

A DRAFT COVENANT FOR THE ANGLICAN COMMUNION**NOTE FROM THE HOUSE OF BISHOPS**

1. The General Synod considered Anglican Communion matters in debates last February and again in July. Since then, proposals for a Covenant for the Communion have been discussed at the Lambeth Conference.
2. A document (*'The Reflections on the St Andrew's draft for an Anglican Covenant by the bishops gathered at the 2008 Lambeth Conference together with responses from the Covenant Design Group'*) was issued in October. The Reflections document can be consulted on the Anglican Communion website and Synod members can obtain copies on request from the Synod office at Church House.
3. All Provinces of the Anglican Communion have been asked by 9 March to provide answers to the following three questions:
 - '(1) Is the province able to give an "in principle" commitment to the Covenant process at this time (without committing itself to the details of any text?)**
 - (2) Is it possible to give some indication of any Synodical process which would have to be undertaken to adopt the Covenant in the fullness of time?**
 - (3) In considering the St Andrew's draft for an Anglican Covenant, are there any elements which would need extensive change in order to make the process of Synodical adoption viable?'**
4. The Covenant Design Group is due to meet shortly thereafter to produce a further draft of the Covenant in time for consideration by the Anglican Consultative Council in Jamaica in May 2009.
5. It will then be for the ACC to consider what should happen next. It is possible that it will be able to sign off a Covenant which could then formally be put to Provinces for ratification, if possible before the ACC meets in 2012. The responses from provinces will, however, cast further light on whether that timescale is achievable.
6. Attached to this note is a draft Church of England response to the three questions. The first two sections are largely factual in nature and reflect input from the Legal Adviser and the Secretary General. For the third we are indebted to the House of Bishops' Theological Group, the Faith and Order Advisory Group and particularly to the Bishops of Rochester, Guildford and

Gloucester and to Dr Martin Davie. They have marshalled some complex material against tight deadlines and we are grateful to them.

7. An earlier draft of this material was considered at the House's meeting in December. Some changes have been made to reflect points made in that discussion. Similarly we shall wish to take account of points made during the General Synod debate in February before approving the final version of the response and authorising its submission to the Anglican Communion Office.
8. The Bishop of Rochester will introduce a debate in February inviting the Synod to take note of this report.

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(on behalf of the House of Bishops)
January 2009

A COVENANT FOR THE ANGLICAN COMMUNION
– COMMENTS FROM THE CHURCH OF ENGLAND

1. On 12 March the Secretary General of the Anglican Communion wrote to Primates and Provincial Secretaries asking three questions on behalf of the Joint Standing Committee of the Primates of the Anglican Communion and the Anglican Consultative Council. The following answers, which have been agreed by the Archbishops of Canterbury and York, take account of a series of discussions about the Covenant process, including in the General Synod – most recently in [February 2009] – the House of Bishops, its Theological Group and the Faith and Order Advisory Group. In addition, they also reflect the discussions about the Covenant that took place at the 2008 Lambeth Conference.

Question 1: Is the Province able to give an “in principle” commitment to the Covenant process at this time (without committing itself to the details of any text)?

2. The relevant national bodies of the Church of England have taken a close and continuing interest in the proposal for a Covenant for the Anglican Communion since the idea featured among the recommendations of the Lambeth Commission – *the Windsor Report* – in October 2004.

3. In February 2005 the General Synod debated a document from the House of Bishops on the Windsor Report which, among other things, stated that: “the House supports the drawing up of an Anglican Covenant.” At the end of the debate the Synod passed a motion, moved by the Bishop of Durham on behalf of the House, to:

- “
- (a) welcome the report from the House (GS 1570) accepting the principles set out in the Windsor Report;
 - (b) urge the Primates of the Anglican Communion to take action, in the light of the Windsor Report’s recommendations, to secure unity within the constraints of truth and charity and to seek reconciliation within the Communion; and
 - (c) assure the Archbishop of Canterbury of its prayerful support at the forthcoming Primates’ Meeting.”

4. The General Synod returned to the subject in July 2007 following an address on behalf of the Covenant Design Group from Archbishop Gomez. The Synod then approved a motion, moved on behalf of the House of Bishops by the Bishop of Chichester, to:

- “
- (a) affirm its willingness to engage positively with the unanimous recommendation of the Primates in February 2007 for a process designed to produce a Covenant for the Anglican Communion;
 - (b) note that such a process will only be concluded when a definitive text has been duly considered through the Synodical processes of the Provinces of the Communion; and
 - (c) invite the Presidents, having consulted the House of Bishops and the Archbishops’ Council, to agree the terms of a considered response to he draft from the Covenant Design Group for submission to the Anglican Communion Office by the end of the year.”

5. The Church of England's response was duly submitted in December 2007 and taken note of by the Synod on 13 February 2008. By the time Synod met, members had also received a copy of a revised draft of the Covenant – *the St Andrew's text*.

6. The Synod had the opportunity in July 2008, just before the Lambeth Conference, to consider Anglican Communion matters more generally in the light of a motion from the Guildford Diocesan Synod asking for a note to be prepared clarifying the relative responsibilities of certain Church of England and Anglican Communion bodies.

7. Since then the House of Bishops, supported by its Theological Group and by the Faith and Order Advisory Group, has considered the matter further, taking account of the document recording the reflections of the bishops gathered at the Lambeth Conference. The General Synod also debated the matter further [earlier this month].

8. Those discussions have been consistent with what the General Synod has said on previous occasions on behalf of the Church of England, namely to affirm its willingness to engage positively with a process designed to produce a Covenant for the Anglican Communion and its wish for steps that will secure unity within the constraints of truth and charity and seek reconciliation within the Communion.

Question 2: Is it possible to give some indication of any Synodical process which would have to be undertaken to adopt the Covenant in the fullness of time?

9. The decision whether the Church of England should enter a Covenant together with other Churches of the Anglican Communion would be for the General Synod to take. It is not envisaged that any such decision would require, or be given, legislative authority by means of a Measure or Canon: a resolution of the Synod would suffice.

10. Once the Synod had considered and passed the necessary resolution the expectation is, given the significance of the decision, that it would be invited by the Archbishop of Canterbury or York to solemnly affirm and proclaim the resolution as an 'Act of Synod'. Once each Archbishop had then ratified and confirmed the Act of Synod for their respective provinces it would come into effect forthwith (or otherwise in accordance with its terms) and would represent "the will or opinion of the Church of England as expressed by the whole body of the Synod".

11. The process that the General Synod would have to follow before being able to pass the necessary resolution giving its approval to the Church of England's participation in the proposed Covenant would depend on whether Articles 7 and 8 of the Synod's Constitution applied. This is a matter that could only be finally determined once the final form of the Covenant was known.

12. Given the terms of Articles 7 and 8 it seems highly probable, however, that both would be engaged. Article 7 applies where the Synod makes "provision touching doctrinal formulae or the services or ceremonies of the Church of England or the administration of the Sacraments or sacred rites thereof." An Act of Synod would constitute 'provision' for this purpose. The expression "*touching [the] doctrinal formulae of the Church of England*" has a wide meaning, not confined to provision that is intended to alter specific doctrinal formulae of the Church of England. It is capable of applying to the Covenant if its final form contains affirmations and commitments of the kind contained in the drafts prepared to date.

13. Article 8 applies to, among other things, any "scheme for a constitutional union or a permanent and substantial change of relationship between the Church of England

and another Christian body, being a body of substantial number of whose members reside in Great Britain.” Since the Covenant would appear to involve a substantial change of relationship between the Church of England and the Church in Wales and the Scottish Episcopal Church (in their capacities as member Churches of the Communion), Article 8 is very likely to be engaged. Moreover, even if the decision to enter into the Covenant did not involve such a change it would be open to the Archbishops to direct that Article 8 should apply to it, on the basis that it was a scheme that affects the Church of England and another Christian body.

14. The synodical procedures to be followed in the case of business under Articles 7 and 8 are more extensive than in relation to normal business. The requirements of each article are as follows.

15. Under Article 7 General Synod cannot give final approval to the business in question until it has been referred to, and approved by, the House of Bishops (which has power to amend it). The business must then be submitted to the Synod in the terms approved by the House of Bishops and not otherwise. In addition, the House of Laity and either of the two Houses of Convocation may request a reference of the relevant business to them. If such a reference is called for, either Convocation may decide that it be considered by its two constituent Houses separately rather than by the Convocation as a whole.

16. Where such a reference is sought the consent of that body is then normally required before the General Synod can make a final approval. The exception is that where, following a reference, only one of the four Houses of Convocations declines to give approval there is provision for a second reference (to the Convocations only) and, in the case of a second objection by one House only, for that effectively to be set aside if, on a further reference to the House of Bishops and the House of Clergy sitting separately, both Houses approve the business by a two-thirds majority.

17. The special requirements in relation to Article 8 business are that any such matter may not be submitted to the General Synod for final approval unless first referred to the 44 diocesan synods of the Church of England and approved by a majority of them.

18. It is possible for the Synod to agree, in the course of the debate on final approval of any Article 7 or 8 business, that the debate be adjourned to allow the business to be reconsidered by the House of Bishops. In that event, following reconsideration by the House the business must be returned to the Synod, in the form approved by the House, which then resumes its final approval debate.

19. Article 7 business does not, as such, require any special majority at final approval. Nor does a scheme falling within Article 8 necessarily require a special majority (in contrast with legislation under Article 8, for which a two-thirds majority is required). It is, however, open to the Synod, by resolution, to provide that final approval of any such scheme shall require such special majority of the Synod and/or its three Houses as the Synod may determine. In the absence of such a resolution final approval would be a simple majority, whether of the Synod as a whole or (if 25 members so requested) in each of the three Houses of Bishops, Clergy and Laity.

20. The General Synod meets twice a year in February and July. In addition it has a short inaugural group of sessions every five years, the next of which will be in November 2010. Meetings of the Convocations and of the House of Laity usually take place at the beginning of Synod meetings in February and July. It is possible for Article 7 references and final approval to occur at the same group of sessions.

21. A reference under Article 8 to the diocesan synods does, however, take some time. Diocesan synods have to be allowed at least six months to reply. In practice the period of time required between the reference of the business by the General Synod to diocesan synods and a final approval debate would be at least a year.

22. What all this means is that from the moment that a Covenant was sent to provinces for adoption the Church of England would probably need at least 18 months to 2 years to come to a final decision.

Question 3 In considering the St Andrew’s draft for an Anglican Covenant, are there any elements which would need extensive change in order to make the process of synodical adoption viable?’

I. Introductory Comments

23. The St Andrew’s draft is consistent with, and can be regarded as a development of, the earlier evolution of the structures of the Anglican Communion which the Church of England has welcomed. There is nothing in it contrary to Church of England faith and order and the Church of England has given a positive reception so far to the Windsor and Covenant processes. Approval of the Covenant would therefore be in keeping with the precedents set by synodical support for previous ecumenical agreements and covenants. We note also the apparent increased support for the Covenant within the Anglican Communion and particularly among the bishops of the Anglican Communion present at the Lambeth Conference.¹

24. There are a number of points, not all of which have the same weight, on which the St. Andrew’s draft is capable of further improvement and if these points were to be addressed this would tip the balance of opinion in the Church of England still further in favour of the Covenant.

25. The remainder of this paper offers a brief discussion in support of the principle of the covenant and then discusses where each of the main sections of the St Andrew’s would be acceptable to the Church of England and where it could be improved. The paper also notes two broader areas where further work, though not essential, would be desirable.

II. Innovation and the Instruments of Communion

26. Concerns have been raised that the Covenant is an innovation and also that sufficient “covenant structure” already exists within the Anglican Communion. The proposed covenant needs to be set in the context of the growth of the Anglican Communion, the evolution of its current Instruments, and the evidence of a growing need for revision of the structures of communion.

27. The Lambeth Conference was the first “innovation”, and from 1897 it was supported by a “Lambeth Continuation Committee” which was made up of bishops and latterly of Primates. In 1948 an Advisory Council on Missionary Strategy, membership of which was not necessarily episcopal, was established and in 1968 it merged with the Continuation Committee to form the Anglican Consultative Council.

¹ See Lambeth Indaba Reflections, 136-144 at www.lambethconference.org/relections/document.cfm

In 1978, however, the Continuation Committee was revived in the form of the Primates' Meeting in order to assist the Archbishop of Canterbury, the Primates and the Lambeth Conference in carrying out their roles. The Covenant can therefore reasonably be understood as a further attempt to articulate the relationships of mutual responsibility within the Anglican Communion. Although it has been articulated in response to a crisis, that crisis itself shows that the current structures are not sufficient and further institutional developments are required.

28. We would also suggest that the Covenant process itself indicates that development of the current Instruments of Communion is called for in order that they can properly support the unity and effective working of the Anglican Communion. This applies particularly to the Anglican Consultative Council which we do not believe is, in its present form, capable of fulfilling the responsibility being given to it. We believe there is also a case for clarifying the status and membership of the Lambeth Conference in a covenantal Communion.

29. It is important that any such development of the Instruments of Communion, and any structures that are put in place to support the working of the Covenant, should reflect the key Anglican ecclesiological principle noted in the paper on Anglican governance from Dr Colin Podmore² that oversight should be exercised by the bishops, but that they should exercise this oversight synodally, that is to say, along with other bishops, and in consultation with other clergy and with the laity.

III. The Introduction to the St Andrew's Draft

30. The expansion of the Introduction in the St Andrew's draft to provide a stronger theological rationale for the covenant is an encouraging development and, as it draws significantly on the Church of England's response to the Nassau draft, the contents of the Introduction should not cause difficulties for the Church of England. However, the status of the Introduction needs to be clear.

31. It is now proposed by the Covenant Design Group (CDG) that "the Introduction will always be published along with the Covenant itself" (which is a welcome proposal) but it is also stated that the Introduction does not carry the weight of the Covenant itself. This gives rise to a danger that there will not be an agreed theological interpretation of what it means to enter into covenant with one another. Clarification of the relationship between the Introduction and the main text would therefore be helpful.

IV: Section One: Our Inheritance of Faith

32. The Church of England would have no difficulty agreeing to the affirmations of this opening section of the draft, which are consistent with Church of England teachings and largely based on the Declaration of Assent in Canon C.15. However, we suggest that this section needs to recognise the different ways in which the *Thirty Nine Articles* the *Book of Common Prayer* and the *Ordinal* have shaped and continue to shape the lives of the different Provinces.

² Colin Podmore, *The Governance of the Church of England and the Anglican Communion*, GS Misc 910

33. In section 1.2 where the text briefly touches on how the Anglican inheritance of faith is worked out in various cultural contexts the material would be strengthened by a discussion of what is meant by the terms ‘tradition’ and ‘reason’ and how they relate to the normative authority of Scripture for Christian faith and life as expressed in the historic formularies. In this connection reference could usefully be made to the material on this subject in the reports of the successive Lambeth Conferences (for example 1948 and 1988), in the *Virginia Report* of the Inter-Anglican Theological and Doctrinal Commission (IATDC)³ and in the ARCIC II report *The Gift of Authority*.⁴

V. Section Two: The Life We Share with Others: Our Anglican Vocation

34. The emphasis on mission in this section has been well received and what is said in is in line with the commitment of the Church of England to sharing in God’s worldwide mission and making mission central to the life of the Communion. However, more work could still be done to strengthen the place of mission in the St Andrew’s Draft.

35. This section would, for example, benefit from clearer recognition of the need to find a balance between the diversity that arises due to the context of mission with the one-ness that is rooted in our trans-cultural proclamation of “one Lord, one faith, one baptism, one God and Father of us all, who is above all and through all and in all” (Ephesians 4:4-6). It could also be further strengthened ecclesologically by reference to ecumenical texts on the Church alluded to in this section (2.1.1) where the Church is described as ‘a sign of God’s Reign’.

VI. Section Three: Our Unity and Common life

36. The affirmations in the first part of this section are all consonant with the existing faith and order of the Church of England and the commitments in the second part are in accordance with the Church of England’s support for the ecclesiological principles contained in the *Windsor Report*.

37. However, there are four issues in relation to this section that need further consideration by the CDG.

38. First, the CDG needs to look again at its use of the phrase ‘episcopally led and synodically governed’ (3.1.2) since this is a phrase that sits uneasily with the material that follows on the role of the episcopate and is now widely regarded as misleading given that leadership is exercised by those who are not bishops and Anglican churches are governed by their bishops and not simply by their synods. The use of the term ‘bishop in synod’ would be preferable as a short hand for the key element of Anglican ecclesiology noted earlier that oversight should be exercised by the bishops, but should be exercised synodally, that is to say, in consultation with the other clergy and with the laity.

39. Secondly, at the heart of this section, and of the Covenant as a whole, lies the commitment in 3.2.4:

³ www.lambethconference.org/1998/documents/report-1.pdf

⁴ *The Gift of Authority*, CTS/Church Publishing Incorporated, 1999

...to seek with other Churches, through the Communion's shared councils, a common mind about matters understood to be of essential concern, consistent with the Scriptures, common standards of faith, and the canon law of our churches.

40. In the St Andrew's draft the precise meanings of the terms such as 'common mind' and 'essential concern' that are used in this commitment are left undefined and, as the CDG itself recognises in its *Lambeth Commentary*,⁵ it is important that they are given a clear definition if they are to give practical shape to the life of the Communion. In defining the meaning of these terms it would be helpful if reference was made to the extensive discussion of the meaning of life in communion contained in the IATDC's Kuala Lumpur Report *Communion, Conflict and Hope*⁶ and if reference was also made to the key issue of the triangulation of authority, adiaphora and subsidiarity as discussed in Section B of the *Windsor Report*.⁷

41. Thirdly, in view of the central importance of liturgy in the life of the Church, some attention should be given to the issue of who should have the responsibility for determining whether proposed liturgical developments are consonant with the Anglican understanding of the Christian faith.

42. Fourthly, as already noted, there is a major concern about whether the Instruments of Communion, as currently constituted, can bear the weight put on them in this section and in the appendix to the St Andrew's draft. It has been questioned, for example, whether the ACC is the right body to give approval to the final shape of the Covenant. In this context, a fuller exploration of the ecclesiological rationale for the Instruments and some discussion of how they might develop in future would be beneficial. While it is not the task of the Covenant Design Group to write a constitution for the Anglican Communion, the lack of any articulated understanding of, and reflection on, the inter-relationship of the Instruments is a very serious lacuna and will effect both confidence in and the effectiveness of an Anglican Covenant.

43. Work is most urgently required on the role of the Archbishop of Canterbury and the Primates Meeting *vis à vis* the Anglican Consultative Council. The *Lambeth Reflections* express disquiet about both the ACC and the Primates Meeting. There is a lack of knowledge and some mistrust of the ACC and its apparent authority, but also calls for it to be reconstituted in relation to the Primates; equally the enhanced role of the Primates Meeting is viewed with some suspicion, not least as the role of the Primates varies from Province to Province.⁸

44. Any discussion about the relationship between them will need to bear in mind the basic ecclesiological principle of the bishop in synod noted earlier in this paper. Specifically, this means that there needs to be acknowledgement of the distinctive responsibility of the episcopate in general, and of the Primates as the senior bishops of the Communion, for worship, doctrine and morals, but also acknowledgement of the

⁵ www.anglicancommunion.org/commission/covenant/docs/a_lambeth_commentary.pdf

⁶ www.anglicancommunion.org/ministry/theological/iatdc/docs/communion_conflict_&_hope.pdf

⁷ *The Windsor Report*, Anglican Communion Office, 2004

⁸ See *Lambeth Indaba Reflections*, 150 & 151 at www.lambethconference.org/reflections/document.cfm

need for them to exercise this responsibility along with the other bishops and in consultation with representatives of the clergy and the laity.

45. In addition, consideration needs to be given to the distinctive primatial role of the Archbishop of Canterbury, which, while it does involve speaking with the other Primates, does not simply mean acting as a spokesman for the Primates Meeting and to the relationship between the Anglican Communion Office and the office of the Archbishop of Canterbury at Lambeth.

46. Where the St Andrew's Draft expresses the interdependency of each church and what happens when one church deems another, by its action or proposed action, to be threatening the unity of the communion, the lack of clarity about the relationship between the four Instruments leads to a confusing text (3.2). There is also some inconsistency between this section and the Appendix (1.4) where the ACC is given a function of pronouncing relinquishment of the Covenant. The ACC cannot have both an *initiator* role in complaint as an Instrument and the quasi-judicial role of *pronouncement* of relinquishment.

VII. Draft Appendix

47. The major development between the Nassau and St Andrew's Drafts is the proposed draft appendix in the latter exploring the procedural implications of entering a covenant and complaints about breaches of the covenant. The legalistic tone of the Appendix has been frequently criticised and at the Lambeth Conference it was described as 'too punitive'.⁹ The CDG has signalled that the current draft appendix will be subject to further revision (and perhaps incorporation as a fourth section of the covenant) in the next draft.

48. It is clear that the Covenant must have procedural implications if it is to have any effect at all and that the Church of England has always acknowledged the need for discipline within the life of the Church as expressed, for example, in canon law, in Article XXVI and XXXIII and in the opening rubric to the Service of Holy Communion in the *Book of Common Prayer* concerning admission to Communion. . The Covenant will therefore need to address matters of dispute resolution and breach of the covenant and to do so in clear processes consonant with natural justice.

49. It will, however, also need to seek to set in place structures that foster mutual trust and accountability. The Archbishop of Canterbury has spoken of the "palpable obligations and privileges of mutual accountability" and the procedural implications of the Covenant could helpfully be defined in these terms. The CDG's proposal to follow the lead of the Archbishop by describing "relinquishment" of the Covenant in terms of the working out of the "relational consequences" of particular actions is a positive sign of likely developments from the existing St Andrew's Draft.

50. The text also needs to explain how it is possible to join and remain within the Covenant before discussing how in certain circumstances a Province might depart from it. In particular, processes for joining the Covenant should be defined in such a way that (as proposed in the *Windsor Report*) each signatory church is committed to

⁹ *Lambeth Indaba Reflections*, 144

establishing its own provincial system of self-regulation in relation to its covenant commitments. This would encourage signatories to consider relationships with the wider Communion in provincial discussions, much as we already seek to foster and deepen relationships with our ecumenical partners.

51. Concern has also been expressed about whether the Anglican Consultative Council, as presently constituted, is capable of carrying out the role given to it in the appendix and whether a judgement about breaches of the Covenant needs to be based not simply on a refusal to accede to a request from an Instrument of Communion, but a refusal to accede to such a request that amounts to a breach of the fundamental principles of Anglican faith, order and morals as set out earlier in the Covenant.

52. A further matter which has not received sufficient attention, but which was noted obliquely at the Lambeth Conference, is the role in this respect of the Archbishop of Canterbury as Primate of All England.¹⁰ Should the Church of England *not* accept the Covenant or relinquish the Covenant, or were the Church of England to be deemed to have relinquished the Covenant, where would this place the Archbishop of Canterbury?

VIII. The signatories of the Covenant

53. An issue that was raised in the Church of England response to the Nassau draft of the Anglican Covenant and that still merits discussion is the issue of the proper understanding of what is meant by the local church. Are the churches of the Anglican Communion, properly so called, the thirty eight national bodies that belong to the Communion or are they the dioceses of the Communion gathered round their diocesan bishops?

54 This issue raises in turn the two further issues of whether the appropriate signatories of the Covenant are the Provinces or the dioceses and whether (and, if so, in what circumstances) it might be permissible for an individual diocese to become part of the Covenant even if its Province decided not do. As far as the Church of England is concerned an individual diocese has no power to issue a statement that purports to declare the doctrine of the Church and could not sign the Covenant. As noted in paragraph 17 above, however, dioceses would have a key part in the decision making process since the General Synod could not give final approval to the Church of England as a whole signing the Covenant without the agreement of a majority of the dioceses at meetings of their diocesan synods.

IX. Ecumenical implications

55. Overall there is greater ecumenical depth and breadth to the St Andrew's draft and (on the whole) consistency in the use of 'church(es)' and 'Church'. There is, however, still no explicit commitment to consider the impact of actions on other churches not party to the covenant and in particular on the Anglican Communion's ecumenical partners. This is an important omission and needs to be rectified.

¹⁰ *Lambeth Indaba Reflections*, 140

X. Conclusion

56. The Church of England has already committed itself to engage positively with the covenant process flowing from the Windsor Report. We believe that the central role of the Covenant is to help us to understand the gift of communion in terms of both the freedoms and the responsibilities that this gift brings to us (cf. Question 6 part 2, in *A Lambeth Commentary*). We are called into communion with one another and this means mutual accountability – not only within the Anglican Communion, but also with our ecumenical partners. Part of the gift of communion is to recognise and be challenged by the way in which the Christ is revealed to us through the stranger. We hope and pray that the Covenant may make this possible.

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