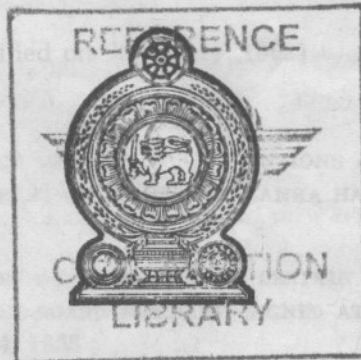


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PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

OFFENCES AGAINST AIRCRAFT

ACT, No. 24 OF 1982

[Certified on 26th July, 1982]

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Offences against Aircraft Act, No. 24 of 1982

[Certified on 26th July, 1982]

L. D.—O. 19/81.

AN ACT TO GIVE EFFECT TO CERTAIN CONVENTIONS RELATING TO THE SAFETY OF AIRCRAFT TO WHICH SRI LANKA HAS BECOME A PARTY, NAMELY—

- (a) THE CONVENTION ON OFFENCES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT, SIGNED AT TOKYO ON SEPTEMBER 14, 1963 ;
- (b) THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT, SIGNED AT THE HAGUE ON DECEMBER 16, 1970 ; AND
- (c) THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, SIGNED AT MONTREAL ON SEPTEMBER 23, 1971,

AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

WHEREAS Sri Lanka is a party to the aforesaid Conventions :

And Whereas by these Conventions certain acts committed against, or in relation to, aircraft are recognized to be criminal according to the general principles of law recognized by the community of nations :

And Whereas, it is obligatory on Sri Lanka by international law, to provide for the punishment of these acts under the law of Sri Lanka :

Be it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. (1) This Act may be cited as the Offences against Aircraft Act, No. 24 of 1982.

(2) The provisions of section 2 and Part I of this Act shall come into operation on the date of enactment of this Act.

(3) The provisions of Part II of this Act shall be deemed for all purposes to have come into operation on July 3, 1978, being the date on which—

- (a) the Convention for the suppression of unlawful seizure of aircraft, signed at the Hague on December 16, 1970 ; and

Preamble.

Short title and dates of operation.

(b) the Convention for the suppression of unlawful acts against the safety of Civil Aviation, signed at Montreal on September 23, 1971,

entered into force in respect of Sri Lanka, and accordingly any person who has committed, on or after July 3, 1978, any act or omission which constitutes an offence under that Part shall be liable to be tried and punished for such offence under the provisions of that Part.

Competent Authority.

2. The Director of Civil Aviation appointed under the Air Navigation Act, shall be the Competent Authority for the purposes of this Act.

PART I

Minister to certify contracting states to the Convention.

3. The Minister may, by Order published in the *Gazette*, certify which are the contracting states for the purposes of the Convention. Every such Order shall be conclusive evidence of the matters so certified.

Jurisdiction of courts over offences committed on board Sri Lanka aircraft.

4. (1) Any act or omission committed, or taking place, on board a Sri Lanka aircraft in flight or on the surface of the high seas or of any other area outside the territory of any state, which if committed or taking place in Sri Lanka would have constituted an offence under the law of Sri Lanka, shall constitute that offence, whether such act or omission is committed by a citizen of Sri Lanka or not.

(2) Where an offence under the law of Sri Lanka is committed on board a Sri Lanka aircraft in flight or on the surface of the high seas or of any other area outside the territory of any state (not being an offence of a political nature or based on racial or religious discrimination), such offence shall, if it is an offence which if committed in Sri Lanka would have been triable under the law of Sri Lanka—

(a) by a Magistrate's Court, be tried by the Magistrate's Court of Colombo; or

(b) by the High Court, be tried by the High Court holden in the judicial zone of Colombo.

5. Every Commander of a Sri Lanka aircraft shall be deemed to be a peace officer within the meaning of the Code of Criminal Procedure Act, No. 15 of 1979, and may exercise, in relation to any offence referred to in section 4, any power conferred on a peace officer by that Act.

Commander of a Sri Lanka aircraft deemed to be a peace officer within the meaning of the Code of Criminal Procedure Act.

6. (1) The provisions of the Schedule to this Act, being the provisions of Chapter III of the Convention, shall have force of law in Sri Lanka, so far as those provisions relate to the powers of a Commander of a Sri Lanka aircraft in relation to offences and acts committed on board such aircraft when such aircraft is in flight or on the surface of the high seas or of any other area outside the territory of a state.

Provisions of Chapter III of the Convention to have force of law in Sri Lanka.

(2) In the event of any inconsistency between the provisions of the Schedule to this Act and the provisions of any other law, the provisions of that Schedule shall prevail over such other law.

7. Any person who resists or obstructs the Commander of a Sri Lanka aircraft in the exercise of any powers conferred on him by the provisions of the Schedule to this Act shall be guilty of an offence under this Part of this Act.

Resistance and obstruction of aircraft Commander exercising powers conferred on him by the provisions of the Schedule to be an offence.

8. Any member of the crew of a Sri Lanka aircraft who fails or refuses to assist the Commander of the aircraft to restrain any person on board that aircraft when required or authorized to do so by such Commander in the exercise of any powers conferred on him by the provisions of Article 6 of the Schedule to this Act shall be guilty of an offence under this Part of this Act.

Refusal or failure to assist aircraft Commander to be an offence.

Failure of aircraft Commander to report disembarkation of offender or to notify the intention to deliver offender, to be an offence.

9. The Commander of a Sri Lanka aircraft who fails to comply with the provisions of—

(a) section 2 of Article 8 ; or

(b) section 2 of Article 9,

of the Schedule to this Act shall be guilty of an offence under this Part of this Act.

Offences under this Part of this Act.

10. (1) Any person who is guilty of an offence under this Part of this Act shall, on conviction after summary trial before a Magistrate, be liable to imprisonment for a term not exceeding one year and to a fine not exceeding two thousand rupees.

(2) Where a power is conferred or a duty imposed, by the Code of Criminal Procedure Act, No. 15 of 1979, on a Magistrate in respect of an offence triable by the High Court, such power or duty shall, in relation to an offence under this Part of this Act, be exercised and performed by the Magistrate's Court of Colombo.

Commander of aircraft registered in contracting state to be allowed to disembark or deliver persons in accordance with the Convention.

11. Where the Commander of an aircraft registered in a contracting state notifies the appropriate authorities in Sri Lanka that he intends to disembark any person in accordance with the provisions of Article 8 of the Schedule to this Act or to deliver any person in accordance with Article 9 of the Schedule, such Commander shall be allowed to land his aircraft in Sri Lanka and to disembark or deliver such person. The appropriate authorities in Sri Lanka shall take charge of any person so disembarked or delivered.

Duties of Competent Authority on the delivery of a person.

12. (1) Where any person is delivered in accordance with the provisions of Article 9 of the Schedule to this Act to the appropriate authorities in Sri Lanka by the Commander of an aircraft registered in a contracting state, the Competent Authority shall—

(a) make a preliminary inquiry into the facts ;

(b) assist the person so delivered in communicating with the nearest appropriate representative of the state of which such person is a national ;

(c) notify—

(i) the contracting state in which such aircraft is registered ;

(ii) the state of nationality of the person so delivered, if such person is not a national of Sri Lanka ;

(iii) any other interested state,

of the fact that such person has been so delivered and the circumstances that warrant his detention.

(2) Upon the conclusion of the preliminary inquiry referred to in paragraph (a) of subsection (1), the Competent Authority shall report his findings to the states referred to in paragraph (c) of that subsection and shall indicate to them whether Sri Lanka intends to exercise jurisdiction over the offence to which the preliminary inquiry relates.

13. Where no—

(a) criminal proceedings are instituted against ; or

(b) proceedings are commenced for the extradition of,

any person disembarked in accordance with Article 8 of the Convention, or delivered in accordance with Article 9 of the Convention by the Commander of an aircraft registered in a contracting state and such person desires to continue his journey, he shall be allowed to proceed to a destination of his choice. If however, such person does not desire to continue his journey, the Competent Authority may, if such person is not a citizen of Sri Lanka, return him to the state of which he is a national or permanent resident or to the state from which he commenced his journey by air.

Person disembarked or delivered to be allowed to leave Sri Lanka if no criminal or extradition proceedings are instituted against him.

14. A person shall not be deemed, by reason only of his having been delivered to the appropriate authorities in Sri Lanka in accordance with Article 9 of the Convention or his having been disembarked in Sri Lanka in accordance with Article 8 of the Convention, to have been allowed to enter Sri Lanka.

Disembarkation or delivery not deemed to be permission to enter Sri Lanka.

15. Any act committed on board an aircraft registered in a contracting state, which constitutes an offence under the law of that state shall, for the purposes of the Extradition Law, No. 8 of 1977, be deemed to have been committed within the jurisdiction of that state.

Offences committed on aircraft registered in a contracting state deemed to be committed in that state.

Interpre-
tation.

16. In this Part of this Act—

“Convention” means the Convention on offences and certain other acts committed on board aircraft signed at Tokyo on September 14, 1963 ;

“contracting state” means a state which is a party to the Convention ;

“in flight” in relation to an aircraft means the period of time commencing at the moment when power is applied for the purpose of take-off of the aircraft and ending at the moment when the landing run ends ;

“Sri Lanka aircraft” means an aircraft registered in Sri Lanka under the Air Navigation Act, not being an aircraft used in military, customs or police services.

PART II

Offences on
board or
against
aircraft.

17. (1) Any person who—

(a) on board a Sri Lanka aircraft in flight, unlawfully by force or threat thereof or any other form of intimidation, seizes, or exercises control of, that aircraft ;

(b) unlawfully and intentionally performs any such act of violence against a person on board a Sri Lanka aircraft in flight as is likely to endanger the safety of that aircraft ; or

(c) unlawfully and intentionally destroys a Sri Lanka aircraft in service ; or

(d) unlawfully and intentionally causes such damage to a Sri Lanka aircraft in service as renders it incapable of flight or as is likely to endanger its safety in flight ; or

(e) unlawfully and intentionally places or causes to be placed in a Sri Lanka aircraft in service by any means whatsoever, any device or substance which is likely to—

(i) destroy that aircraft ; or

(ii) cause such damage to it as to render it incapable of flight or as is likely to endanger its safety in flight ; or

(f) unlawfully and intentionally causes such damage or destruction to, or makes such interference with the operation of, any air navigation facilities used in international air navigation as is likely to endanger the safety of a Sri Lanka aircraft in flight ; or

(g) unlawfully and intentionally communicates information which he knows to be false endangering the safety of a Sri Lanka aircraft in flight,

shall be guilty of an offence under this Part of this Act and shall be liable, on conviction after trial before the High Court holden at Colombo, to imprisonment for life.

(2) Any person who attempts to commit, or abets the commission of, an offence under subsection (1) shall be guilty of an offence under this Part of this Act and shall be liable, on conviction after trial before the High Court holden at Colombo, to the same punishment as is prescribed for the first-mentioned offence.

In this subsection, "abet" has the same meaning as in sections 100 and 101 of the Penal Code.

(3) An offence under this Part of this Act shall be tried before the High Court holden in the judicial zone of Colombo.

18. (1) Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979, every offence under this Part of this Act shall be—

(a) a cognizable offence ;

(b) a non-bailable offence,

within the meaning, and for the purposes, of that Act ; and so long as the Criminal Procedure (Special Provisions) Law, No. 15 of 1978, is in force every such offence shall be deemed to be included in the First Schedule to that Law.

(2) Where a power is conferred or a duty imposed, by the Code of Criminal Procedure Act, No. 15 of 1979, on a Magistrate in respect of an offence triable by the High Court, such power or duty shall, in relation to an offence under this Part of this Act, be exercised and performed by the Magistrate's Court of Colombo.

Amendment
of Extra-
Offences
under this
Part of this
Act to be
cognizable
and non-
bailable.

Competent
Authority to
make
preliminary
inquiry on
the arrest
of any
person under
this Part
of this Act

Acts committed on board, or in relation to, a foreign aircraft deemed to be offences.

19. (1) Any person, whether he is a citizen of Sri Lanka or not, who commits, on board, or in relation to, a foreign aircraft, outside Sri Lanka, any act referred to in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) or paragraph (f) or paragraph (g) of subsection (1) of section 17 shall be guilty of an offence under this Part of this Act and shall be liable, on conviction after trial before the High Court, to imprisonment for life.

(2) Any person who attempts to commit, or abets the commission of, an offence under subsection (1) shall be guilty of an offence under this Part of this Act and shall be liable, on conviction after trial before the High Court, to the same punishment as is prescribed for the first-mentioned offence.

In this subsection, "abet" has the same meaning as in sections 100 and 101 of the Penal Code.

(3) No Court in Sri Lanka shall have jurisdiction to try an offence under this section except in the following cases, that is to say—

- (a) where the act constituting the offence is committed in Sri Lanka ; or
- (b) where the foreign aircraft on board which, or in relation to which, the act constituting the offence is committed lands in Sri Lanka with the alleged offender on board ; or
- (c) where the foreign aircraft on board which, or in relation to which, the act constituting such offence is committed, has been leased without crew, to a lessee who has his principal place of business in Sri Lanka, or (if he has no such place of business), has his permanent residence in Sri Lanka ; or
- (d) where the act constituting such offence is an act referred to in paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) of subsection (1) of section 17 committed in relation to a foreign aircraft, or the attempt to commit, or the abetment of the commission of, any such act, if the person committing such act is present in Sri Lanka.

Competent Authority to make preliminary inquiry on the arrest of any person under this Part of this Act.

20. Where any person is arrested for an offence under this Part of this Act the Competent Authority shall make a preliminary inquiry into the facts and shall, if the person arrested is not a national of Sri Lanka, assist him in communicating with the nearest appropriate representative of the state of which he is a national.

21. (1) Where any person is arrested for an offence under this Part of this Act, the Competent Authority shall—

Duties of Competent Authority.

- (a) if such person is not a national of Sri Lanka, notify the state of nationality of that person ;
- (b) if the aircraft on board, or in relation to, which such offence was committed is a foreign aircraft, notify the state of registration of that aircraft ;
- (c) if the aircraft on board, or in relation to, which such offence was committed has been leased without crew to a lessee, notify the state in which such lessee has his principal place of business, or if he has no such place of business, notify the state in which such lessee has his permanent residence ;
- (d) notify any other interested state, of the fact that such person is under arrest and the circumstances which warrant his detention.

(2) Upon the conclusion of the preliminary inquiry referred to in section 20, the Competent Authority shall report his findings to the states referred to in subsection (1) and shall indicate whether Sri Lanka intends to exercise jurisdiction over the offence to which the preliminary inquiry relates.

22. (1) The Extradition Law, No. 8 of 1977, is hereby amended in the Schedule to that Law, by the addition, at the end thereof, of the following :—

Amendment of Extradition Law, No. 8 of 1977.

- “(32) Unlawful seizure, or exercise of control, of an aircraft in flight.
- (33) Acts of violence against a person on board an aircraft in flight likely to endanger the safety of that aircraft.
- (34) Destruction of, or danger to, an aircraft in service as is likely to endanger its safety in flight.
- (35) Placing of device or substance on aircraft in service likely to cause destruction or damage to such aircraft.
- (36) Destruction of, damage to, or interference with, air navigation facilities used for international air navigation.
- (37) Communication of false information endangering the safety of aircraft.”

(2) The amendment made to the Extradition Law, No. 6 of 1977, by subsection (1) of this section shall be deemed to have come into force on July 3, 1978.

Convention to constitute extradition arrangement between the Government of Sri Lanka and the Governments of states which are parties to the Hague or Montreal Conventions.

23. (1) The Hague Convention shall be deemed, for the purposes of section 3 of the Extradition Law, No. 8 of 1977, to be an extradition arrangement between the Government of Sri Lanka and the Government of a state which is a party to such Convention, and the Minister shall, notwithstanding anything in section 4 or any other provision of that Law, be deemed to have made an Order under section 3 of that Law in respect of that state with effect from—

- (a) July 3, 1978, if such Convention entered into force in respect of such state prior to July 3, 1978; or
- (b) the date on which such Convention entered into force in respect of such state, if such Convention entered into force in respect of such state, after July 3, 1978.

Every such Order shall be deemed to have been approved by Parliament and shall be final and conclusive for all purposes. Any state in respect of which an Order is deemed to have been made under this subsection, shall, for the purposes of that Law, be deemed to be a treaty state.

(2) The Montreal Convention shall be deemed for the purposes of section 3 of the Extradition Law, No. 8 of 1977, to be an extradition arrangement between the Government of Sri Lanka and the Government of a state which is a party to such Convention, and the Minister shall, notwithstanding anything in section 4 or any other provision of that Law, be deemed to have made an Order under section 3 of that Law in respect of that state with effect from—

- (a) July 3, 1978, if such Convention entered into force in respect of such state prior to July 3, 1978; or
- (b) the date on which such Convention entered into force in respect of such state, if such Convention entered into force in respect of such state after July 3, 1978.

Every such Order shall be deemed to have been approved by Parliament and shall be final and conclusive for all purposes. Any state in respect of which an Order is deemed to have been made under this subsection, shall, for the purposes of that Law, be deemed to be a treaty state.

(3) A certificate under the hand of the Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs to the effect that any state is a party to the Hague Convention or the Montreal Convention or specifying the date on which any such Convention entered into force in respect of any state, shall be admissible in evidence in any proceedings under the Extradition Law, No. 8 of 1977, and shall be conclusive evidence of the matters stated therein.

24. Any act committed on board, or in relation to, an aircraft, which constitutes—

Provision regarding extradition.

(a) an offence under this Part of this Act; and

(b) an offence under the law of any other state,

shall be deemed, for the purposes of the Extradition Law, No. 8 of 1977, to be an act committed not only within the jurisdiction of the state in which such act was committed but also within the jurisdiction of such other state.

25. (1) For the resolution of doubts, it is hereby declared that where a request is made under the Extradition Law, No. 8 of 1977, for the extradition of a person accused of an offence referred to in this Part of the Act and alleged to have been committed at any time after July 3, 1978, such offence is, for the purposes of the Extradition Law, No. 8 of 1977, an extraditable offence.

Special provision relating to extradition.

(2) Nothing in section 7 (3) of the Extradition Law, No. 8 of 1977, shall apply to, or in relation to, a person for whose extradition a request has been made by a treaty state under that Law if there is provision in the law of that state for securing, or if the Secretary to the Ministry of the Minister in charge of the subject of Foreign Affairs certifies that the Government of that state has given an undertaking, that such person will not be arrested, detained, remanded or otherwise dealt with in that state for or in respect of any offence committed before his extradition, other than—

(a) the offence in respect of which the request for extradition has been made;

- (b) any lesser offence proved by the facts established before the court of committal; or
- (c) any other offence, being an extraditable offence in respect of which the Government of Sri Lanka may consent to his being so dealt with.

Interpretation.

26. In this Part of this Act—

“foreign aircraft” means an aircraft registered in a state other than Sri Lanka, not being an aircraft used in military, customs or police services;

“Hague Convention” means the Convention for the suppression of unlawful seizure of aircraft signed at the Hague on December 16, 1970;

“in flight” in relation to an aircraft, means the period commencing at the moment when the external doors of the aircraft are closed following embarkation and ending at the moment when any such door is opened for the purposes of disembarkation; and includes a period commencing at the moment when the aircraft makes a forced landing during the flight and ending at the moment when the appropriate authorities take over responsibility for that aircraft and for the persons and property on board the aircraft;

“in service” in relation to an aircraft, means the period commencing at the moment when the aircraft is prepared for a specific flight by ground personnel or the air crew of the aircraft and ending at the expiration of twenty-four hours from the moment when the aircraft makes a landing and includes a period during which the aircraft is in flight;

“Montreal Convention” means the Convention for the suppression of unlawful acts against the safety of Civil Aviation signed at Montreal on September 23, 1971.

“Sri Lanka aircraft” means an aircraft registered in Sri Lanka under the Air Navigation Act, not being an aircraft used in military, customs or police services.

SCHEDULE

Chapter III of the Convention on Offences and certain other Acts
Committed on Board Aircraft, Signed at Tokyo on 14 September
1963

POWERS OF THE AIRCRAFT COMMANDER

ARTICLE 5

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the airspace of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the airspace of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

ARTICLE 6

1 The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act contemplated in Article 1, paragraph 1, impose upon such person reasonable measures including restraint which are necessary:

- (a) to protect the safety of the aircraft, or of persons or property therein; or
- (b) to maintain good order and discipline on board; or
- (c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

ARTICLE 7

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless;

(a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1 (c) in order to enable his delivery to competent authorities;

(b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or

(c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

ARTICLE 8

1. The aircraft commander may in so far it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1 (b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such disembarkation.

ARTICLE 9

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State of registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information which, under the law of the State of registration of the aircraft, are lawfully in his possession.

ARTICLE 10

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

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