many operators to apply for exploitation licences by 2016, indicated a critical need for detailed discussions on the funding, planning and implementation of such an “administrative agency” capacity within the Authority in the near future, it added.

It recommended the incorporation of environmental rules, regulations and requirements within the evolving exploitation frameworks for polymetallic nodules and other metal resources within the Area. There should also be transparent engagement with deep-sea mining industry and other stakeholders in the process, it observed.

The secretariat said that the Authority should undertake a study specific to the development of a set of unified and common operating procedures for licensing and monitoring of polymetallic nodules, cobalt-rich ferromanganese crusts and polymetallic sulphides prospecting, exploration and exploitation.

It also called for the development of a “staged” or “phased” licensing system for polymetallic nodules exploitation. Contractors interested in proceeding to the mining phase must be required to first apply for a provisional mining license before the exploration license expire. The provisional licence would be based upon the preparation and submission of a prefeasibility study and work plans to undertake a detailed bankable feasibility study based upon a pilot polymetallic nodule mining operation in the contract area.

The licensing process would assure the Authority that the project is viable and safe, and provide an important measure of control and power to “claw back the project” should unforeseeable problems arise, without a full-scale mining project being suspended or terminated.

Council members debated the secretariat note touching on the phased licensing approach, and environment and corporate responsibility. Some praised the “staged” or “phased” approach, while one representative said it was not convinced that such a mechanism was necessarily correct. The strong emphasis in the secretariat note on environmental protection was welcomed by many, with one Observer State suggesting mechanisms for quick and effective action for the protection and preservation of the marine environment. One delegate proposed increased collaboration between the Authority and the International Maritime Organization which had conventions on health and safety issues.

With regard to the establishment of an internal mining inspectorate, a delegate said the experience of existing regimes for fisheries inspection could be tapped. On closure plans, one representative said the approach applied in land mining could be utilized in the elaboration of the exploitation code.

**Introduction of Secretary-General’s annual report to Assembly**

Introducing his report to the Assembly (ISBA/19/A/2), Secretary-General Nii Allotey Odunton (Ghana) said that heightened interest in marine minerals of the deep seabed was one major factor in the significant increase in the International Seabed Authority’s workload over the past year. Given the workload, he said the Assembly might wish to consider, in due course, the introduction of a formal mechanism for the discussion of issues concerning the relationship between the host country, Jamaica, and the Authority as existed with many other international organizations.
Mr. Odunton, who is a year into his second four-year term as head of the Authority, reported an increase in its membership to 165 (164 States and the European Union) since the last session. The number of permanent missions to the Authority in Kingston had also increased. The Protocol on the Privileges and Immunities of the International Seabed Authority entered into force on 31 May 2013. Thirty-six States have become parties to the Protocol which provides essential protection to representatives of members who attend or travel to or from meetings of the Authority.

The Secretary-General bemoaned the fact that many people did not know anything about the International Seabed Authority and its functions. He announced a plan to establish a small museum on the ground floor of the Authority’s offices. The Secretariat would undertake a study of the resources it would take to accomplish this task. He also told the Assembly of plans to commemorate the 20th anniversary of the establishment of the Authority in 2014. (The Authority was established in 1994 with the entry into force that year of the 1982 United Nations Convention on the Law of the Sea).

The Assembly also heard a statement from Alice Hicuburundi, Senior Legal Officer at the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the United Nations Office of Legal Affairs in New York. She gave an update of oceans-related meetings that were held at UN Headquarters during the past year. These included: Meetings of States Parties to the Convention; Ad Hoc Working Group of the Whole; Ad Hoc Open-ended Informal Working Group on biodiversity (including intersessional workshops); United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea and the Commission on the Limits of the Continental Shelf.

The Authority was represented at a number of those meetings by Secretary-General Odunton.

**Secretary-General’s report**

The Secretary-General’s 26-page report, submitted under article 166, paragraph 4, of the 1982 United Nations Convention of the Law of the Sea, covers, among others, an overview of the Authority’s work, relations with the host Government, administrative matters, as well as budgetary and financial issues. It also deals with matters the Authority is seized with, such as status of contracts for exploration, ongoing exploration and future exploitation of marine minerals in the Area.

**Overview of Authority’s work**

The report stated that interest in marine minerals in the deep seabed continued to grow, resulting in a significant increase in the Authority’s workload over the past year. In 2012, five applications for exploration contracts were approved, and it was expected that seventeen would have been issued by the end of 2013.

The first exploration contracts issued by the Authority in 2001 and 2002 would expire in 2016 and 2017, with the expectation that the contractors in a position to do so, would proceed to exploitation. The report asserted that the situation created a number of challenges for the Authority, including the need for progress on the development of an appropriate fiscal regime on exploitation. Adequate measures would also have to be put in place to protect the marine environment.

Other challenges include implementation of article 82, paragraph 4 of the Convention (payments and contributions with respect to the exploitation of continental shelf beyond 200 nautical miles), as well as capacity-building and the promotion and encouragement of marine scientific research. The Secretary-General noted that since the establishment of the Authority in 1994, the structure of the secretariat had remained unchanged. Given its increased workload, particularly in the areas of contract administration.
and supervision, it was anticipated that a proposal would be submitted in 2014 to structure the secretariat, possibly to include a contracts management unit.

The Minister of Foreign Affairs and Foreign Trade of Jamaica, the Honourable Arnold J. Nicholson, addressing the members of the Assembly, said Jamaica was committed to fulfilling its host country obligations regarding the maintenance of the infrastructure of the Headquarters building. “Our aim is to ensure a pleasant working environment for the staff of the Authority, befitting an international organization”, the minister said.

Membership of the Authority

There were 165 members of the Authority (164 States and the European Union) as at 31 May 2013, including three new States which had ratified or acceded to the Convention between September 2012 and January 2013 – Swaziland, Ecuador and Timor-Leste. As at the same date, there were 144 parties to the 1994 Agreement relating to the Implementation of Part XI of the Convention. The Secretary-General reported there were 21 members of the Authority (unchanged since 2012) that became parties to the Convention prior to the adoption of the Agreement but had still not become parties to it. Since the eighteenth session, Bangladesh and Panama had established permanent missions to the Authority.

Relations with host Government

The relationship between the Authority and the host country, Jamaica, was dealt with in a headquarters agreement approved by the Assembly in 1999. The terms and conditions under which the Authority occupied the part of its headquarters building allocated to it were set out in a supplementary agreement between the Authority and the Government of Jamaica.

The Secretary-General’s report drew attention to long-standing problems about the age and poor condition of the air-conditioning unit, elevators and windows of the headquarters buildings. Despite renovation and repair work carried out by the Government, the report observes that the long-standing problems of the headquarters building remained unresolved as at May 2013.

It pointed out that unlike many other international organizations, there was no formal mechanism in place for the discussion of issues concerning the relationship between the host country and the Authority (such as the United Nations Committee on Relations with the Host Country, United States, established by General Assembly resolution 2819 (1971), and the Diplomatic Committee in Geneva).

Cost-saving measures

The Secretariat continued to implement cost-saving and efficiency measures, including an electronic publications strategy and increased inter-agency cooperation in administrative matters. With respect to the latter, the Secretariat is working with a number of local United Nations common system agencies and programmes to develop a strategic alliance to streamline business practices. The proposed common services plan will cover such areas as human resources management, information and communications technology, finance, procurement and common premises.

The Authority was notified on 6 January 2013 by the International Civil Service Commission that it had become a full participant in the United Nations common systems of salaries, allowances and other conditions of service, with all associated benefits and obligations. The Authority participated in the seventy-sixth session of the Commission, held in New York from 25 February to 8 March this year. The
Secretary-General explained that participation in the common system allowed the Authority to work together with organizations such as UNDP, UNEP and FAO to take advantage of cost-saving practices such as bulk-purchasing.

**Financial matters**

The Authority was currently operating on a $14,312,948 budget (2013-2014) – an increase of 9.9 per cent over the previous budget - approved by the Assembly at its eighteenth session last year. As at 23 July 2013, 78.8 per cent of the value of contributions to the 2013 budget due from member States and the European Union had been received from 44.4 per cent of the Authority’s membership. Contributions outstanding from member States for prior periods (1998-2012) amount to $364,736. Those members numbered 39 as at 23 July 2013. As at that same date the balance of the Working Capital Fund stood at $527,121 against an approved level of $560,000.

Contributions totalling $398,939 had been paid to the Voluntary Trust Fund since its establishment in 2002. The last contribution was made on 4 July 2013 by China in the amount of $20,000. Norway made a donation of $150,000 in October 2012 by Norway. The Fund facilitates the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries. The total amount paid out of the Fund to date is $466,900, according to the report. Japan announced a donation of $44,760 to the Voluntary Trust Fund to facilitate the participation of members of developing countries in the Legal and Technical Commission.

The Endowment Fund for Marine Scientific Research in the Area, established in February 2008, promotes and encourages the conduct of collaborative marine scientific research in the international seabed Area. As at 23 July 2013, the capital of the Fund stood at $3,402,038 with the latest contribution of $10,000 from the United Kingdom. To date, a total of $398,879 has been disbursed from the interest accrued on the capital in the form of awards for projects. A total of 52 scientists or Government officials from developing countries have, to date, been beneficiaries of financing support from the Endowment Fund.

**Library and publications**

The Secretary-General noted that the Satya N. Nandan Library contained the largest collection of research materials pertaining to the law of the sea, and deep seabed mining. During the reporting period, 110 books and more than 460 journal issues were acquired. Over the past two years, the secretariat has worked closely with the registry of the International Tribunal for the Law of the Sea to identify possible areas for collaboration. One outcome is the implementation of a partnership arrangement under the auspices of the United Nations System Consortium for cost-sharing with respect to online subscription databases. The secretariat plans to launch in 2013 a new publications strategy utilizing a combination of print-on-demand and electronic publications technology.

**Website**

As the quantity of information on the Authority’s website continued to grow there was an urgent need to redesign it to ensure that it continued to serve the needs of member States efficiently. Popular social media feeds (Twitter, Facebook and Rich Site Summary (RSS)) were added to the website, to increase public awareness of the Authority.

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Sensitization seminars

The Authority has received three offers to host sensitization seminars, the primary means for its outreach programmes. The offers, made by Chile, Mexico and the African Union, will be considered in the context of the current biennium and the biennium 2014-2015, according to the Secretary-General’s report.

Workshop on implementation of Article 82 of Convention

A workshop was convened by the Authority and the China Institute for Marine Affairs of the State Oceanic Administration of China on the implementation of Article 82 of the United Nations Convention on the Law of the Sea in Beijing from 26 to 30 November 2012.

Under the article coastal States or individual operators that exploit the non-living resources of the continental shelf extending beyond 200 nautical miles from the baselines of the territorial sea (the “outer continental shelf”) are required to contribute a proportion of revenues they generate for the benefit of the international community as a whole.

According to a report of the Secretary-General on the workshop (ISBA/19/A/4), the 40 participants made a number of recommendations, including: the Authority should explore the concept of developing a memorandum of understanding between a State with extended continental shelf areas and the Authority or provide practical guidelines to help them implement the article; and emphasized the importance of continued discussions within the relevant organs of the Authority to achieve a system for the pragmatic and functional implementation of article 82.

Elections

Vladimir Mikhailovich Polenov (Russian Federation, was elected as Assembly President for the nineteenth session. The four vice-Presidents elected were: Brazil (Group of Latin American and Caribbean States), Singapore (Asian Group), South Africa (African Group) and Spain (Western European and Others States Group).

The Council elected Tobias Pierlings (Germany) as President for the nineteenth session. Vice-Presidents for the Council were: Poland (Eastern European Group), Brazil (Group of Latin American and Caribbean States), Cameroon (African Group), and Japan (Asian Group).

In other elections, Oliver Guyonvarch (France), Chen Changxue (China), and Vishnu Dutt Sharma (India), replaced their compatriots Serge Segura (France), Yao Jinsong (China) and Pradip Choudhary (India) who resigned from the Finance Committee. They will serve the remainder of the terms of their compatriots until December 31, 2016.

In another election, Víctor Enrique Marzari (Argentina) replaced his compatriot Mario Javier Oyarzábal who resigned from the Legal and Technical Commission. Mr. Marzari will serve the remainder of the term of Mr Oyarzábal until December 31, 2016.

Credential Committee’s report

A nine-member Credentials Committee appointed by the Assembly comprised Australia, Guyana, Jamaica, Myanmar, Namibia, Nigeria, New Zealand, Philippines and the Russian Federation.

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Membership and Attendance

The ISA membership consists of all parties to the United Nations Convention on the Law of the Sea. The members are listed below, with an asterisk (*) marking those which participated in the session.

The list of members of the Authority is as follows:


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