



Guidelines for setting up a due diligence for small operators

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Abstract

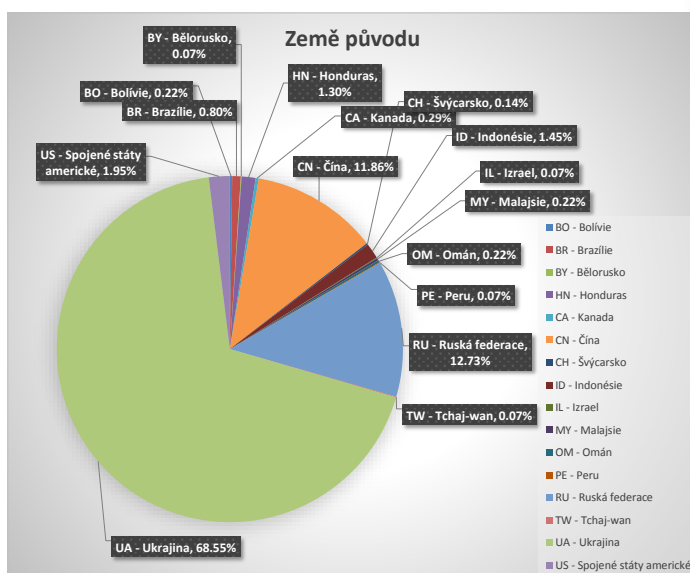
- Introduction – EUTR in the Czech Republic
- Background – main reasons for Guidelines
- Guidelines – template for small domestic operators
- Conclusions

Introduction

• Introduction – EUTR in the Czech Republic

- From September 2013 the checks on operators are running
- Competent authorities are set in the National legislation
 - Act.226
 - Ministry of Agriculture
 - Forests Management Institute
 - Regional Authorities
 - Customs office
- Sanctions:
 - placing the illegal timber on the market
 - not fulfilling the DDS
 - not cooperating during the check
- In 2015: over 100 domestic checks, 30 importers
- M

Introduction – checks in 2015



Introduction – imports in 2015

- Summary from the Customs information:

- **Bosnia**
 - Sawn timber (Oak and Beech species)
 - Furniture
 - Pallets
- **Macedonia**
 - Sawn timber (Beech species)
 - Furniture
 - Particle boards
 - Pallets

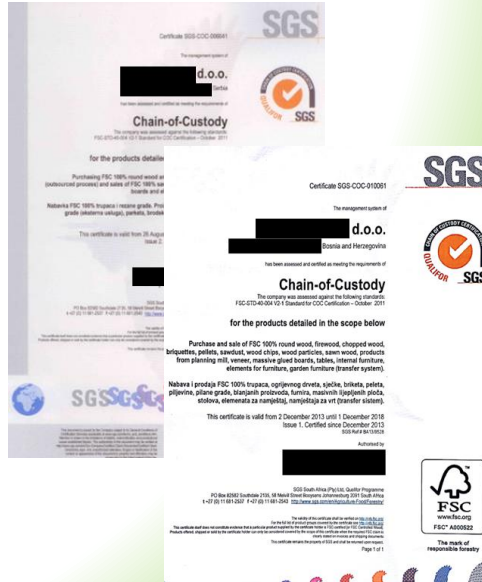
Introduction – imports in 2015

- Not official data, only summary from the Customs information:


- **Serbia**
 - Sawn timber (Ash, Beech, Oak, False Acacia)
 - Joinery and carpentry timber
 - Prefabricated buildings
 - Timber flooring
 - Furniture
 - Fuel timber – billets
 - Particle boards
 - Transportation pallets
- **Turkey**
 - Sawn timber, veneer (Beech, Oak, species, coniferous species)
 - Furniture
 - Particle boards
 - Transportation pallets

Introduction – role of the certification

- Certificates (CoC, FSC, PEFC) are the key part of DDS
- In accordance with EUTR:
 - „(19) In order to recognise good practice in the forestry sector, certification or other third party verified schemes that include verification of compliance with applicable legislation may be used in the risk assessment procedure.“
- Our experience:
 - Serbia
 - Bosnia and Herzegovina
- Both covered by CoC (FSC)



Introduction – role of the certification



EUROPEAN COMMISSION

Brussels, 12.2.2016
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COMMISSION NOTICE

of 12.2.2016

GUIDANCE DOCUMENT

FOR THE EU TIMBER REGULATION

6. THE ROLE OF THIRD-PARTY-VERIFICATION SCHEMES IN RISK ASSESSMENT AND RISK MITIGATION³

Relevant legislation: EUTR - Recital (19) and Article 6 – Due diligence system + Commission Implementing Regulation (EU) No 607/2012 - Article 4 – Risk assessment and mitigation

A. Background information

Voluntary forest certification and timber legality verification schemes are often used to meet specific customer requirements for timber products. Typically these include a standard that describes management practices that must be implemented within a forest management unit, comprising: broad principles, criteria and indicators; requirements for checking compliance with the standard and awarding certificates; and separate chain-of-custody certification to provide assurance along the supply chain that a product only contains timber, or a specified percentage of timber, from certified forests.

When an organisation that is not the forest manager, manufacturer or trader, nor the customer requiring certification, carries out an assessment and awards a certificate, this is known as third-party certification.

³ Note that certification is not given the same status as FLEGT licenses and CITES permits (section 10 below).

Background – main reasons for Guidelines

- **Legislative aspect - EUTR**

„Article 13

Technical assistance, guidance and exchange of information

1. Without prejudice to the operators' obligation to exercise due diligence under Article 4(2), **Member States**, assisted by the Commission where appropriate, **may provide technical and other assistance and guidance to operators, taking into account the situation of small and medium-sized enterprises**, in order to facilitate compliance with the requirements of this Regulation, in particular in relation to the implementation of a due diligence system in accordance with Article 6.

2. Member States, assisted by the Commission where appropriate, may facilitate the exchange and dissemination of relevant information on illegal logging, in particular with a view to assisting operators in assessing risk as set out in Article 6(1)(b), and on best practices regarding the implementation of this Regulation.

3. **Assistance shall be provided in a manner which avoids compromising the responsibilities of competent authorities and preserves their independence in enforcing this Regulation.** „

Background – main reasons for Guidelines

- **Legislative aspect – national law**

- Act on placing timber and timber products on the market:

„Section 10

Authorised person

shall provide technical assistance and consultancy to operators and facilitate the exchange and dissemination of relevant information on illegal logging.“

- Authorised person checks operators and MO's
- FMI

Background – situation in forest sector

- Statistical aspect
 - 2,7 mil ha of forests in the Czech Republic
- Information on Forests in the Czech Republic 2014:
 - Forest ownership:
 - State Forests 59,62%
 - Communal and Municipal Forests 16,92%
 - Forests owned by individuals 19,25%
 - Others (legal persons, religious entities...)
- Over 280 000 forest owners are identified (31/12/2014)
 - small owners up to 50 ha
 - Over 280 000 forest owners are identified (31
- Definition of SME and Small forest owner

Background - Role of the certification

- PEFC
 - **PEFC Czech republic: 1.883.149 ha**
 - Communal and Municipal Forests
 - Forests of the Czech republic, Military forests
- **FSC Czech republic: 1.*** ha**
 - Not so relevant among forest owners
 - Timber trade and processing companies

Background – sources of illegality in the risk assessment

- Operator should be aware of the most common sources of illegality under the Act on Forests (Forest Act):
 - planned main felling in forests under 80 years of age
 - felling beyond the scope of the approved plan
 - deliberately exceed approved decenal volume of felling
 - area of clear felling must not exceed one hectare
 - unauthorized felling in an amount exceeding 3 m³ per hectare (**forest owners under 50 Ha**)
- and under the Act on Nature protection:
 - cutting outside of the forest without proper announcement to the authorities
 - or without permission

Guidelines

- were made by the FMI right after national legislation came into force (2013)
 - have been used for almost three years now
 - are not legally-binding
 - operators can choose when they want to use them or not
 - are not advertised
 - publicly available at FMI web
 - controllers may recommend them to operator if no DDS was in place
 - are not perfect and unchangeable – have been modified several times and will be in future due to new experiences
-
- ARE NOT DDS, just a template to help small companies with redundant administrative burden!

Guidelines template for small domestic operators

- We have prepared three templates of Guidelines, depending on the type of operator
 - Forest owners up to 50 Ha of forest (personal ownership)
 - Forest owners over 50 Ha (obliged to have Forest management plan (supervised by government forest administration)
 - Forest owners with also non-forest production (municipalities mostly)
- Applicable legislation depends on the type of operator:
 - Act No 289/1995 ON FORESTS
 - Act No. 114/1992 ON NATURE PROTECTION
 - A ministerial decree 189/2013 ON THE PROTECTION OF TREE SPECIES AND PERMITTING THEIR FELLING

Guidelines template for small domestic operators

The image displays a collage of eight pages from a 'Dzień Długości System' (Day Length System) guidelines template. The pages contain text, tables, and checkboxes for forest management planning. The text is in Czech and includes sections for forest inventory, management objectives, and specific rules for different types of forest areas. The tables are used for recording data such as tree species, age, and management actions.

Guidelines template for small domestic operators

- Guideline is like 9 pages document assisting the operator with:
 - Understanding the main terms and definitions
 - Getting to know the basic legislation and the applicable legislation
 - Fulfilling the requirements of the regulation on due diligence
 - Organizing the processes by the operator to comply with the EUTR (risk assessment and mitigation mostly)

Guidelines structure – legislation, terms and definition

Guideline for setting up an due diligence system for the operators in the forest harvesting in the forest and outside of the forest ("other production")

Notes:
 This was explaining the legislative background of the DDS, basic terms related to DDS
from four, explanation and recommendations
Text-block: this or appropriate formulation/wording should be included in the DDS.

"Due Diligence System"
 Of the operator **(fill in the name/business name)** placing on the market the timber products harvested on the land owned by the operator

I. EUTR legislation

2.1 REGULATION (EU) No 995/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010, laying down the obligations of operators who place timber and timber products on the market, *legislation*

2.2 COMMISSION IMPLEMENTING REGULATION (EU) No 607/2012 of 6 July 2012, on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organizations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market.

2.3 ACT 180/1995 of 3 November 1995 ON FORESTS AND AMENDMENTS TO SOME ACTS (THE FOREST ACT) (CZ)

2.4 Act No 114/1995 Coll. on nature protection;

2.5 Act No 228/2013 Coll. on placing timber and timber products on the market;

2.6 A ministerial decree (No 285/2013 Coll. Ministry of Agriculture), Disclosure of information into "The Central Register" by operators and by governmental authorities when applying the directly applicable EU legislation laying down the obligations of operators who place timber and timber products on the market.

2.7 A ministerial decree 180/2013 Coll. on the protection of tree species and permitting their felling.

II. Terms and definitions

For the purposes of this "Due Diligence System" shall mean:

a. "timber and timber products" means the timber and timber products set out in the Annex, with the exception of timber products or components of such products manufactured from timber or timber products that have completed their lifecycle and would otherwise be disposed of as waste, as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, *Article 3 of the Regulation*

b. "placing on the market" means the supply by any means, irrespective of the selling technique used, of timber or timber products for the first time on the internal market for distribution or use in the course of a commercial activity, whether in return for payment or free of charge, *Article 2(3)*

c. "operator" means any natural or legal person that places timber or timber products on the market, *Article 2(1)*; For the purposes of this "Due Diligence System" the operator is **notwithstanding the context**

d. "timber" means any natural or legal person who, in the course of a commercial activity, sells or buys on the internal market timber or timber products already placed on the internal market, *Article 2(6)*.

Stránka 1 z 9

Guideline for setting up an due diligence system for the operators in the forest harvesting in the forest and outside of the forest ("other production")

e. "legally harvested" means harvested in accordance with the applicable legislation in the country of harvest, FLEGT licensed timber and timber of species listed in Annex A, B or C to Regulation (EC) No 338/97 and which complies with that Regulation and its implementing provisions; shall be considered to have been legally harvested;

f. "illegally harvested" means harvested in contravention of the applicable legislation in the country of harvest, *Article 2(6)*

g. "the common name of tree species and its full scientific name including applicable abbreviations" are listed in Annex 3 of the "CJOT" "Other than listed species are not present on the property and so it is not possible to place on the market the timber products derived from non-listed species."

III. Obligations of operators (Article 6)

A) The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.

B) Operators shall exercise due diligence when placing timber or timber products on the market. To that end, they shall use a framework of procedures and measures, hereinafter referred to as a "due diligence system".

C) Each operator shall maintain and regularly evaluate the due diligence system which it uses.

"Due diligence system" includes three main elements (Article 6):

1. how the operator is ensuring the access to the following information concerning the operator's supply of timber or timber products placed on the market
2. risk assessment procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market;
3. what are the risk mitigation procedures that are adequate and proportionate to minimize effectively that risk, except where the risk identified in course of the risk assessment procedures referred to in point (2) is negligible.

measures and procedures providing access to the following information concern the operator's supply of timber or timber products placed on the market, covering description of the operator's management of the processes of harvest, record-keeping and sales of timber products by the operator;

Operator maintains:

a) on the forest properties of **source of origin** (geography, identification of the forest owner and **the legal basis of the forest management activities, as being conducted**) on the map **its forest management** including harvest, keeping of records of forest operations and timber sales in accordance with Act 280/1995 (Forest Act) and applicable legislation (*Article 2(7)*)

b) **handling the other production**, timber and timber products derived from trees grown and harvested outside of a forest, on properties owned or leased, these contract is an operator **this operator wants to maintain** harvesting/keeping in accordance with Act No. 114/1995 Coll. on nature protection, including logging permissions, and other permissions according to existing applicable legislation.

Stránka 2 z 9

Guidelines structure – obligations of the operator

III. Obligations of operators (*Article 4*)

- A) The placing on the market of illegally harvested timber or timber products derived from such timber shall be prohibited.
- B) Operators shall exercise due diligence when placing timber or timber products on the market. To that end, they shall use a framework of procedures and measures, hereinafter referred to as a 'due diligence system'.
- C) Each operator shall maintain and regularly evaluate the due diligence system which it uses.

'Due diligence system' includes three main elements (*Article 6*):

1. How the operator is ensuring the **access to** the following **information** concerning the operator's supply of timber or timber products placed on the market
2. **risk assessment** procedures enabling the operator to analyse and evaluate the risk of illegally harvested timber or timber products derived from such timber being placed on the market,
3. what are the **risk mitigation procedures** that are adequate and proportionate to minimise effectively that risk, except where the risk identified in course of the risk assessment procedures referred to in point (2) is negligible

Guidelines structure – information gathering

1. **measures and procedures providing access to the following information concerning the operator's supply of timber or timber products placed on the market** (*contains description of transparent management of the processes of harvest, record-keeping and sales of timber products by the operator*):

Operator maintains:

- a) on the forest properties of *...name of municipality (identification of the forest owner and or legal basis of the forest management activities, eg. lease contract)* on the area *.....* **forest management** including harvest, keeping of records of forest operations and timber sales in accordance with Act. 289/1995 (Forest Act) and applicable legislation (*Article 2 (h)*)
- b) **handling the other production**, timber and timber products derived from trees grown and harvested outside of a forest, on properties owned or leased (*lease contract*) to an operator (*this applies mainly to municipalities*) *harvesting/logging in accordance with Act No. 114/1992 Coll., on nature protection*. Including Logging permissions, and other permissions according to existing applicable legislation.

Guidelines structure – information gathering

1.1. Logging of the timber grown in the forests (operator should set out who is responsible for forest management operations.)

Operator's logging operations are managed by (owner/administrator) on the basis of the

1.2. Measuring, felling record and sale of the timber and timber products (what methods are used to assess the volume of the timber product)

district forest manager is checking and keeping record of all raw wood felled on the property according to set measuring method (volume tables, forestry harvester record, logbook, work docum

1.3. Forest Management Records (who is responsible for and what is the form of Forest Management Records.)

Licensed forestry manager (or other competent person) is keeping Forest Management Records (digital or analogue form) on behalf of the operator, accounting all harvested timber prod
star

1.4. Other production - timber products derived from other but the domestic timber production: derived from trees growing and harvested outside of a forest (this concerns mostly municipalities, but in general operators cutting/logging timber grown outside of the forest

Guidelines structure – risk assessment

2. risk assessment procedures, which allows the operator to identify and assess the risk of illegal timber being part of its consignments intended to be placed on the market. Operator analyses and evaluates the risk of illegally harvested timber or timber products derived from such timber being placed on the market according to Article 6 of the regulation eventually considering:

2.1 compliance with applicable legislation
This DDI provides these information about operator's processes administration, based on which risk can be assessed.

a) The risk of illegally harvested timber (timber production harvested on forest and non-forest properties owned by the operator) being placed on the market is negligible because:

- All the production mentioned in this DDI originated only from the Czech Republic.
- Operator is managing its forests according to sustainable forestry according to FSC/PEFC (other certification) *only applicable, please insert details about your certificate*
- Operator conducts its felling operations according to approved Forest Management Plan number ... valid for the period from ... till ... approved by (state forest administration/body) ... or according to Act No. 114/1992 Coll. on nature protection and a Ministerial decree 189/2013 Coll. on the protection of tree species and permitting their felling.
- Operator is keeping Forest Management Records properly according to a Forest law and also is keeping records on production outside of a forest.
- Timber production consignments are handled according to applicable trade legislation.
- There were no sanctions, penalties or fines imposed on the operator due to applicable legislation.

b) The risk of timber being illegally felled by third party on the operator's land is negligible, because property is managed properly and controlled in the regular basis. If such a felling occurs, this illegally felled timber will not be placed on the market.

2.2 prevalence of illegal harvesting of specific tree species
There are no species under law protection on the operator's property.

2.3 prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested, including consideration of the prevalence of armed conflict
All the production mentioned in this DDI originated only from the Czech Republic.

2.4 sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports
All the production mentioned in this DDI originated only from the Czech Republic, there are no sanctions imposed on the Czech Republic by UN.

2.5 complexity of the supply chain of timber and timber products

Guidelines structure – risk assessment

2.1 compliance with applicable legislation

This DDS provides these information about operator's processes administration, based on which risks can be assessed:

a) The risk of illegally harvested timber (timber production harvested on forest and non forest properties owned by the operator) being placed on the market is negligible because:

- All the production mentioned in this DDS originated only from the Czech Republic
- Operator is managing its forests according to sustainable forestry according to FSC/PEFC (other) certification..... *(only if applicable, please insert details about your certificate)*
- Operator conducts its felling operations according to approved Forest Management Plan number, valid for the period from.....till..... approved by...(state forest administration body)....., or according to Act No. 114/1992 Coll., on nature protection and a Ministerial decree 189/2013 Coll. on the protection of tree species and permitting their felling.
- Operator is keeping Forest Management Plan and also is keeping records on production
- Timber production consignments are labelled
- There were no sanctions, penalties or fines imposed by legislation.

2.2. prevalence of illegal harvesting of specific tree species

There are no species under law protection on the operator's property.

2.3. prevalence of illegal harvesting or practices in the country of harvest and/or sub-national region where the timber was harvested, including consideration of the prevalence of armed conflict.

All the production mentioned in this DDS originated only from the Czech Republic

2.4. sanctions imposed by the UN Security Council or the Council of the European Union on timber imports or exports

All the production mentioned in this DDS originated only from the Czech Republic, there are no sanctions imposed on the Czech Republic by UN.

2.5. complexity of the supply chain of timber and timber products

Guidelines structure – risk mitigation

- Operator should know:
 - What is the procedure if accidentally logging is made outside of the legislation frame
 - What to do with „illegally harvested“ timber

3. risk mitigation procedures which consist of a set of measures and procedures that are adequate and proportionate to minimise effectively that risk

According to the risk assessment, the risk mentioned in point 2.1 are mitigated by a proper process management. The risks mentioned in points 2.2, 2.3, 2.4 and 2.5 are **assessed as not relevant to domestic production.**

Guidelines structure – annexes

ANNEX	
Timber and timber products as classified in the Combined Nomenclature set out in I to Council Regulation (EEC) No 2658/87 (4), to which this Regulation applies	
—4401 Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes or similar forms	
—4403 Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	
—4406 Railway or tramway sleepers (cross-ties) of wood	
—4407 Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm	
—4408 Sheets for veneering (including those obtained by slicing laminated wood), for panels or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm	
—4409 Wood (including strips and friezes for parquet flooring, not assembled) continuous shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or other), along any of its edges, ends or faces, whether or not planed, sanded or end-jointed	
—4410 Particle board, oriented strand board (OSB) and similar board (for example, wafer board) of wood or other ligneous materials, whether or not agglomerated with resins or other bonding substances	
—4411 Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances	
—4412 Plywood, veneered panels and similar laminated wood	
—4413 00 00 Densified wood, in blocks, plates, strips or profile shapes	
—4414 00 Wooden frames for paintings, photographs, mirrors or similar objects	
—4415 Packing cases, boxes, crates, drums and similar packings, of wood; cable-lashing; wood, pallets, box pallets and other load boards, of wood; pallet collars of wood	

Annex		
List of tree species		
Czech name	Scientific name	Abb.
smrk ztepilý	<i>Picea abies</i> (L.) Karstén	SM
smrk pichlavý	<i>Picea pungens</i> Engelm.	SMP
smrk černý	<i>Picea mariana</i> (Müller) B.S. et P.	SMC
smrk sivý	<i>Picea glauca</i> (Moench) Voss	SMS
smrk omorika	<i>Picea omorica</i> (Pancic) Purkyně	SMO
smrk Engelmannův	<i>Picea engelmanni</i> Engelm.	SME
smrký ostatní		SMX
jedle bělokora	<i>Abies alba</i> Mill.	JD
jedle obrovská	<i>Abies grandis</i> (Douglas) Lindl.	JDO
jedle ojívná	<i>Abies concolor</i> (Gord.) Hildebr.	JDJ
jedle kavkazská	<i>Abies nordmanniana</i> (Steven) Spach	JDK
jedle vznešená	<i>Abies procera</i> Rehder	JDV
jedle ostatní		JDX
douglaska tisolistá	<i>Pseudotsuga menziesii</i> (Müelb.) Franco	DG
borovice lesní	<i>Pinus sylvestris</i> L.	BO
borovice černá	<i>Pinus nigra</i> Arnold	BOC
borovice Banksova (banksovka)	<i>Pinus banksiana</i> Lamb.	BKS
borovice vejmutovka	<i>Pinus strobus</i> L.	VJ
borovice limba	<i>Pinus cembra</i> L.	LMB
borovice pokroucená	<i>Pinus contorta</i> Loudon	BOP
borovice ostatní		BOX
borovice kleč, kosodřevina	<i>Pinus mugo</i> Turra	KOS
borovice blatka (b. baňháná)	<i>Pinus rotundata</i> Link.	BL
modřín opadavý (m. evropský)	<i>Larix decidua</i> Mill.	MD
modřín ostatní		MDX
tis červený	<i>Taxus baccata</i> L.	TS

Conclusions

- Take into consideration:
 - Differences between domestic operator and importer
 - Sources of illegality in the domestic forestry sector
 - Importance of the assistance to SME
- EUTR outcomes:
 - DDS as a tool of minimizing the risk of illegality
 - Certification schemes as a common ground both for operators and CAs
 - Further addressing the domestic illegality issues
 - Information sharing



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