



AMC 2025

Session 4

**Trade Policy in a New
Administration: Looking
Ahead the Next Four Years**

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About the Presenters...

Evan Chuck advises corporate leaders and boards of directors as they make strategic decisions, particularly in the context of dueling U.S. and China laws and regulations resulting from geo-political competition. Evan advises Fortune 50 companies on matters involving China's Antiforeign Sanctions Law, PRC Export Control Law, Unreliable Entity List, and the PRC Cybersecurity Law that impact their operations in China. He also advises on the impact of such laws on supply chains that incorporate Chinese manufacturing or sourcing that could conflict with laws like the Uyghur Forced Labor Prevention Act (UFLPA) and other corporate policies related to environmental and social governance (ESG). Evan has 30 years of corporate and international trade experience representing companies and private equity firms in their cross-border investments in key industries, such as aerospace, semiconductors, critical minerals/mining, electric vehicle (EV), "internet of things" (IoT), life sciences, flooring and wood products in high-stakes corporate transactions and investigations. As a strategic advisor to corporate executives, Evan helps create risk mitigation strategies that involve "de-risking" China business exposure. He helps companies re-shore operations that move manufacturing or sourcing operations to the U.S. or countries such as Vietnam, Malaysia, Taiwan, India, Japan, Korea, Canada and Mexico. Evan also represents IT hardware and app development companies that rely on cloud computing and cross-border data transmission, particularly between the U.S. and China in their cross-border investment and commercial transactions. He advises companies navigating potential conflicts with new U.S. laws, including the U.S. CHIPS and Science Act of 2022 and the pending U.S. BIOSECURE Act, which aims to de-risk or de-couple Chinese biotechnology companies from the U.S. life sciences supply chain. Evan began his career in Washington D.C., representing U.S.-based companies in major unfair trade disputes. On behalf of the U.S. lumber industry, Evan helped file a constitutional challenge to the bi-national dispute resolution mechanism of the U.S.-Canada Free Trade Agreement. Evan leads the Asia practice for the firm. Prior to joining Crowell, he served as the chair of a global firm's international trade group for seven years and also served as the managing partner of that firm's Shanghai office for seven years.

Ngosong Fonkem provides legal consultation to numerous domestic and foreign companies by facilitating market access for both the United States and international markets. With extensive experience managing U.S. customs tariff and duty matters, he provides support to companies for improving import and export compliance. This includes detailed assistance with import classification, duty mitigation, and interactions with Customs and Border Protection, Food and Drug Administration, and the United States Department of Agriculture, as well as guidance on export regulations such as OFAC, ITAR, and BIS/EAR. He has authored numerous articles on trade-related topics in peer-reviewed law journals, business journals, and magazines and has co-authored a book on international trade and geopolitics titled, "Trade Crash: A Primer on Surviving and Thriving in Pandemics & Global Trade Disruption." Prior to his current practice, Ngosong was a law professor at the oldest private university in Malaysia and was an energy intelligence management consultant in Southeast Asia. As a law professor, he developed the ability to contextualize and understand policies driving the law, which assists him today in anticipating risks for his clients' businesses. He continues to teach courses on international trade and global business as an adjunct professor at St. Norbert College Schneider School of Business.

Steven E. Hendrix is the Principal & Managing Director, Hendrix LLC, a global advisory firm. Until 2024, he was the USAID Senior Coordinator for the Department of State's Office of U.S. Foreign Assistance Resources (F), and the State Department's Managing Director for Planning, Performance and Systems (FA/PPS). Previously, he served as the Senior Advisor for USAID's programs in South America. He was also Deputy Mission Director for USAID/Ghana, interim Mission Director in Bolivia and for the Eastern Caribbean, and held other positions with USAID in Nigeria, Paraguay, Iraq, Nicaragua, Guatemala and in USAID's Latin America and Caribbean, Research and Development, and Science and Technology Bureaus. Prior to joining USAID, he was with the University of Wisconsin Land Tenure Center and the UW Law School Institute for Legal Studies (1991-96), a partner in a Venezuela law firm (1989-91) and Counsel with the Export-Import Bank of the U.S. (1987-89). Hendrix holds degrees from Carroll College (BA Economics & Spanish), University of Wisconsin (JD & MA-Ibero- American Studies), Universidad Mayor de San Andrés - Bolivia (LL.D.), Universidad de San Carlos – Guatemala (SJD), and the Professional Law Course at the Ghana School of Law (Barrister and Solicitor qualifications). He is an attorney in Bolivia, Guatemala, Ghana and the U.S. Since 1999, he has been a Fellow with DePaul University Law School's International Human Rights Institute. He has over 100 professional journal, academic publications. He was awarded the Distinguished Alumni Award, Carroll University, Wisconsin (2009); Global Outstanding ICASS (International Cooperative Administrative Support Services) Board Chair Recognition Award from the US State Department (2012); and the American Foreign Service Association (AFSA) Runner Up – Mark Palmer Award for Advancement of Democracy (2016). In 2024, Hendrix received the Distinguished Career Service Award, the highest recognition given to U.S. diplomats. He is the current Chair-Elect of the State Bar of Wisconsin International Practice Section.

Robert Kossick is a Board Certified International Attorney, Licensed Customs Broker, and Certified Export Specialist whose practice focuses on the planning, compliance, enforcement, and security dimensions of U.S. import and export transactions. With over twenty years of professional experience split between the United States and Latin America, Robert brings seasoned, specialized, and multicultural know-how and perspective to the analysis and resolution of customs and trade issues. Robert has, over the course of his legal career, practiced customs and trade law with a Fortune 50 corporation, worked as a foreign legal consultant in Mexico, served as a trade policy analyst under former U.S. Trade Representative William Brock, and provided trade consulting/advisory services for the World Bank, the U.S. Agency for International Development, and the Washington District Export Council (DEC). Robert currently works as a Senior Trade Advisor within Flexport's Trade Advisory Group. Robert holds a Ph.D. in International Trade and an LL.M. in Inter-American Law, writes and speaks on international trade matters, and is proficient in Spanish. When not engaged with clients on customs and trade issues, Robert enjoys reading, writing, preserving historic properties, trekking, and Airstreaming with his wife.

Jaya Sharma assists clients to resolve their disputes using alternative dispute resolution (ADR) techniques. She is certified by the American Arbitration Association (AAA). She is an accredited mediator with the Centre for Effective Dispute Resolution (CEDR), a fellow of the Chartered Institute of Arbitrators (FCIArb) and a fellow of the American College of e-Neutrals (ACESIN). With over 20 years of experience, Ms. Sharma understands how detrimental to the financial solvency of a business disputes can be. Her primary focus is time-efficiency and cost savings. She has worked with government contractors, including the Wisconsin Department of Transportation. She successfully created a policy manual for the local department which was later disseminated to the federal program. She has worked directly with construction businesses, including contractors and subcontractors on public sector projects such as highway construction and airport infrastructure

How Companies Can Adapt and Thrive in an Uncertain Trade Environment

Article

Amundsen Davis International Trade Alert

March 4, 2025

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President Trump returned to office for a second non-contiguous term in January 2025 with a much more coherent and methodical trade plan than during his first administration.

This term, he aims to prioritize strict enforcement of U.S. trade laws against perceived economic competitors with the goal of forcing U.S. companies and those of the competitors to set up businesses domestically. It has been just over 40 days since the administration returned to office and the flurries of executive orders and other trade actions furthering America First Trade Policy provides a glimpse of what we can expect over the next four years and perhaps beyond should the policies prove successful.

Based on its implementation and roll out so far, trade policy appears difficult to predict. However, with adequate preparation through the implementation of existing trade tools, businesses can avoid, mitigate, and even recover tariffs.

Strategies to Avoid Tariffs

PRODUCT EXCLUSIONS REQUESTS

Exclusion requests are official requests that businesses send to the U.S. government asking for certain products to be exempt from tariffs or trade restrictions. Companies typically make these requests if:

- The tariffs cause financial strain; or
- The products are not easily available from U.S. suppliers or essential for important industries.

Currently, U.S. Trade Representative is accepting comments on potential exclusions for hundreds of specific subheadings under the Harmonized Tariff Schedule of the United States (HTSUS) chapters 84 and 85 through March 31, 2025. There are also more than 150 products from China that remain eligible for exclusions from the existing section 301 tariffs on China.

PRODUCT CLASSIFICATION

U.S. Customs and Border Protection (CBP) can only charge duties based on the condition of goods when they enter the country. Therefore, it can legally use classification rules to qualify for lower or even zero tariffs. For example, importing individual components separately might place them in a different category than the finished product, potentially reducing the tariff. Additionally, certain U.S. and foreign products may qualify for special tariff rules under HTSUS Chapter 98. These rules allow importers to lower or avoid higher tariffs based on how the goods are used or whether they include U.S. or previously imported parts.

COUNTRY OF ORIGIN DETERMINATION

Like in product classification, it may be possible to modify a product's country of origin. For example, in a scenario where many parts are put together to create a finished machine, the product's country of origin may become the place where significant assembly operations occurred. Moving this process to a country with lower or no tariffs could help reduce costs. However, the rules vary depending on the product.

FTAS AND PREFERENCE PROGRAMS

The U.S. has 14 free trade agreements ("FTA") with several countries. FTAs lowers a wide range of non-tariff barriers on goods and services trade between the U.S. and partner countries. Additionally, preference programs like the Generalized System of Preferences, the Caribbean Basin Initiative, and the African Growth and Opportunity Act allow unilateral duty-free and reduced duty treatment to imports from more than 100 developing countries.

"DE MINIMIS VALUE" \$800 PACKAGE RULE

The U.S. CBP collects tariffs on all imports products valued at \$800 or more. Imported products valued below \$800 are exempt from customs clearance and import duties subject to certain conditions. Although this rule is currently under review by the U.S. government, it remains valid.

Strategies to Mitigate Tariffs

VALUATION

Importers should consider whether certain amounts typically included in the commercial invoice price, such as buying commissions, shipping-related charges, inspection fees, and post-importation assembly charges, can be excluded from dutiable value.

FIRST SALE

First sale valuation allows importer to lower their duty costs by paying based on the price a middleman trading company pays the manufacturer rather than the higher price the importer pays the middleman. To qualify, the transaction must meet certain requirements, such as proving the goods were always intended for the U.S. and the sale was conducted fairly between independent parties. Once approved, this method can lead to significant and ongoing savings.

TRADE REMEDY REVIEWS

The U.S. has over 700 antidumping/countervailing duty (“ADD/CVD”) orders that place high, sometimes extreme, duties on imports from many countries to prevent unfair pricing or subsidies. Each year, the government reviews these orders to update the information they are based on, and new foreign suppliers can also request reviews to secure lower duty rates. Importers can also ask for special rulings to determine whether certain products should be excluded from these trade orders, which could remove the extra duties altogether.

FOREIGN TRADE ZONES DUTY DEFERRAL

Goods brought into a foreign-trade zone (“FTZ”) under “privileged foreign status” keep their original tariff classification, even if they are turned into a product that would normally face higher tariffs. This means they can be exported from the U.S. without paying those higher tariffs. Similarly, goods that would normally face high tariffs can be stored, repackaged, or relabeled in a bonded warehouse for up to five years without paying duties. Businesses can avoid these tariffs if the goods are (1) exported directly from the warehouse, (2) destroyed, or (3) brought into the U.S. after the tariff expires or an exemption is granted. Another option, called temporary importation under bond, allows companies to avoid tariffs on goods that are passing through the U.S. or being processed before being shipped out again.

Strategies to Recover Tariffs

POST-ENTRY PROCEDURES

If a business realizes that they overpaid duties after importing goods, they can request a refund in two ways: post-summary corrections (before CBP liquidates the entry) or protests (after liquidation). As long as the request is made on time and includes the right legal arguments and supporting documents, these methods can help recover significant amounts of overpaid duties.

TRANSFER PRICING

Transfer pricing is the price one company charges a related company, like a parent company selling to its subsidiary, for goods and services. If these prices are adjusted later, those changes may affect the customs value of already-imported goods and must be reported to CBP. If the adjustment increases the customs value, the importer may need to pay additional duties. But if the adjustment lowers the value, the importer might be able to get a refund on some of the duties paid.

RECONCILIATION

CBP's reconciliation program allows importers to submit initial entry paperwork using the best available information and then update it later with final details. This process is used to correct information about product classification, value, certain special tariff provisions (HTSUS 9802), and FTA eligibility. If the updated information shows that a product qualifies for a lower duty rate, lower customs value, or FTA benefits, the importer may get a refund on any extra duties or tariffs that were originally paid.

Although the above trade tools are not exhaustive or mutually exclusive, they provide short- and long-term solutions for companies to adapt and thrive in this very uncertain trade environment.

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How
Companies
Can Adapt
and Thrive
in an
Uncertain
Trade
Environment

How to Comply With the EU's Carbon Border Adjustment Mechanism

Article

Amundsen Davis International Trade Alert

January 7, 2025

Over the past few months, I have noticed an increase in questions from my U.S. clients that export to countries in the European Union (EU) seeking clarity on their products' exposure to the new carbon adjustment taxation law upon entry into the EU custom territory. This surge in inquiries stems from their EU-based customers' demand that they provide documentation showing the embedded carbon emissions data of their product as a prerequisite for completing the sale.

Understanding the implications of the Carbon Border Adjustment Mechanism (CBAM) is crucial to doing business in the EU. This article aims to provide U.S. manufacturers and exporters with useful insights and clarity on this new law.

[\[Infographic\] How to Comply With the EU's Carbon Border Adjustment Mechanism](#)

What Is CBAM and What Products Are Covered?

CBAM aims to prevent non-EU based companies that do business in the EU from relocating their manufacturing operations to regions with lax environmental regulations. By imposing a carbon price on certain imported goods, CBAM aligns production costs with the carbon content of imported items.

Though the law became effective in May 2023, its transitional phase began that October and will continue through January 1, 2026. During this transitional phase, importers of identified classes of products must report embedded carbon emissions data, but do not face immediate financial obligations. Products currently covered under CBAM include:

- Certain iron and steel goods;
- Aluminum and goods made of aluminum;
- Iron ore and hydrogen;
- Some fertilizers;
- Electricity; and

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- Mineral products (cement).

Post-transitional phase, importers must declare the previous year's import volumes and their associated embedded carbon emissions data or risk financial consequences for noncompliance. Further, the scope of the covered products is expected to broaden during that post-transitional period.

Why U.S. Manufacturers and Exporters Should Care

CBAM's impact extends to EU importers and their foreign suppliers, including U.S. manufacturers and exporters. Whereas importers of these products must report the emissions data, their foreign suppliers are required to furnish accurate data on their products to facilitate compliance.

This entails providing CBAM certificates and other relevant information to enable precise reporting and border tax calculations. For instance, if a Wisconsin-based manufacturer produces aluminum manhole grates and sells them to its Austrian customer who then imports them, the manufacturer must provide data on the embedded carbon emission within the aluminum manhole grates to enable the importer to meet its reporting and carbon tax requirements.

The same would hold true if the aluminum manhole grates were sold to an intermediary in the U.S. who then resells them to its Austrian customers. The manufacturer remains accountable for providing the requisite data. In other words, regardless of how many times the aluminum manhole grates change hands before they are imported into the EU, the importer needs the emissions data from the original manufacturer to comply with CBAM reporting requirements.

Consequences of Non-Compliance

Failure to comply with CBAM reporting requirements by providing inaccurate reports or failing to surrender necessary CBAM certificates shall result in severe penalties set by each EU member state, with the severity escalating based on the duration of the problem.

Even if a U.S. exporter does not import their product into the EU, they will be impacted because sophisticated importers will likely pass the cost of non-compliance via contract to their foreign suppliers, indirectly holding them accountable for their CBAM violations. Thus, failure to facilitate compliance may result in penalties for U.S. suppliers or termination of contracts altogether in scenarios where the issues cannot be rectified.

How to Comply With the EU's Carbon Border Adjustment Mechanism

What Should U.S. Manufacturers and Suppliers Do to Comply With CBAM

To remain compliant, U.S. manufacturers must determine whether their products or the inputs used to produce their products are cover goods as defined by CBAM. If their products fall within CBAM scope, they should prepare reports for each product describing the embedded carbon content. If, for instance, the Wisconsin manufacturer only produces raw aluminum, which is covered under CBAM, it would need to produce a report detailing the raw aluminum's carbon emission content. If, on the other hand, it procures raw aluminum from an original manufacturer in China and then uses it to produce manhole grates, the Wisconsin manufacturer must obtain the carbon emission data from its Chinese supplier.

The above obligation equally applies in scenarios where the aluminum manhole grates are sold to another U.S. customer before they are resold to EU-based customers. The burden of furnishing CBAM compliant documents persists whether the Wisconsin manufacturer exports covered raw materials or covered finished goods, even if it does not directly export these items into the EU. This means that the supply and sale contracts between the manufacturer and any of its customers or suppliers need to be updated to limit liabilities and indemnities and provide the necessary data to EU-based customers that import the product. These contracts need to be updated at all levels of the covered item's supply chain.

Conclusion

CBAM underscores the importance of environmental compliance in international trade. U.S. manufacturers and exporters to the EU must proactively engage with CBAM requirements to mitigate risks to their businesses and foster sustainable business relationships with their EU customers.

For more information on what manufacturers can do to capitalize on new opportunities and stay ahead of disruptions to business, join us for the Navigating Trade Challenges: Strategies for Manufacturers in a Shifting Global Landscape webcast.

READ MORE:

- [How to Understand Substantial Transformation in a Country of Origin Determination](#)
- [A Guide to U.S. Trade Remedies Laws](#)
- [Proper Tariff Classification Impact on Business: How to Avoid Misclassification](#)
- [How to Start and Operate a Maritime Ship Business](#)
- [How to Implement a Foreign Trade Zone to Mitigate Tariffs](#)

How to Comply With the EU's Carbon Border Adjustment Mechanism

U.S. Imposes Reciprocal Tariffs: Key Takeaways for Businesses

Article

Amundsen Davis International Trade Alert

April 4, 2025

On April 2, 2025, President Trump issued an executive order imposing the long-awaited “reciprocal” tariffs on all imported products into the U.S. from all countries.

This executive order implements a 10 percent baseline general duty rate that will go into effect on April 5, 2025, **in addition to** the previously paid baseline duty for the imported product, which was based on the harmonize tariff schedule of the U.S. (“HTSUS”) code of the product.

After April 9, 2025, that 10 percent duty rate will increase to a higher **country-specific** rate for those countries that are listed on Annex I of that executive order.

Noticeably, Mexico and Canada are not listed in Annex I. Imported products from Canada or Mexico that do not qualify under the United States-Canada-Mexico Agreement (“USMCA”) will continue to pay 25 percent duties (for all other products) or 10 percent duties (for certain energy and mineral products).

Reciprocal Tariff Exemptions

The order exempts some imported products from these duties, including:

- Personal communications, donated articles, informational materials, and transactions ordinarily incident to travel.
- Products that are currently captured in the section 232 steel and aluminum and derivative article tariffs and products that currently or in the future are captured in other section 232 tariffs.
- Certain copper, pharmaceuticals, semiconductors, lumber articles, critical minerals, energy, and energy products that are currently identified in Annex II of the executive order.
- Imports from those countries listed in Column 2 of the HTSUS code.
- Imports from Canada and Mexico that qualify under USMCA.

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The order partially exempts some imported products from paying the full duties.

- For products that contain U.S. made parts, only the non-U.S. portion will be taxed provided at least 20 percent of the value of the good is U.S. content (defined as produced or substantially transformed in the U.S.).
- All USMCA compliant product imported after the exemption is terminated shall be subject to 12 percent duties.

Finally, imported products from China and Hong Kong will continue to face the additional 20 percent International Emergency Economic Powers Act and 25 percent section 301 duties. On May 2, 2025, they will also be subjected to section 321 “de minimis” \$800 package rule.

Next Steps for Businesses

As these tariffs are sweeping, U.S. business and those of other countries should have both a short- and a long-term plan on how to navigate this new reality. The starting point is to assess how these tariffs will impact them, based on that findings and where applicable implement the custom strategies we discussed in *How Companies Can Adapt and Thrive in an Uncertain Trade Environment*.

We will of course continue to monitor the situation and provide updates as they become available.

READ MORE:

- Proper Tariff Classification Impact on Business: How to Avoid Misclassification
- U.S. Businesses Brace for 25% Duties on Imports From Canada and Mexico
- Steel and Aluminum Tariff “Derivative Articles” Defined
- Key Takeaways From President Trump’s February 2025 Steel and Aluminum Tariff Proclamations
- How to Understand Substantial Transformation in a Country of Origin Determination

U.S. Imposes Reciprocal Tariffs: Key Takeaways for Businesses

Navigating Trade Uncertainty: Legal Implications in a Volatile Global Market

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Remarks as prepared for the State Bar of Wisconsin, Annual Meeting & Conference, Madison, WI; Panel - Thursday, June 19, 2025, 3:15 pm on "Trade Policy in a New Administration: Looking Ahead the Next Four Years"

Good afternoon, colleagues.

Today, I want to discuss the current landscape of international trade, characterized by significant uncertainty due to fluctuating tariffs and trade policies. This volatility has profound implications for businesses and, by extension, the legal professionals who advise them.

Recent Developments: A Brief Overview

As of May 12, 2025, the United States and China have agreed to a 90-day reduction in tariffs, lowering U.S. tariffs on Chinese imports from 145% to 30%, and China's tariffs on U.S. goods from 125% to 10%. This temporary truce has sparked a rally in global stock markets, with the Dow Jones Industrial Average jumping over 1,100 points and the Nasdaq Composite rising 4.3%. However, despite this short-term optimism, the long-term outlook remains uncertain, as the underlying issues in U.S.-China trade relations persist.

The Impact of Uncertainty on Businesses

The unpredictable nature of trade policies is causing significant challenges for businesses. Companies are struggling to make investment decisions, manage supply chains, and forecast profits. For instance, General Motors expects a \$4 billion to \$5 billion revenue hit from tariffs, while Harley-Davidson has withdrawn its full-year forecast entirely due to uncertainties related to steel and aluminum tariffs.

Small businesses are also feeling the strain. A survey by the Federal Reserve Bank of Dallas revealed that over 73% of Texas retailers expect negative effects from increased tariffs, with nearly 76% planning to pass cost increases directly to consumers.

Looking Ahead: Trade Policy Under the Current Administration

The current administration's approach to trade policy suggests a continuation and intensification of protectionist measures. Key aspects include:

- **Universal Tariffs:** Proposals for a 10% universal tariff on all imports, with higher rates for specific countries like China, are being considered. This strategy aims to reduce

trade deficits and promote domestic manufacturing but raises concerns about inflation and retaliatory measures from trade partners.

- **"Mar-a-Lago Accord":** This framework seeks to address structural imbalances in global trade, particularly the overvaluation of the U.S. dollar. It combines broad tariffs, potential currency interventions, and a rethinking of international economic relationships, including proposals to link trade access with national security cooperation.
- **Trade and Security Alignment:** There's an emphasis on linking economic partnerships to defense cooperation, advocating that countries benefiting from U.S. security guarantees should align their economic practices with American strategic interests.

These policies indicate a shift from multilateral trade agreements towards a more unilateral and transactional approach, increasing the complexity and unpredictability of international commerce.

Legal Considerations: Advising Clients Amidst Uncertainty

In this volatile environment, legal professionals play a crucial role in guiding clients through the complexities of international trade. Here are some key considerations:

1. **Contractual Flexibility:** Encourage clients to include clauses in contracts that allow for adjustments in response to tariff changes. This can help manage risks associated with sudden policy shifts.
2. **Supply Chain Diversification:** Advise clients to diversify their supply chains to reduce dependency on any single country, thereby mitigating the impact of country-specific tariffs.
3. **Compliance and Monitoring:** Ensure clients stay informed about current trade regulations and comply with all legal requirements. Regular monitoring can help anticipate changes and adapt strategies accordingly.
4. **Risk Assessment:** Assist clients in conducting thorough risk assessments to understand potential exposure to tariff-related costs and develop contingency plans.

Conclusion

The current trade environment is marked by significant uncertainty, with fluctuating tariffs and unpredictable policies posing challenges for businesses. As legal professionals, our role is to provide informed guidance, helping clients navigate these complexities and make strategic decisions to safeguard their interests.

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