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A COMPARATIVE ANALYSIS OF TRANSFER PRICING REGULATION IN INDONESIA AND MALAYSIA

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Abstract
Transfer pricing (TP) regulation has become a central feature of tax administration in Southeast Asia as jurisdictions intensify compliance frameworks aligned with global anti–base erosion standards. This article presents a doctrinal and comparative legal analysis of Indonesia's transfer pricing regime under Minister of Finance Regulation No. 172 of 2023 (PMK 172 of 2023) and Malaysia's Transfer Pricing Guidelines 2024 (TPG 2024). Drawing on primary legal and administrative sources, the study compares the two systems across key dimensions, including regulatory foundations, the definition of associated parties, the application of the arm's length principle, transfer pricing methods, the treatment of specific controlled transactions, contemporaneous documentation requirements, and dispute-prevention and resolution mechanisms. The analysis identifies substantial convergence in the conceptual design of the arm's length principle and the methodological tools adopted in both jurisdictions. However, significant divergence remains in compliance architecture and enforcement strategy. Indonesia emphasizes a staged approach to arm's length testing supported by tiered documentation and integration with annual tax return filings, while in Malaysia, the arm's length principle remains the fundamental guiding principle and is operationalised through a threshold-based documentation model, requiring contemporaneous transfer pricing documentation ("CTPD"), coupled with stringent furnishing timelines and explicit offence provisions. The article concludes by outlining practical compliance implications for multinational enterprises and discussing broader policy considerations for tax certainty and transfer pricing dispute risk management in the region. By identifying structural and interpretive divergences that may increase the likelihood of transfer pricing adjustments or disputes, this study is expected to offer valuable insights to tax authorities.
Keywords: Arm's length principle; Transfer pricing; Indonesia Transfer Pricing Guidelines 2023; Malaysia Transfer Pricing Guidelines 2024

INTRODUCTION

Transfer pricing serves as the legal and administrative framework through which tax authorities assess whether transactions between related parties produce outcomes consistent with the arm's length principle (ALP)—namely, outcomes that independent parties would reasonably agree upon under comparable conditions (Tambunan, 2022; Wealth et al., 2025). Given cross-country variations in corporate income tax rates, transfer pricing plays a crucial role in constraining multinational enterprises from engaging in related-party transactions that diverge from arm's length pricing (Marino, 2026). In emerging and middle-income economies, transfer pricing enforcement is therefore not merely a technical exercise, but a key policy instrument for safeguarding the domestic tax base while promoting fairness and legal certainty in cross-border business activities (Rugman & Eden, 2017; Kalra & Afzal, 2023). In Indonesia, the contemporary transfer pricing regime is consolidated under Minister of Finance Regulation No. 172 of 2023 (PMK 172 of 2023). This regulation was expressly introduced to enhance justice, legal certainty, and administrative simplicity in the application of arm's length standards to transactions affected by special relationships, while simultaneously streamlining and replacing earlier ministerial regulations governing transfer pricing documentation, mutual agreement procedures (MAP), and advance pricing agreements (APA).To enhance the efficiency of managing transfer pricing matters, Malaysia has strengthened its interpretive and administrative framework with the issuance of the Malaysia Transfer Pricing Guidelines 2024 (TPG 2024), promulgated as administrative

guidance by the Director General of Inland Revenue pursuant to the statutory authority to issue interpretive guidelines under the ITA 1967 (ITA). The 2024 Guidelines expressly position Malaysia's transfer pricing regime within internationally accepted ALP frameworks, drawing on the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines (OECD TPGL) for Multinational Enterprises and Tax Administrations and the United Nations Practical Manual on Transfer Pricing (UN Practical Manual on TP) for Developing Countries as key interpretive reference points.

Building on this foundation, the article undertakes a comparative examination of the Indonesian and Malaysian transfer pricing regimes from a regulatory design perspective. The analysis spans both doctrinal dimensions—such as legal definitions, normative standards, and transfer pricing methods—and the mechanics of compliance implementation, including documentation thresholds, timing requirements, filing and furnishing procedures, audit exposure, and penalty or offence provisions. This comparative inquiry is particularly relevant for multinational enterprise (MNE) groups operating across both jurisdictions, as regional business models in Southeast Asia commonly involve interconnected manufacturing and service hubs, distribution entities, procurement centers, and intellectual property or licensing arrangements that span multiple ASEAN markets.

This article addresses four interrelated research questions: i) how Indonesia and Malaysia define related-party transactions and determine the scope of transfer pricing regulation; ii) how the arm's length principle is operationalized procedurally and methodologically in each jurisdiction; iii) how documentation regimes differ in terms of thresholds, content, timing, and enforcement; and iv) what compliance implications arise for MNEs (MNEs operating across both countries, particularly in audit and dispute-resolution contexts. The study aims to map similarities and divergences in statutory rules and official guidance, to develop a comparative compliance matrix, and to identify practical risk areas most likely to trigger transfer pricing adjustments or disputes.

The analysis employs a doctrinal legal method combined with comparative regulatory analysis, drawing on primary legal materials. These include PMK 172 of 2023 on the application of the arm's length principle to transactions influenced by special relationships, and Malaysia's TPG 2024, including documentation requirements and interpretive guidance issued under section 140A of the ITA 1967. The comparison is structured around eight analytical themes: legal basis, regulatory scope, the related-party concept, arm's length testing steps, transfer pricing methods, treatment of specific transaction types, documentation design, and dispute and enforcement mechanisms.

LITERATURE REVIEW

Transfer pricing is widely understood as a central legal and administrative mechanism through which tax authorities evaluate whether transactions between related parties reflect outcomes that would ordinarily arise between independent enterprises operating under comparable conditions. At the heart of this framework lies the ALP, which functions as both a normative benchmark for allocating income across jurisdictions and a legal standard for resolving transfer pricing disputes (Eden, 2024; Brugger & Engebretsen, 2020). As such, transfer pricing occupies a distinctive position in international tax law, bridging legal doctrine, administrative practice, and economic reasoning. Within the broader international tax literature, transfer pricing is therefore viewed not merely as a technical accounting practice, but as an institutional system that integrates legal norms, administrative discretion, and economic analysis to govern the fiscal consequences of MNEs' activity (Rugman & Eden, 2017). The prominence of the ALP in global tax governance

has been reinforced through multilateral soft-law instruments, most notably the OECD TPGL and the UN Practical Manual on TP. These instruments play a critical role in shaping domestic implementation across jurisdictions with diverse legal traditions and varying levels of administrative capacity (Rossing, et al., 2017). Despite this international convergence at the conceptual level, the domestic operationalization of the ALP remains inconsistence in its implementation. Scholars have consistently observed that while the core principles of transfer pricing are broadly harmonized, their translation within domestic enforcement differs markedly, particularly in developing and middle-income economies. Diller et al. (2025) findings underscore the challenges of achieving transfer pricing harmonization and explain how tax payers interest can undermine the intended benefits of tax harmonization.

In developing and middle-income countries, transfer pricing regulation assumes a policy significance that extends well beyond its technical function (Borkowski, 1997). The literature emphasizes that transfer pricing enforcement serves as a critical instrument for protecting domestic tax bases from profit shifting, while also advancing broader objectives of fairness, transparency, and legal certainty in cross-border commercial activity (Rathke, et al., 2021). These objectives are particularly salient in jurisdictions where fiscal space is limited, and reliance on corporate income tax revenues remains substantial. At the same time, tax authorities in these economies often face structural constraints, including limited enforcement capacity, significant information asymmetries, and the growing complexity of multinational corporate structures. As a result, regulatory strategies frequently place heightened emphasis on formal documentation requirements, standardized compliance rules, and ex ante procedural controls as substitutes for resource-intensive substantive analysis (Choi, et al., 2024). Importantly, the literature also highlights that regulatory design choices in transfer pricing are inherently normative. Decisions concerning documentation thresholds, audit powers, penalty regimes, and dispute-resolution mechanisms reflect deliberate trade-offs between administrative feasibility, enforcement effectiveness, and taxpayer certainty (Christians, 2021). Consequently, comparative transfer pricing scholarship has increasingly shifted its focus from doctrinal convergence toward examining how different jurisdictions operationalize internationally accepted principles within their specific administrative and institutional contexts.

Academic analyses of Indonesia's transfer pricing framework have historically emphasized issues of regulatory fragmentation, legal uncertainty, and a high incidence of disputes. Before the enactment of PMK 172 of 2023, Indonesia's transfer pricing regime was governed by multiple ministerial regulations addressing documentation, MAP, and APA, often resulting in overlapping compliance obligations and limited coordination between audit and dispute-prevention mechanisms (Irawan & Gumilang, 2025). This fragmented regulatory landscape was frequently cited as a source of procedural complexity and elevated litigation risk, particularly for MNEs with significant cross-border related-party transactions. Recent scholarship, however, suggests that the consolidation of transfer pricing rules under PMK 172 of 2023 represents a meaningful shift toward greater legal coherence and administrative rationalization. By integrating arm's length testing procedures, documentation requirements, and dispute-prevention instruments within a single regulatory framework, Indonesia has aligned its transfer pricing regime more closely with structured compliance models observed in other emerging economies seeking to balance enforcement rigor with legal certainty.

The Malaysian transfer pricing regime has been examined in the literature primarily through the lens of administrative enforcement and documentation-driven compliance. Section 140A of the Income Tax Act 1967 (ITA 1967) provides a clear statutory basis for transfer pricing

adjustments, while the Director General's guidelines play a central role in translating the ALP into operational practice (Al-Maghrebi et al., 2022). In this context, the Malaysia Transfer Pricing Guidelines —particularly in their post-Base Erosion and Profit Shifting (BEPS) iterations—are often cited as illustrative of an audit-centered enforcement model. Scholars observe that Malaysia's threshold-based approach to documentation, which distinguishes between full and minimum contemporaneous documentation, reflects an explicit policy choice to calibrate compliance costs against enforcement effectiveness (Hamid & Arshad, 2016). At the same time, the direct linkage between documentation failures and statutory offences underscores a compliance philosophy that places strong emphasis on deterrence, procedural discipline, and timely information disclosure, even where this may increase taxpayer exposure during audits (Zandi & Elwahi, 2016).

Comparative transfer pricing scholarship has expanded considerably in recent years, particularly in response to the BEPS project and the proliferation of post-BEPS domestic reforms (Cantos, 2022; Iqbal et al., 2025; Elschner & Hardeck, 2022; Oei, 2022). Nonetheless, much of the existing literature remains concentrated on comparisons among developed economies or on assessing formal convergence with OECD standards. Studies involving ASEAN jurisdictions often remain jurisdiction-specific or descriptive, offering limited insight into how regulatory design choices shape practical compliance outcomes for MNEs operating across multiple countries. This article seeks to address this gap by offering a structured, regulation-centered comparison of Indonesia and Malaysia—two economically integrated ASEAN jurisdictions that have adopted distinct compliance architectures despite shared reference to international arm's length standards. By examining both doctrinal elements and the mechanics of compliance implementation, the study contributes to a more nuanced understanding of how emerging economies internalize global transfer pricing norms while adapting enforcement strategies to local administrative realities.

METHODS

This study adopts a content analysis approach. It also applies a doctrinal legal research method combined with a comparative regulatory analysis to examine the design and operation of transfer pricing regulations in Indonesia and Malaysia. The doctrinal approach is employed to systematically analyze and interpret the relevant statutory provisions, administrative regulations, and official guidance that form the legal basis of transfer pricing enforcement in each jurisdiction. This method is particularly appropriate given that the object of inquiry is not taxpayer behavior or empirical outcomes, but the normative structure, internal coherence, and regulatory intent of the transfer pricing frameworks themselves.

The analysis draws primarily on authoritative legal materials, including Indonesia's PMK 172 of 2023, which consolidates the application of the arm's length principle, documentation obligations, and dispute-prevention mechanisms, as well as Malaysia's TPG 2024, together with relevant provisions of the ITA 1967, particularly those governing related-party transactions and transfer pricing adjustments. These instruments are examined not only as formal sources of law and administrative practice, but also as expressions of each jurisdiction's broader regulatory philosophy regarding tax certainty, compliance management, and dispute control.

To facilitate meaningful comparison, the study applies a structured analytical framework across several core regulatory dimensions, including the legal basis and scope of application, the definition and treatment of related-party transactions, the procedural and methodological implementation of the arm's length principle, the selection and application of transfer pricing methods, the design of contemporaneous documentation requirements, and the mechanisms for

dispute prevention and resolution. By comparing these elements systematically, the study identifies areas of convergence and divergence between the two regimes and evaluates their practical implications for MNEs operating across both jurisdictions, particularly in relation to compliance risk, audit exposure, and cross-border dispute management.

RESULT AND DISCUSSION

Indonesia's transfer pricing framework is now comprehensively organized under PMK 172 of 2023, which functions as a single regulatory platform governing the application of the ALP across its entire lifecycle—from transaction identification and documentation to audit defence and dispute resolution. The regulation provides explicit definitions of key transfer pricing concepts, including transfer prices, affiliated parties, affiliated transactions, and transactions influenced by special relationships. Importantly, its scope extends beyond transactions between formally affiliated entities to also capture arrangements in which pricing outcomes are effectively determined by an affiliate, even where the transacting parties appear legally independent. This design reflects a deliberate anti-avoidance orientation, aimed at addressing economic influence that operates outside formal ownership structures.

A notable feature of PMK 172 of 2023 is its consolidation of dispute-prevention and dispute-resolution mechanisms within the same regulatory instrument. By incorporating definitions of MAP and APA alongside documentation and ALP application rules, Indonesia signals an administrative preference for coherence and continuity. This unified approach reduces fragmentation across regulatory instruments and strengthens legal certainty by aligning compliance obligations, audit expectations, and dispute-management tools within a single framework.

Malaysia adopts a different regulatory approach. Its transfer pricing regime is primarily implemented through interpretive guidelines issued by the DGIR under the statutory authority of the ITA 1967, particularly section 140A. Malaysia's TPG 2024 emphasizes that the obligation to apply the ALP rests with taxpayers engaging in controlled transactions, while empowering the tax authority to adjust non-arm's length outcomes. Significantly, the Guidelines also recognize the authority to disregard or re-characterize transactions where legal form diverges from economic substance or where commercially rational independent parties would not have adopted the same structure. This approach positions transfer pricing enforcement in Malaysia as not merely corrective of prices, but potentially corrective of transaction structures themselves.

Differences in how related-party relationships are defined further illustrate the contrasting regulatory philosophies. Indonesia combines a bright-line ownership threshold—set at 25 percent direct or indirect participation—with a broad, functional concept of control that encompasses managerial influence, technological dependence, overlapping decision-makers, and other indicators of effective control. Malaysia, while relying on statutory concepts of associated persons, adopts an expanded control that may capture control at ownership levels of at least 20 percent in certain circumstances, as well as through non-equity forms of influence. As a result, borderline ownership and governance structures may trigger transfer pricing obligations in one jurisdiction but not the other, underscoring the importance of analyzing control in both legal and practical terms.

The operationalization of the ALP further differentiates the two regimes. Indonesia codifies a step-by-step analytical process for applying the ALP, requiring taxpayers to demonstrate a clear logical sequence from transaction identification through comparability analysis and method

selection to the determination of an arm's length outcome. This procedural codification creates an audit-oriented compliance narrative, where deficiencies at any analytical stage may expose taxpayers to adjustment risk. Malaysia, by contrast, places greater emphasis on the taxpayer's burden of proof and on the substantive defensibility of pricing outcomes, supported by the tax authority's explicit power to re-characterize transactions when necessary.

Both jurisdictions broadly align with OECD-recognized transfer pricing methods, but they differ in method selection philosophy. Indonesia's framework reflects a structured preference logic—favoring traditional methods such as the comparable uncontrolled price method where reliable comparables exist—while Malaysia explicitly allows alternative methods if they better approximate arm's length outcomes. This flexibility may accommodate commercial realities, but it also heightens the need for careful justification and robust documentation.

These differences become most pronounced in the design of documentation regimes and enforcement mechanisms. Indonesia emphasizes defined documentation types, explicit preparation timelines, and integration with annual tax return filings, including the requirement to attach an executive summary to the return. Malaysia, by contrast, adopts a threshold-based distinction between full and minimum documentation and does not require submission with the tax return, but imposes a strict obligation to furnish documentation within 14 days upon request, with failure constituting a statutory offence. This divergence reflects two distinct compliance philosophies: Indonesia prioritizes structured, return-based transparency, while Malaysia prioritizes audit readiness and rapid information disclosure.

Taken together, these contrasting regulatory designs carry important implications for multinational enterprises operating across both jurisdictions. While both regimes converge on identifying similar high-risk transaction categories—such as services, intangibles, financing, and cost contribution arrangements—they differ significantly in how compliance pressure is applied and managed. Understanding these differences is therefore essential not only for legal compliance but also for effective transfer pricing governance and dispute-risk management in the Southeast Asian context.

Table 1. Comparison of TP Guidelines Indonesia - Malaysia

Aspect	Indonesia (PMK 172 of 2023)	Malaysia (TPG 2024)
Legal instrument	Binding Minister of Finance Regulation consolidates TP documentation, MAP, and APA in a single framework.	Interpretive guidelines issued by the DGIR under the statutory authority of the ITA 1967.
Regulatory Philosophy	Procedural and compliance-oriented, emphasizing a structured arm's-length analysis workflow.	Audit-centered and outcome-oriented, emphasizing substantive defensibility. Based on Transfer Pricing Tax Audit Framework (TPTAF) 2025.
Scope of Transactions	Covers affiliated transactions and transactions between legally independent parties where pricing or counterparty selection is influenced by an affiliate.	Focuses on controlled transactions between associated persons.
Related-Party Concept	"Special relationship" arising from ownership, control, or family relationships.	"Associated persons" based on ownership and broader control indicators.

Ownership Threshold (Bright-line Test)	25% direct or indirect ownership.	May extend to 20% ownership under expanded control interpretation.
Control Test	Broad and functional, including managerial, technological, and decision-making influence.	Broad and functional, including economic dependence and exclusive rights.
Operationalization of ALP	Explicitly codified step-by-step ALP application in the regulation.	No prescribed sequence; emphasis on achieving arm's length outcomes.
ALP Analytical Stages	Identification → industry analysis → transaction analysis → comparability → method selection → arm's length outcome.	No formal stages; focus on substantive justification.
Burden of Proof	Implicit through compliance with procedural stages.	Explicitly placed on the taxpayer.
Re-characterization Authority	Not expressly articulated.	Explicit authority to disregard or re-characterize transactions.
Recognized TP Methods	Five OECD-aligned methods (CUP, RPM, CPM, TNMM, Profit Split).	Five OECD-aligned methods plus other methods where appropriate.
Method Selection Logic	Preference for CUP where reliable comparables exist.	Outcome-based: any method acceptable if arm's length result is achieved.
High-Risk Transactions	Explicitly enumerated (services, intangibles, financing, restructuring, **Cost** Contribution. Arrangements (CCAs)).	Addressed through dedicated chapters (services, CCA, intangibles, finance, commodities).
Documentation Model	Defined documentation types with clear availability deadlines.	Threshold-based: Full CTPD vs Minimum CTPD.
Documentation Thresholds	Illustrated through annexed examples (e.g., IDR 50 billion turnover).	Explicit thresholds (e.g., RM30 million income + RM10 million cross-border transactions; RM50 million financial assistance).
Timing of Documentation	Must be available within 4 or 12 months after year-end.	Must be furnished within 14 days upon request.
Filing with Tax Return	Executive summary must be attached to annual tax return.	Not filed with return.
Sanctions for Non-Compliance	Embedded within the general tax penalty framework.	Explicit offence provisions for failure to prepare or furnish documentation.
Record Retention	Governed by general tax record-keeping rules.	Seven-year retention; failure constitutes a criminal offence.
Language Requirements	Indonesian (with translation obligations).	English or Bahasa Malaysia.

Country-by-country Reporting (CbCR) Treatment	Explicitly aligned with OECD €750 million consolidated revenue threshold.	Not a central focus of TPG 2024. However, it has been highlighted by IRB that reporting of CbCR information will be in accordance to the OECD's CbCR Extensible Markup Language (XML) Schema.
MAP and APA	Fully integrated and defined within PMK 172 OF 2023.	Governed separately under ITA 1967 and related guidance.
Enforcement Orientation	Preventive and procedural, emphasizing consistency and audit narratives.	Deterrent and corrective, emphasizing audit readiness and rapid response. Implementation of TPTAF 2025.
Legal instrument	Binding Minister of Finance Regulation consolidates TP documentation, MAP, and APA in a single framework.	Interpretive guidelines issued by the DGIR under the statutory authority of the ITA 1967.
Regulatory Philosophy	Procedural and compliance-oriented, emphasizing a structured arm's-length analysis workflow.	Audit-centered and outcome-oriented, emphasizing substantive defensibility. Based on the Transfer Pricing Tax Audit Framework (TPTAF) 2025.

Based on Table 1 above, it is known that Indonesia adopts a highly procedural approach to transfer pricing governance, in which compliance is evidenced through adherence to a clearly sequenced analytical process and its integration with annual corporate income tax filings. Malaysia, in contrast, relies on an audit-driven and deterrence-oriented model, marked by an explicit allocation of the burden of proof to taxpayers, broad re-characterization powers, and stringent timelines for the production of transfer pricing documentation in accordance with TPTAF 2025. Although both jurisdictions are formally aligned with internationally accepted arm's length standards, these contrasting compliance architectures translate into materially different compliance dynamics and risk exposures for multinational enterprises operating across the two countries.

CONCLUSION

This article has examined the transfer pricing frameworks of Indonesia and Malaysia through a doctrinal and comparative lens, with particular attention to regulatory design, the operationalization of the arm's length principle, documentation requirements, and enforcement mechanisms under PMK 172 of 2023 and Malaysia's TPG 2024. At a substantive level, the analysis confirms a strong degree of convergence between the two jurisdictions. Both systems are firmly grounded in internationally accepted arm's length standards and draw heavily on global reference frameworks, reflecting the broader post-BEPS trajectory toward normative alignment in transfer pricing regulation. At the same time, the study highlights that convergence at the level of principles does not necessarily translate into convergence in compliance experience. Indonesia and Malaysia have adopted markedly different approaches to structuring and enforcing transfer pricing obligations. Indonesia's framework is characterized by a proceduralized compliance model, in which taxpayers are expected to demonstrate arm's length outcomes through a clearly sequenced analytical process that is closely linked to annual tax return filings. The consolidation of

documentation rules, MAP, and APA within a single regulation further reflects an emphasis on coherence, predictability, and preventive compliance. Malaysia, by contrast, relies on an audit-driven and deterrence-oriented model, placing explicit responsibility on taxpayers to substantiate arm's length pricing, the tax authority is granted broad recharacterization powers, and strict timelines to preparation of relevant documentation are enforced, supported by explicit offence provisions. These divergences have important practical implications. Although MNEs operating in both jurisdictions face similar substantive standards, they encounter very different compliance pressures, timelines, and risk dynamics. In this sense, transfer pricing risk in Southeast Asia is shaped not only by the arm's length principle itself, but also—perhaps more critically—that principle is embedded in domestic regulatory and enforcement architectures. The findings therefore suggest that regulatory design choices play a central role in determining the balance between tax certainty, administrative efficiency, and enforcement effectiveness in emerging economies.

This study also points to several directions for future research. First, empirical work examining how PMK 172 of 2023 and Malaysia's TPG 2024 operate in practice—particularly in audit outcomes, adjustment frequency, and dispute resolution—would help assess whether the differing compliance architectures observed in this study achieve their stated policy objectives. Such research could shed light on whether proceduralized compliance models reduce disputes or whether deterrence-based approaches enhance compliance without undermining legal certainty. Second, extending the comparative analysis to other ASEAN jurisdictions would allow for the development of a regional perspective on transfer pricing enforcement models. A broader comparison could reveal whether Indonesia and Malaysia represent distinct regulatory archetypes within Southeast Asia, or whether similar patterns are emerging across the region. Third, future research could explore the interaction between documentation regimes and dispute-prevention mechanisms, such as advance pricing agreements and mutual agreement procedures, to assess whether integrated regulatory frameworks improve access to tax certainty for multinational enterprises. Finally, interdisciplinary research combining legal analysis with organizational or behavioral approaches could provide deeper insight into how multinational groups adjust their internal governance, documentation practices, and risk management strategies in response to differing national transfer pricing regimes. By situating Indonesia and Malaysia within a comparative and policy-oriented framework, this article lays the groundwork for further inquiry into how transfer pricing regulation evolves in emerging economies and how regulatory design choices shape compliance behavior and dispute risk in the international tax system.

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