



Internal Export Controls/ ICP as an Effective Tool for Preventing Violations in the Field of Export Control

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General goal

Determination of mechanisms to establish and increase effectiveness of ICP at enterprises as a complex of measures aimed at proper organization of the foreign trade and protection of enterprises from violations in this field



Presentation overview

1. Establishment of an ICP as an effective tool for preventing violations:

- Purpose
- Legal framework
- Organizational issues
- Interaction between units
- Professional training
- Internal and external audits
- Standards of compliance with the legislative requirements
- Practical recommendations in regard to ananlysis and практичні поради щодо аналізу та регулювання процесів
- Document flow and use of information technologies
- Presentation of the export control internal compliance system
- Classification

4. Conclusions



Task for self-preparation

(considering specificities of an enterprise!!!)

- 2. What is the goal of establishing ICP?**
- 3. What is the legal basis for establishing ICP?**
- 4. What organizational steps should be taken for an effective ICP?**
- 5. Outline the units and the grounds of their interaction on export control issues.**
- 6. Outline the main ways of establishing professional trainings.**
- 7. What is the main goal of internal and external audits?**
- 8. Outline the main standards ensuring system's compliance with legal requirements**
- 9. Which processes of the enterprise's foreign trade are subject to constant analysis and adjustments from the standpoint of export control?**
- 10. Describe the document flow and the scope of use of information technologies at your enterprise.**
- 11. Describe classification mechanism (considering identification according to the Single control list)**

The law of Ukraine „On state control of international transfers of military and dual-use commodities”

Article 1. Definition

The system of internal compliance with export control ICP (SVFEK) - includes organizational, legal, informational and other measures to be implemented by the international cooperation entity to comply at the company level and at subordinated departments level with export control requirements



The law of Ukraine „On the state control over international transfers of military and dual-use goods”

Article 14. System of internal compliance with export control requirements

Development of ICP is an obligatory condition for the enterprises which:

- **have (or intent to have) powers for export, import of military commodities or commodities which contain information that constitute state secret;**
- **have intention to acquire general or open permit or conclusion**

Development of the system by the companies is aimed at the following objectives:



- **Protect companies from possible violations of the current legislation** in the field of export control and administrative, criminal and economical sanctions related to violations which may be imposed against company;
- **Reduction of risks** of the companies during international transfer of commodities, which are subject to the state export control;
- **Revealing and termination of international transfer of commodities**, which could possibly cause losses to the state or violate international obligations related to non-proliferation of weapons of mass destruction, delivery systems, conventional weapons and commodities which can be used for their production;
- **Support of efficient international cooperation of the company** and timely acquiring of the State Export Control Licenses.

ORGANIZATIONAL ISSUES

Principle of comprehension of the necessity of implementing and adhering to the export control, including prevention of violations

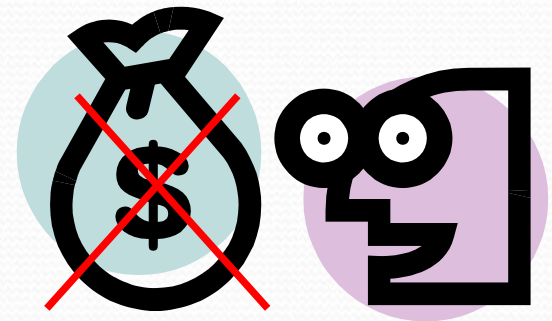
- Political message – elucidation of implementation goals



ORGANIZATIONAL ISSUES

*Principle of independence of the export control unit
from commercial and customs units*

**Organization of a separate export control unit
(work out rights and obligations)**



Construction scheme of the system

```
graph TD; A["Construction scheme  
of the system"] --- B["Political message—  
determination of goals"]; A --- C["Establishment of the export control unit"];
```

Political message—
determination of goals

Establishment of the export control unit

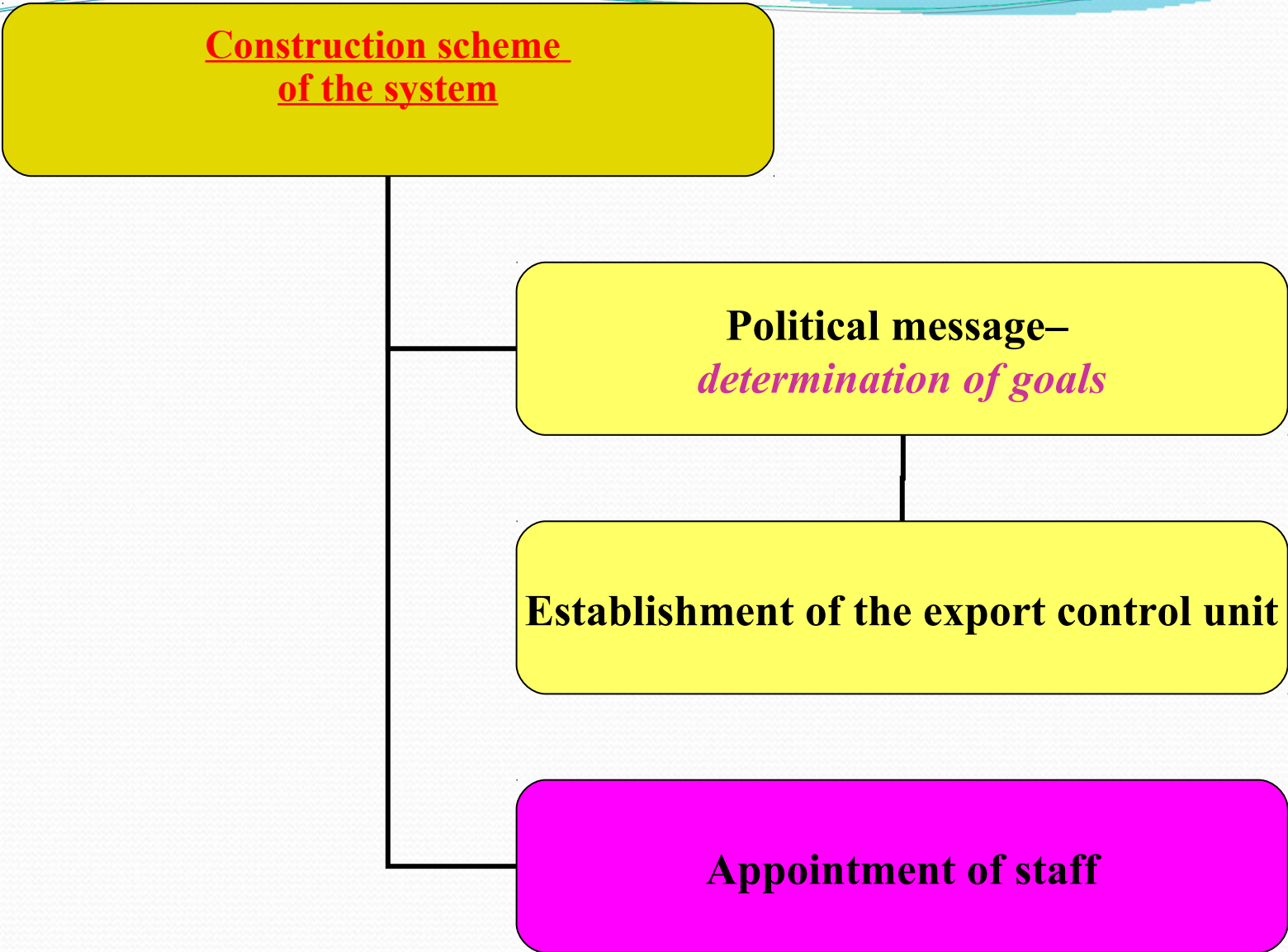
ORGANIZATIONAL ISSUES

Maximal centralization principle

- Provide a manager with necessary discretion;
- Provide a possibility to study;
- Provide **access to any information**



Construction scheme of the system



```
graph TD; A["Construction scheme  
of the system"] --- B["Political message—  
determination of goals"]; A --- C["Establishment of the export control unit"]; A --- D["Appointment of staff"];
```

The diagram is a flowchart titled "Construction scheme of the system". It features a central vertical line with three horizontal branches. The top branch leads to a yellow box containing "Political message—*determination of goals*". The middle branch leads to a yellow box containing "Establishment of the export control unit". The bottom branch leads to a magenta box containing "Appointment of staff".

**Political message—
*determination of goals***

Establishment of the export control unit

Appointment of staff

ORGANIZATIONAL ISSUES

Provide proper working conditions

- location;
- premises of the unit;
- necessary office equipment.



Construction scheme of the system

**Political message—
*determination of goals***

Establishment of the export control unit

Appointment of staff

Securing working environment

ORGANIZATIONAL ISSUES

Principle of a system approach towards solution of the export control issues

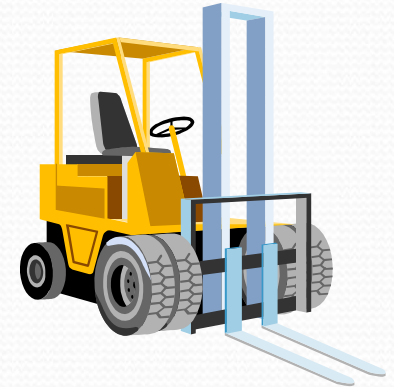
- **Clear planning of activities** and working out of all the necessary rules and procedures;
Аналіз Analysis of foreign economic agreements (contracts) (without exceptions!!!) and documentation of such analysis
- **Ensuring interaction between units** – providing administrative rights to the head of the export control unit;



INTERACTION BETWEEN UNITS



Sale and distribution
Technical units
Engineer services
Contract services
Marketing
Purchase
Logistics



Development of the product and production processes
Finances



Administrative support center
Automated processes
Military representation

**Construction scheme
of the system**

**Political message–
*determination of goals***

Establishment of the export control unit

Appointment of staff

Securing working environment

Activity planning

Interaction between units

PROFESSIONAL TRAINING

- **Participation of the staff of the export control unit in the training seminars and conferences on the issues of export control**
- **Training and retraining of the staff whose activity is connected with export control procedures (program, planning, implementation)**
- **Special attention to the commodity classification trainings as one of the key instruments of preventing violations!!!**

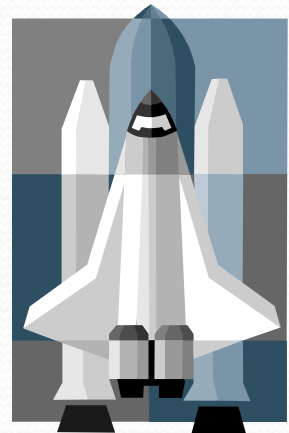
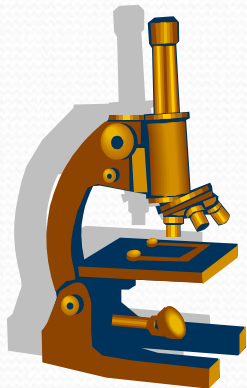


ORGANIZATION OF COMMODITY CLASSIFICATION PROCESS

«Classes» of goods

Special attention – Not listed goods – «Catch all»

Single list



ORGANIZATION OF COMMODITY CLASSIFICATION PROCESS

-
Classification



Matrix of
enterprise's goods


```
graph TD; A[Properly organized classification process] --> B[Correct commodity classification and identification]; B --> C[Timely received permissive documents]; C --> D[Protection of enterprise from violations in the field of export control]; D --> E[Positive image of the enterprise as a reliable partner];
```

Properly organized classification process

Correct commodity classification and identification

Timely received permissive documents

Protection of enterprise from violations in the field of export control

Positive image of the enterprise as a reliable partner

**Construction scheme
of the system**

Political message

**Establishment of the
export control unit**

Appointment of staff

Securing working environment

Activity planning

Interaction between units

Trainings

INTERNAL AUDIT

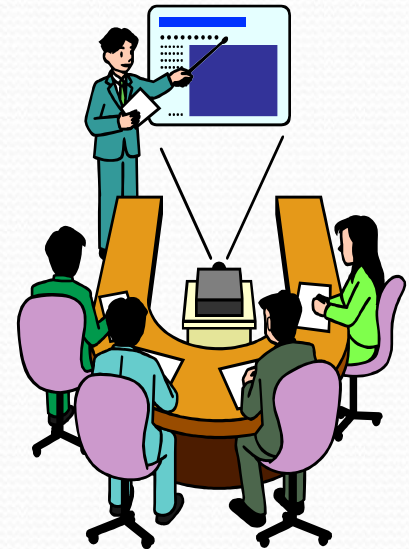
Principle of proper fulfillment of internal verifications (inspections) of adherence to the established procedures of international transfers of goods

- **Confirmation of the plan of verifications (inspections);**
- **Periodical control of reports on conducted verifications (inspections).**



EXTERNAL AUDIT

Visiting enterprises by the executive power representatives to provide recommendations on proper structuring of ICP



**Construction scheme
of the system**

```
graph TD; A["Construction scheme  
of the system"] --- B["Trainings"]; A --- C["Audit"];
```

Trainings

Audit

STANDARDS OF COMPLIANCE WITH THE LEGISLATIVE REQUIREMENTS

Organizational documents and instructions

Orders on establishment of ICP and corresponding unit

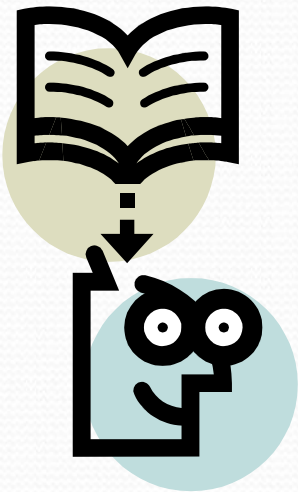
Order on ensuring interaction in the field of export control

Provisions on the system and the unit

Principles of enterprise

Job descriptions

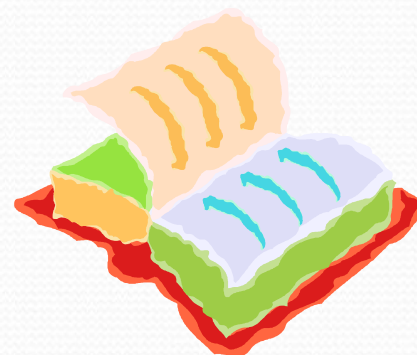
General Code of Conduct



STANDARDS OF CORRESPONDENCE TO LEGAL REQUIREMENTS

Database of the legal documents
Laws, decrees, orders of general purpose

<http://www.dsecu.gov.ua>
(Tracking of changes – formation of auxiliary tables)



STANDARDS OF CORRESPONDENCE TO LEGAL REQUIREMENTS

Job instructions

Internal provisions and orders

**Methodological handbook on
preparation of the package of
documents for the receipt of
permissive documents at the
SSECU and guarantee
documents.**



Construction scheme of the system

```
graph TD; A["Construction scheme  
of the system"] --- B["Trainings"]; A --- C["Audit"]; A --- D["Preparation of necessary documents  
(normative base, job instructions)"];
```

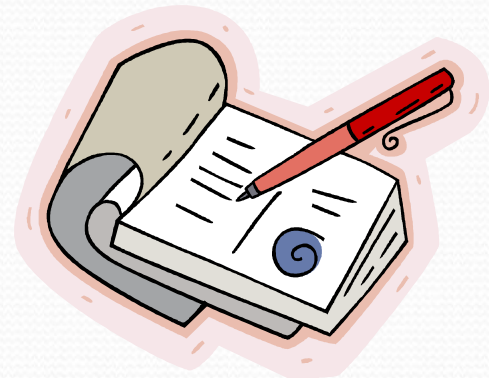
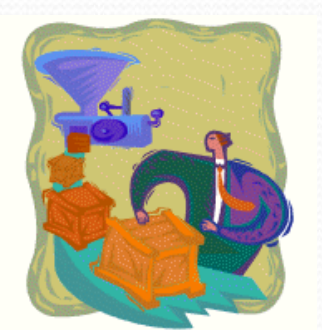
Trainings

Audit

**Preparation of necessary documents
(normative base, job instructions)**

MECHANISM OF REGULATING THE MAIN PROCESSES

- **Processing of the commercial orders**
- **Level of participation in negotiations**
- **Level of participation of the export control unit in preparation and concluding of each contract – confirmation of the corresponding scheme of reviewing commercial offers and draft contracts**
- **Level of participation in exhibitions**
- **Level of participation in shifting of the goods**
- **Preparation of the applications for the receipt of permissive documents**



Construction scheme of the system

Trainings

Audit

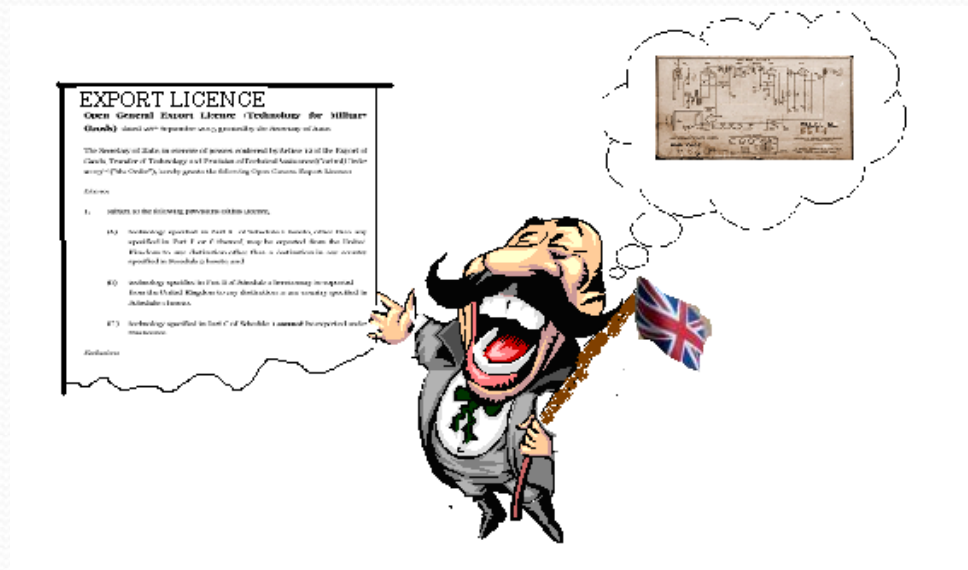
Preparation of necessary documents
(normative base, job instructions)

Mechanisms of regulating the main processes

REPORTING

Principle of the well-defined control over the use of permissive documents:

- availability of a reference regarding the current status of the use of permissive documents receive by a company (regularity of their receipt from the head of the export unit)



Construction scheme of the system

```
graph TD; A["Construction scheme  
of the system"] --- B["Trainings"]; A --- C["Audit"]; A --- D["Preparation of necessary documents  
(normative base, job instructions)"]; A --- E["Mechanisms of regulating the main processes"]; A --- F["Reporting"];
```

Trainings

Audit

**Preparation of necessary documents
(normative base, job instructions)**

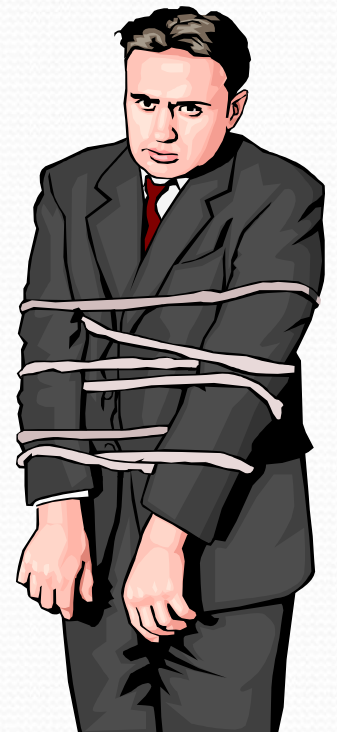
Mechanisms of regulating the main processes

Reporting

END USE GUARANTEES

Principle of a timely foresight of violation risks in the field of export control

- **Creation of the necessary databases (of goods, partners, limitations, legal documents etc)**
- **Verification of the partner**
- **End-use control**
- **End destination control**





DOCUMENT FLOW AND USE OF INFORMATION TECHNOLOGIES

Principle of a system approach to document management

- approval of organizational documents;
- participation of the head of export control unit in preparation of the orders and other management directives on foreign economic activity of an enterprise.
- *creation and keeping of electronic database in the field of export control*

Construction scheme of the system

Trainings

Audit

**Preparation of necessary documents
(normative base, job instructions)**

Mechanisms of regulating the main processes

Reporting

End-use guarantees

Document flow and information technologies

PRESENTATION OF THE EXPORT CONTROL INTERNAL COMPLIANCE SYSTEM

*Principle of ensuring access of the staff
to the export control information*

- **Responsible for export controls**
- **Instructions**
- **Normative base**
- **Training**
- **Audit**
- **Standard texts and forms**
- **Technical and special terms**
- **Register of references and sources**
- **Customs information**



STATE CERTIFICATION OF THE ICP

Methodological recommendations on ICP establishment for the international cooperation entities

**Ratified by the Order № 412 of the SSECU of 17
November 2006**



STATE CERTIFICATION OF THE ICP

**Decree of the Cabinet of Ministers of Ukraine
of June 17, 2003 N 1080**

**On approval of the procedure for State
certification of the system of internal
compliance with export control rules developed
by the entity which is involved in international
transfer of commodities**

(with changes, introduced by the decree of the
Cabinet of Ministers of Ukraine dated 25.05.2006
№ 726)

STATE CERTIFICATION OF THE ICP

The Certificate is issued in case of positive decision

Certificate is issued for 3 years

*After expiration of certificate, ICP is
subject to recertification*

*Recertification documents are to be submitted
3 month prior to the expiration of the certificate*

ДЕРЖАВНА СЛУЖБА
ЕКСПОРТНОГО КОНТРОЛЮ УКРАЇНИ

СВІДОЦТВО
№ _____
про державну атестацію системи внутрішньофірмового
експортного контролю, створеної суб'єктом здійснення
міжнародних передач товарів

Відповідно до статті 14 Закону України «Про державний контроль за
міжнародними передачами товарів військового призначення та подвійного
використання» система внутрішньофірмового експортного контролю,
створена суб'єктом здійснення міжнародних передач товарів

(повна найменування та місцезнаходження суб'єкта)

зареєстрованим в Держекспортконтролі «__» ____ 200__ р. за
№ _____, атестована.

Свідоцтво діє до «__» ____ 200__ р.

Голова Держекспортконтролю _____ (підпис) _____ (печітка та підпис)
МП _____
Дата видачі «__» ____ 200__ р.

STATE CERTIFICATION OF THE EXPORT CONTROL INTERNAL COMPLIANCE SYSTEMS

Grounds for a confirmation denial:

- *Incorrect data in the documentation;*
- *Multiple violations of the export control rules and requirements;*
- *Negative conclusion of the Interagency commission on system attestation*



Conclusion

Implementation of the ICP **EFFICIENTLY HELPS** to prevent **violations** in the field of export control





THANK YOU FOR YOUR ATTENTION!
ANY QUESTIONS?

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