

# IN DEFENSE OF LAND AND LIFE

Addressing Human Rights Concerns  
of Indigenous Peoples in Resource Conflict Areas

THIS PROJECT IS IMPLEMENTED BY THE PHILIPPINE HUMAN RIGHTS INFORMATION CENTER, LEGAL RIGHTS AND NATURAL RESOURCES CENTER, ALYANSA TIGIL MINA, PIPLINKS, AND CHRISTIAN AID



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## Primer

# Alternative Minerals Management Bill



## What is the Alternative Minerals Management Bill?

The Alternative Minerals Management Bill or the AMMB seeks to scrap the present Mining Act of 1995 (RA 7942) with the enactment of the "Philippine Mineral Resources Act of 2010". The bill champions conservation of non-renewable mineral resources for the benefit of both present and future generations of Filipinos by adopting a sustainable, rational, needs-based minerals management geared towards effective utilization of mineral resources for an ecologically-sound national industrialization and modernization of agriculture.

In July 2010, House Bill (HB) 206 was filed by 3rd District of Quezon Province Representative and House Deputy Speaker Lorenzo "Erin" Tanada III and in





December 2010 House Bill 3763 was filed by Akbayan Representatives Kaka Bag-ao and Walden Bello, Ifugao Rep. Teddy BrawnerBaguilat, Cagayan de Oro 2nd District Rep. Rufus Rodriguez, Rep. Maximo Rodriguez, Nueva Vizcaya Rep. Carlos Padilla and Paranaque Rep. RoiloGolez. Also, in March 2011, 7 representatives led by Rep. Teddy Casino filed a similar bill, House Bill 4315 in the lower house.

Currently, all three bills (HB 206, 3763, 4315) have been consolidated into one bill and is deliberated in the Natural Resources Committee of the House of Representatives.

Also, on February 15, 2012, Senate Bill 3126 was filed by Senator Sergio "Serge" Osmena III in the upper chamber of Congress, thus, providing the senate version of the alternative minerals management bill.

## **How do we look at mineral resources and mining?**

Minerals are essential resources that are part of our national patrimony. While necessary for national development and important to the economy, the extraction of mineral resources must be done judiciously because mineral areas are part and parcel of ecosystems that include forests, watersheds, riverine systems, coastal habitats and communities of

### Ancestral Domains & 23 Priority Mining Projects in the Philippines



people—all of which are intrinsically linked with biodiversity, the environment, food security, livelihoods and survival.

Specially now in the era of undeniable climate change, it is our responsibility to make sure that minerals governance do not sabotage efforts to adapt to the negative impacts of climate change and the country's mitigation

efforts, as well as our capability to move towards a low carbon global economy. Mining not only is a driver of climate change, but also exacerbates climate disasters and impairs the adaptive capability of our communities. The recent experiences of several provinces in the Visayas and the 'wrath of Sendong' in the cities of Iligan and Cagayan de Oro vividly exemplifies this truth. In addition to cutting down forests and polluting our vulnerable water resources, the current mining industry also highly demands energy use that leads to the use of dirty energy.



It should also be underscored that minerals are essentially non-renewable resources, we have an inter-generational responsibility towards its conservation and preservation—mineral extraction should only be done as a last resort out of the utmost necessity and with the least impact on communities and the environment.

## **What is wrong with the Mining Act of 1995?**

RA 7942 or the Mining Act of 1995 essentially caters to the need of the global extractives industry players. To access mineral areas and control the use of minerals to feed the global corporate demand for raw materials and energy in the production, distribution and consumption of commodity products — a system wholly motivated by profits.

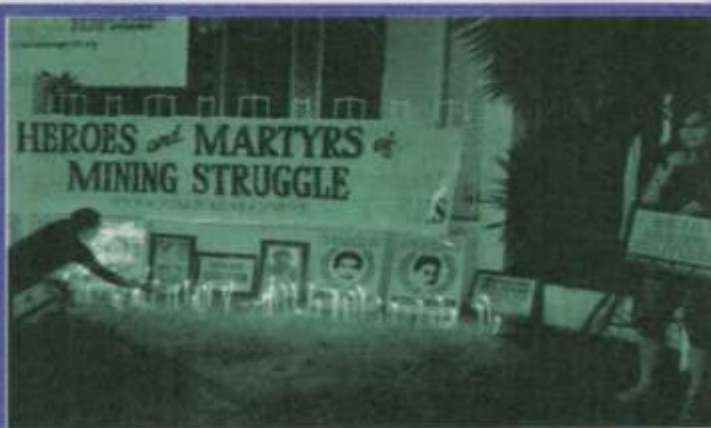
In fact, it was due to pressures from the global extractives industry, Northern countries (or first world countries like the US and Australia), and the International Financial Institutions (IFIs), like the World Bank and the Asian Development Bank, that the



current mining law of the country came about. In the 80s towards the 90s, during the push for structural adjustment programs (SAPs) by the IFIs, countries like the Philippines were forced to change their mining laws to facilitate the entry and access of multinational mining corporations in mineral rich countries worldwide.

The current law facilitates the entry of corporations into ecosystems and community territories for the exploration and extraction of minerals to be shipped out of the country in exchange for revenues from the corporations. The government has not been shy in saying that the mining industry is essentially an elaborate investments baiting and revenue making scheme or PLAK (peralangangkatapat).

Even with this frank admission, it still is a big lie because with the overgenerous fiscal incentives regime of the Mining Act and other laws, the corporations only need to leave us with a few loose change in exchange for our mineral resources, leaving large scale and long term destruction to the environment and communities in their wake. In perpetuating this system, RA 7942 has been





used to sabotage local government efforts to protect the health, environment and livelihoods of their constituents; corrupted the Free, Prior and Informed Consent (FPIC) process of indigenous peoples communities; rendered inutile the Environmental Impact Assessment System; and has brought about a long string of human rights violations against communities and individuals resisting mining.

## What is the Dapitan Initiative of 2002?

The Alternative Minerals Management Bill has its origins in the 2002 conference of environmental, social and community rights advocates that has criticized the economic and political set-up of the mining industry and opposed the legal framework that propped it up. In their declaration, the advocates committed themselves to *“uphold indigenous peoples rights and achieve a more ecologically sound, gender-fair, equitable system of resource management”* and to *“work for a democratic and consultative process in enacting a new legal framework to achieve a wise stewardship of our natural resources.”*

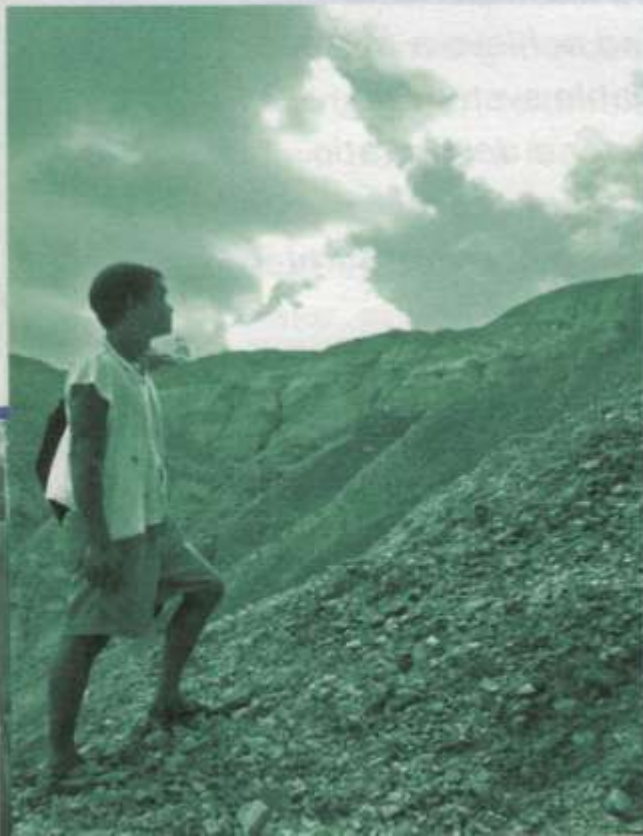




After several years of consultations on the ground and meetings with experts, the alternative minerals management bill was filed (HB 6342) in 2009. AMMB is not just about a new method of mining nor is it focused or only about mineral extraction. It is a bill on the overall mineral resource management and governance that will replace the Mining Act of 1995 (it is an alternative bill to RA 7942, and not about alternative mining).

Other colleagues call the bill as the “*Alternative Mining Bill (AMB)*” or “*Minerals Management Bill (MMB)*”, while the church sector had started to use the term “*Natural Resources Management and Stewardship Bill*”.

## **What are the important provisions of the Alternative Minerals Management Bill?**



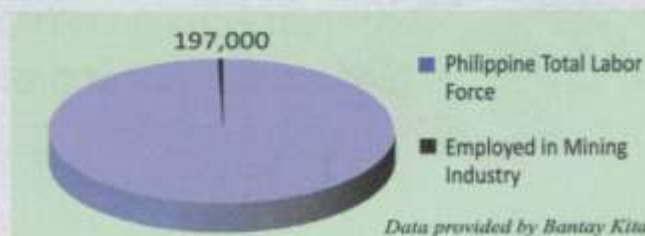
**Conservation of our Mineral Resources.** Use of minerals must take into consideration the allocation needed to be used by future generations, prioritization of recycling of remaining available minerals, and as well as the rehabilitation of old abandoned mines. If to be used by the present generation, it would only be under a rational needs-based utilization and domestic-use-

oriented framework, with actual mineral extraction further weighed against the ecological and social benefits and costs from other land uses.



**For the Benefit of the Filipino People.** The exploration, development and utilization of mineral resources are primarily for the benefit of the Filipino people; it will be geared towards an ecologically-sound national industrialization and modernization of agriculture. Towards this end the state shall build the domestic processing capacity for industrial metals and other labor-intensive downstream industries. Only mineral resources needed for local industries shall be mined.

**Minerals Utilization Framework.** This will be formulated to support plans for national development based on the principles of sustainable development. This framework will define the kind and amount of minerals to be extracted, in a given timeline. The Mines and Geosciences Bureau (MGB) will be transformed into a purely scientific research institution. The State, through the Bureau, shall be in charge of the exploration of strategic minerals. The MGB shall come up with an inventory or mineral resources, identify strategic minerals needed for national development, demarcate mineral areas and build baseline information on watershed continuums.





### **Multi-sectoral Minerals Management Councils**

**(MMMMC).** A Multi-sectoral Minerals Management Council will be created in each watershed continuum area which will have the authority to allow extraction and processing of minerals in their area and approve mineral agreements. Affected local communities and local government units is defined as, those which will

be potentially impacted by mining activities located in relation to a watershed continuum—an area consisting of a watershed and the inter-connection from the headwater to the reef.



**Ownership of Indigenous Peoples.** Mineral resources within ancestral domains/ancestral lands are a collective private property of the indigenous cultural communities/indigenous peoples (ICCs/IPs). No mining activity shall be conducted within the ancestral domains of ICCs/IPs without their free, prior and informed consent (FPIC) that is based on their respective traditional consent processes.

**No Go Zones.** There will be areas closed to mining operations, which will include among others, critical watersheds, geo-hazard areas, small island ecosystems, lands covered by the Comprehensive Agrarian Reform Law, key



biodiversity areas, etc. Furthermore, mineral extraction will not be allowed in areas more beneficial to other land use; priority will be given for more viable and more sustainable livelihood choices for communities, with utmost importance given to food security and livable conditions for peoples.

**Mineral Agreements.** Mineral resources development, utilization and processing shall be reserved for Filipino citizens and for Filipino corporations. Financial and Technical Assistance Agreements (FTAAs) and any other agreements granting foreign corporations full access and ownership to explore or extract mineral resources will not be allowed. The contract area per agreement shall not exceed five hundred (500) hectares and the maximum allowable total contract area for any person in any given

Mining Contracts	Total Number of Contracts	Area Size
Financial or Technical Assistance Agreements (FTAAs)	6	108,872.45 Has.
Mineral Production Sharing Agreements (MPSAs)	339	601,976.16 Has.
Exploration Permits (EPs)	113	404,364.83

*Mines and Geosciences Bureau Data as of January 31, 2012*







watershed area will be seven hundred-fifty (750) hectares. The term for a mineral agreement will be the mine life plus five (5) years for rehabilitation, which in total should not exceed fifteen (15) years.

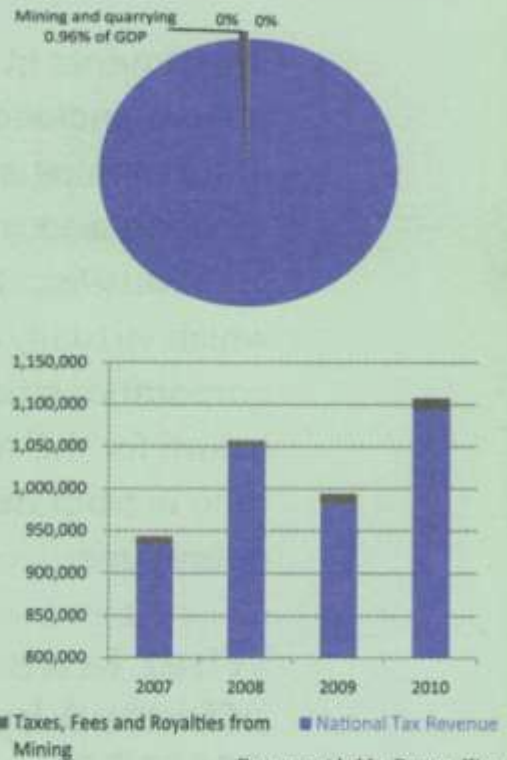
**Maximizing Gains and Preventing or Mitigating Adverse Effects.** Corporate transparency and accountability will be established. Before actual operations, contractors shall submit their Environmental and Social Impact Prevention and Mitigation Plan (ESIPMP), which will also contain a Social Development Management Plan. Mandatory consultations with affected communities shall be undertaken in each phase of mining operation, and free prior and informed consent of indigenous peoples at each mining phase shall also be required. Human rights protection will be prioritized and penalties imposed for violations thereof.

Open-pit mining method for the extraction of mineral ores shall be prohibited.

**Equitable Sharing.** Aside from fees and taxes, government shall have at least a share equivalent to ten per cent (10%) of the gross revenues from the

development and utilization of mineral resources that are owned by it. In case of mineral operations within ancestral domains, the contractor shall pay at least ten per cent (10%) of the gross revenues as royalty to the ICCs/IPs. Community development programs shall not be considered as royalty payment. Local Government Unit's (LGU) share will also be directly payed based on their respective LGU classification, vulnerability, and human development index, from the net income of the mining project.

GDP Contributions from 2000-2010



## What is the current policy on mining in the country?

The current Philippine mining policy is primarily shaped by the liberal interpretation and implementation of three major policies on mining, namely the Mining Act of 1995, Executive Order No. 270—National Policy Agenda on Revitalizing Mining in the Philippines and the National Minerals Action Plan, which shifted the Government's policy from tolerance to all-out promotion of large-scale mining in the country.

Towards this end, the government has instituted investment and regulatory policies to facilitate



investments in mining. These policies include fast-tracking of the mining application process, and the provision of generous fiscal incentives, which virtually ensure that corporations pay very little in return for the millions they rake in from their mining operations.

### **What laws will be affected by the AMMB?**

A number of laws will be affected by the AMMB. Foremost is the Philippine Mining Act of 1995, since the AMMB provides for the governance, ownership and management of natural resources. Certain provisions of the People's Small-Scale Mining Act of 1991 will also be affected, especially those which relate to the procedure



**60 percent of the protected areas are directly hit by mining projects...**

*- Civil society report on the Medium Term Philippine Development Plan (MTPDP) - Mining 2004-2010*

**At least 30 cases of mining-related extra-judicial cases from 2001-2012...**

*- Data compiled by Alyansa Tigil Mina*

and limitations on small-scale mining. The AMMB strengthens the principles embodied in the Indigenous Peoples' Rights Act of 1997. It also devolves more powers to local governments, thereby strengthening certain provisions of the Local Government Code.

### **Is AMMB anti-mining?**

No, AMMB is not against mining per se. In fact, the AMMB emphasizes the value of mineral resources and reorients the current policies on mining to a direction that can better serve the whole Filipino nation. Thus, AMMB espouses for the judicious extraction of minerals. Mining areas are part and parcel of ecosystems, forests, watersheds and ecosystems. Moreover, these areas are host to indigenous peoples and communities. While recognizing the value of minerals to national development, the AMMB also maintains awareness for the adverse impacts of its extraction.



### **How does AMMB address the challenges posed by climate change?**

The AMMB prohibits mining operations in climate-disaster prone areas, geo-hazard areas, and small-island ecosystems—areas that are most vulnerable to the





impacts of climate change. AMMB also puts priority on food production and agriculture, areas seen as one of the most affected by climate change. By also including headwaters of watersheds and critical watersheds in no go zones to mining, it safeguards the country's major freshwater sources that are deemed critical due to impacts of climate change.

Further, decisions on whether to open an area to mining are guided by potential environmental impacts. The limited areas open to mining operations will also limit the use of energy and water that increases the country's greenhouse gas emissions.

By establishing Multi-Sectoral Minerals Management Councils, the AMMB encourages participatory and

localized decision-making processes. This approach is suitable to meet the widespread and inequitable challenges posed by climate change.

## Why should you support the enactment of an AMMB?

Since the inception of the Mining Act of 1995, resistance by affected communities against large-scale mining projects and mining policies have been a mainstay feature of the political landscape of the 'revitalized' industry. From legal cases and petitions to barricades and hunger strikes, affected communities and other stakeholders in the local and national levels employed various forms of opposition.

Today, the resistance against large-scale mining projects and the country's mining policies has reached an unprecedented scale and scope. The resistance against the Mining Act of 1995 and the overall mining regime in the country is much broader today—the opposition of the church sector led by the Catholic Bishops Conference of the Philippines; Save Palawan Campaign led





by ABS-CBN Bantay Kalikasan and Gina Lopez; local government opposition thru various mining moratoria and ordinances led by South Cotabato Environmental Code, banning open pit mining; recent call for a country-wide mining moratorium by the League of Municipalities of the Philippines; and a growing number of leaders, experts and personalities, including Congressional Representatives supporting the need for an alternative minerals management law in the country.

The Alternative Minerals Management Bill seeks to resolve the problems faced by communities and local government units due to the gaps in the current Mining Act of 1995. By supporting this bill, you are making a stand with the people—and making a stand for mining-affected communities, indigenous peoples, the environment, and for the present and future generations!



## What is the SOS-Yamang Bayan Network?

*The SOS-YamangBayan Network is a national, multi-sectoral movement composed of mining-affected communities, national peoples alliances, environmental organizations and networks, church-based organizations, human rights organizations, national NGOs, sectoral organizations from the indigenous peoples, youth, women, farmers, Congressional representatives, known leaders and personalities advocating for the repeal of the Mining Act of 1995 and the enactment of the Minerals Management Bill.*

*The network was first publicly launched in June 6, 2011, in celebration of the World Environment Day 2011. With the theme 'Sikad/PadyakparasaKalikasan, ProteksyunanangatingKagubatan', the network*





# Legacy of DISASTER

Date/Location	Company	Incident	Impacts
October 31, 2005, Rapu-rapu Island	Lafayette Mining Ltd.	It rained heavily. Water elevation at the lower tailings storage facility was almost full due to continuous rainfall. The Rapu-Rapu Minerals Inc (RRMI) management undertook mitigating measures to protect the integrity of the dam structure, or to prevent it from collapsing	In the morning of 1 November 2005, fishes and other marine organisms were found dead at Ungay and Hollowstone Creeks. As per DENR investigation report: 1. The effluent failed to meet DENR Effluent Standards per DENR Administrative Order 90-35 for parameter cyanide; and 2. Samplings conducted on 4 and 5 Nov. at Hollowstone Creek, Ungay Creek and Binosawan River failed to conform to conform to DENR Administrative Order 90-35 for parameter cyanide.
October 11, 2005, Rapu-rapu Island	Lafayette Mining Ltd.	Main Pump malfunction and back-up pump broken during heavy rains increasing volume of combined tailings and process water in the events pond.	Based on the results of DENR water analysis, the slurry materials contained cyanide beyond the standard of 0.05 mg/liter. This caused the death of several marine organisms found at the mouths of Alma and Pagcolbon creeks.
September 11, 2002, San Marcelino, Zambales	Dizon Copper Silver Mines Inc. (DCSM)	Spillway of Bayarong tailings dam collapsed during heavy rain.	Low lying villages flooded with mine waste; 250 families evacuated
August 27, 2002, San Marcelino, Zambales	Dizon Copper Silver Mines Inc. (DCSM)	Heavy rains impounded water on the Bayarong tailings dam and Camalca silt dam, and spillways, eroding these and eventually causing leak	Some tailings spilled into Mapanoepe Lake and eventually into the Sto. Tomas River; dams heavily damaged (especially Camalca)
December 2001, Sipalay, Negros Occidental	Maricalum Mining Corp.	Since the temporary stoppage of operations no fresh tailings have been discharged, causing tailings pond 3 to dry up and become prone to wind actions	Excessive levels of dust affect area of 5 km; air quality affected; nearby residents report increases in respiratory illnesses
August 9, 1999, Toledo City, Cebu	Atlas Consolidated Mining and Development Corp. (ACMDC)	Outlet in drainage tunnel of the open pit (from closed copper mine) was clogged resulting in loosening of accumulated silt, causing discharge into the Sapangdaku River towards the sea	Increase in acidity of affected water bodies causing fish kill
April 26, 1999, Placer, Surigao del Norte	Manila Mining Corp. (MMC)	Tailings spill from damaged concrete pipe in tailings pond	17 homes buried; 40 hectares affected including 20 hectares of agricultural land
June 27, 1998, Sibutad, Zamboanga del Norte	Philes Gold Philippines Inc. (Philes Mining Corp.)	Heavy rain resulted in overflowing of silt dam at the Sibutad gold project	Fish kill and blindness
November 6, 1997, Sibutad, Zamboanga del Norte	Philes Gold Philippines Inc. (Philes Mining Corp.)	Heavy rain caused mudflow and rockslide into silt dam at Talab	Flashfloods damaged nearby houses and rice fields
March 24, 1996, Marinduque Island	Marcopper Mining Corp	According to the company the rock around a cement plug inserted into the former Tapan open Pit drainage tunnel to convert it into a tailings containment was fractured and the plug failed. However, the tunnel started leaking in August 1995. In September 1995 Marcopper/Placer Dome started drilling down 160 meters to the tunnel. On 24 March 1996 the drill hit the tunnel, released an air pocket holding back tailings and started the spill	Evacuation of 1200 residents; 26 km of the Makulaquit and Boac river systems filled with tailings rendering them unusable; US\$ 80 million in damage (the real figure is much higher 3); flash floods isolated 5 villages; 3 Marcopper managers charged 67,000 m3 of bagged tailings collected and stacked in tattered sacks on banks of Boac River since cleanup began in summer 2000
December 8, 1995, Sipalay, Negros Occidental	Philes Gold Philippines Inc. (Philes Mining Corp.)	Pressure exerted by impounded tailings caused leak in decant tower of tailings pond 1 at the Bulawan gold mine	Siltation of Sipalay River
September 2, 1995, Placer, Surigao del Norte	Manila Mining Corp. (MMC)	Dam foundation failure at tailings pond 5 of the Placer copper-gold project	12 people killed; coastal pollution
December 6, 1993, Marinduque Island	Marcopper Mining Corp	The Maguila-Guila siltation dam collapsed due to pressure from heavy siltation at the dam wall	Mogpog River flooded; 2 children killed; livestock killed; agricultural land contaminated; downstream communities and Mogpog Town flooded
June 26, 1993, Mankayan, Benguet	Bogon-Suyoc Mines Inc	Overtopping at the dam of the Bogon-Suyoc gold and silver mines occurred during a typhoon when the dam's penstock and diversion tunnel were blocked	Siltation of the adjoining river
January 1992, Padcal, Tuba, Benguet	Philes Mining Corp.	Collapse of dam wall at tailings pond 2 due to weakened foundation caused by the 1990 Northern Luzon earthquake	Heavy siltation affected downstream government irrigation system
July 9, 1987, Placer, Surigao del Norte	Manila Mining Corp. (MMC)	Dam failure	Fish kill
October 17, 1986, Mankayan, Benguet	Lepanto Consolidated Mining Corporation	Collapse of tailings pond 3 due to weakened dam embankment caused by additional loading	Siltation of the Abra River which affected 9 municipalities
November 8, 1982, Sipalay, Negros Occidental	Maricalum Mining Corp.	Dam failure at tailings pond 3 due to slippage of foundations on clay soil at the Sipalay copper project	Widespread inundation of agricultural land up to 1.5m high; siltation of the Tao-angan River



***GET INVOLVED!***  
***Be part of the Movement!***

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