



Some legal issues on MSMEs in China

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Index

1

What are MSMEs in China?

2

How are MSMEs in China?

3

Laws on MSMEs in China

4

Some legal issues



1 ▶

What are MSMEs in China?

Standard & Criteria

What are MSMEs in China

- National Bureau of Statistics: *Methods for classifying large, medium, small and micro enterprises in statistics (2017)*

Catalogue	Indicator	Unit	Medium-sized	Small-sized	Micro-sized
Farming, forestry, animal husbandry and fishery	Income (Y)	million yuan	$5 \leq Y < 200$	$0.5 \leq Y < 5$	$Y < 0.5$
Industry	staff (X)	person	$300 \leq X < 1000$	$20 \leq X < 300$	$X < 20$
	Income (Y)	million yuan	$20 \leq Y < 400$	$3 \leq Y < 20$	$Y < 3$
Construction	Income (Y)	million yuan	$60 \leq Y < 800$	$3 \leq Y < 60$	$Y < 3$
	Capital (Z)	million yuan	$50 \leq Z < 800$	$3 \leq Z < 50$	$Z < 3$
Wholesale	staff (X)	person	$20 \leq X < 200$	$5 \leq X < 20$	$X < 5$
	Income (Y)	million yuan	$50 \leq Y < 400$	$10 \leq Y < 50$	$Y < 10$
Retailing	staff (X)	person	$50 \leq X < 300$	$10 \leq X < 50$	$X < 10$
	Income (Y)	million yuan	$5 \leq Y < 200$	$1 \leq Y < 5$	$Y < 1$
Transportation	staff (X)	person	$300 \leq X < 1000$	$20 \leq X < 300$	$X < 20$
	Income (Y)	million yuan	$30 \leq Y < 300$	$2 \leq Y < 30$	$Y < 2$

Catalogue	Indicator	Unit	Medium-sized	Small-sized	Micro-sized
Warehousing	staff (X)	person	$100 \leq X < 200$	$20 \leq X < 100$	$X < 20$
	Income (Y)	million yuan	$10 \leq Y < 300$	$1 \leq Y < 10$	$Y < 1$
Post Services	staff (X)	person	$300 \leq X < 1000$	$20 \leq X < 300$	$X < 20$
	Income (Y)	million yuan	$20 \leq Y < 300$	$1 \leq Y < 20$	$Y < 1$
Accommodation	staff (X)	person	$100 \leq X < 300$	$10 \leq X < 100$	$X < 10$
	Income (Y)	million yuan	$20 \leq Y < 100$	$1 \leq Y < 20$	$Y < 1$
Catering Business	staff (X)	person	$100 \leq X < 300$	$10 \leq X < 100$	$X < 10$
	Income (Y)	million yuan	$20 \leq Y < 100$	$1 \leq Y < 20$	$Y < 1$
IT	staff (X)	person	$100 \leq X < 2000$	$10 \leq X < 100$	$X < 10$
	Income (Y)	million yuan	$10 \leq Y < 1000$	$1 \leq Y < 10$	$Y < 1$

Catologue	Indicator	Unit	Medium-sized	Small-sized	Micro-sized
Software	staff (X)	person	$100 \leq X < 300$	$10 \leq X < 100$	$X < 10$
	Income (Y)	million yuan	$10 \leq Y < 100$	$0.5 \leq Y < 10$	$Y < 0.5$
Real Estate Development	Income (Y)	million yuan	$10 \leq Y < 2000$	$1 \leq Y < 10$	$Y < 1$
	Capital (Z)	million yuan	$50 \leq Z < 100$	$20 \leq Z < 50$	$Z < 20$
Estate Management	staff (X)	person	$300 \leq X < 1000$	$100 \leq X < 300$	$X < 100$
	Income (Y)	million yuan	$10 \leq Y < 50$	$5 \leq Y < 10$	$Y < 5$
Leasing and Commerical Service	staff (X)	person	$100 \leq X < 300$	$10 \leq X < 100$	$X < 10$
	Capital (Z)	million yuan	$80 \leq Z < 1200$	$1 \leq Z < 80$	$Z < 1$
Others	staff (X)	person	$100 \leq X < 300$	$10 \leq X < 100$	$X < 10$

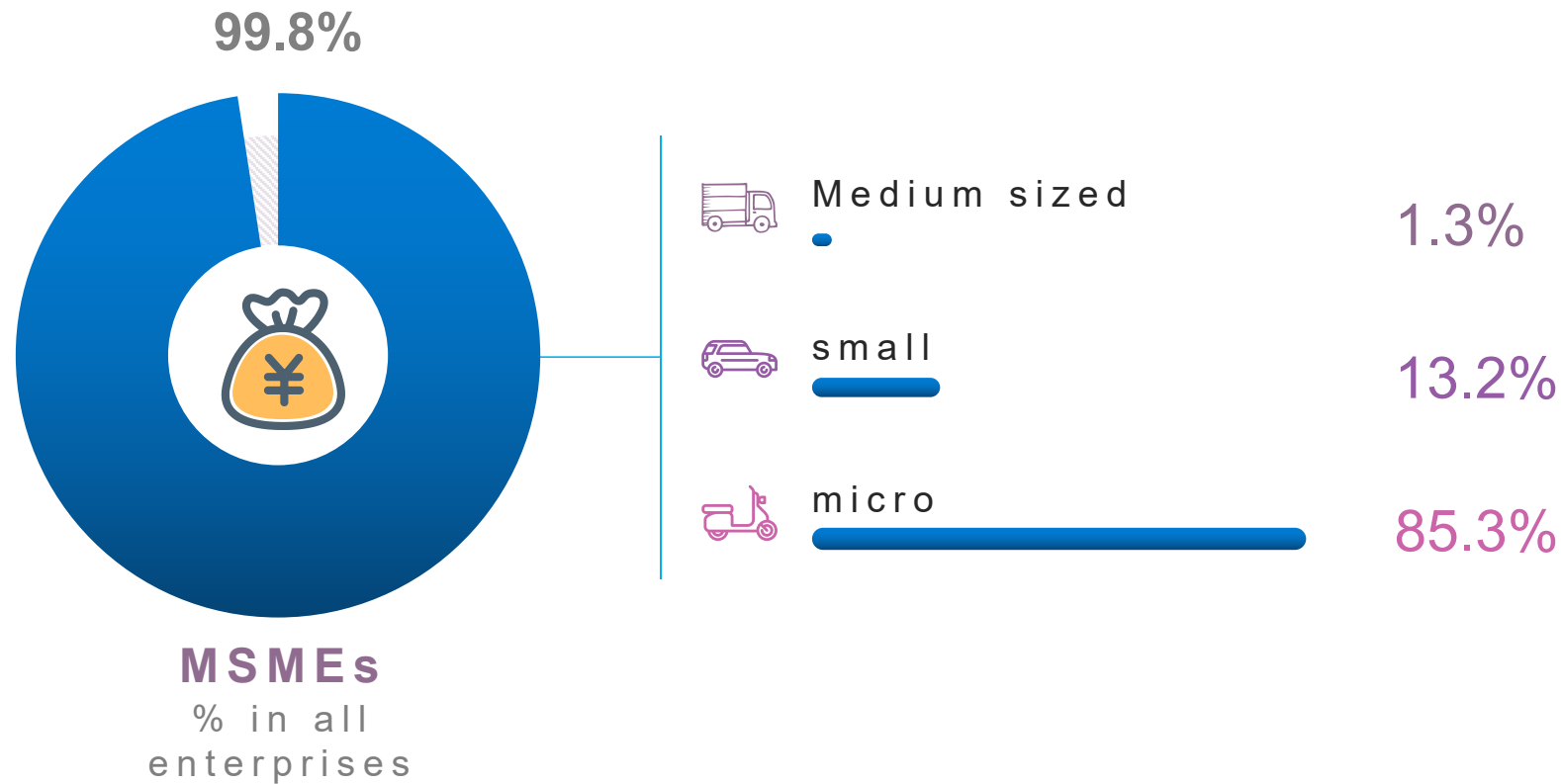


2 ▶

How are MSMEs in China

Important & Active

How are MSMEs in China?



National Bureau of Statistics:
Small, medium and micro enterprises become an important force to promote economic development
(the 12th report of the series reports of the fourth national economic census).

MSMEs are the major proportion of all market entities.



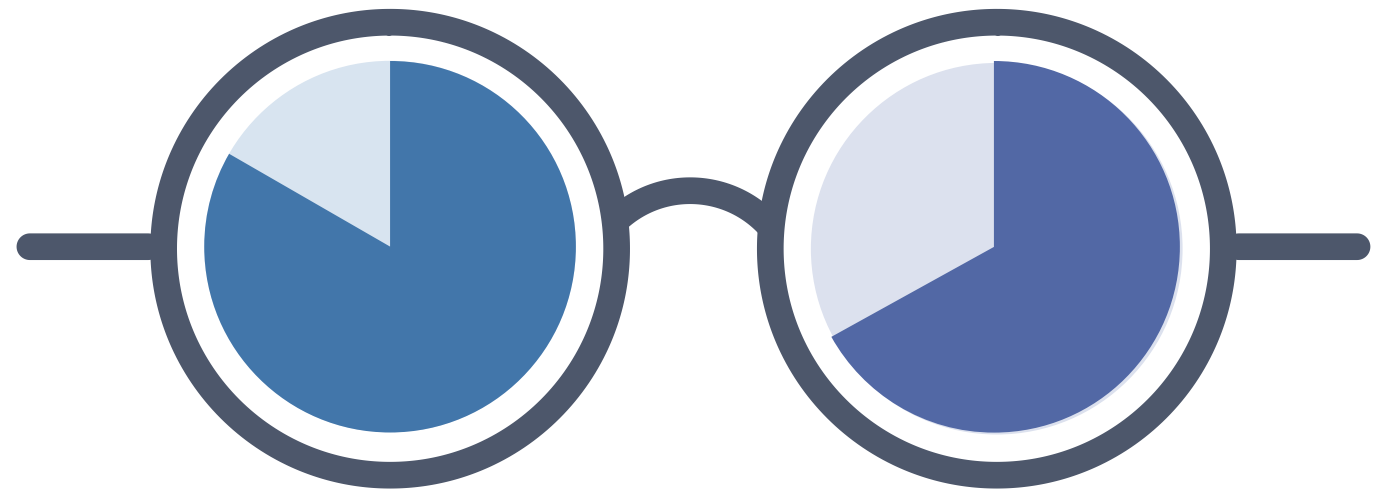
MSMEs are crutially important.

- ✓ employment
- ✓ revenue



National Bureau of Statistics:

Small, medium and micro enterprises become an important force to promote economic development
(the 12th report of the series reports of the fourth national economic census).



79.4%

Employees

68.2%

Revenue



3 ▶

Laws on MSMEs in China

General & Specific

Laws and regulations on MSMEs in China



National People's Congress
laws



State council
regulations



Ministry & Department
administrative rules



provincial governments
regional ordinances

Laws and regulations on MSMEs in China

- **National People's Congress**

- Law on Promotion of MSMEs
- Company Law
- Partnership Law
- Individual proprietorship law

- **The State Council**

- Regulation of ensuring the payment to MSMEs (2020)
- Guidelines on Promoting the Healthy Development of MSMEs (2019)
- Further support measures for the healthy development of MSMEs (2012)
- Regulations on the Administration of Registration of Market Entities (2021)
- Regulations on improving the Business Environment (2019)



Laws and regulations on MSMEs in China

- **Ministries and departments**
 - **Ministry of Finance:** Measures for the administration of Credit Guarantee Funds for MSMEs(2012)
 - **Ministry of Industry and Information Technology and other 16 departments:** Several guidelines on perfecting the system of supporting the development of MSMEs(2020)
 - **Ministry of Science and Technology:** Policies and measures to support technology-based MSMEs to accelerate innovation and development in the new era (2019)
 - **Banking and Insurance Regulatory Commission:** Measures for supervision and evaluation of financial services for MSMEs by commercial banks(2020)
- **Regional governments** (34 provincial regions, including Hongkong, Macao, Taiwan, etc)
 - Ordinances on the promotion of MSMEs



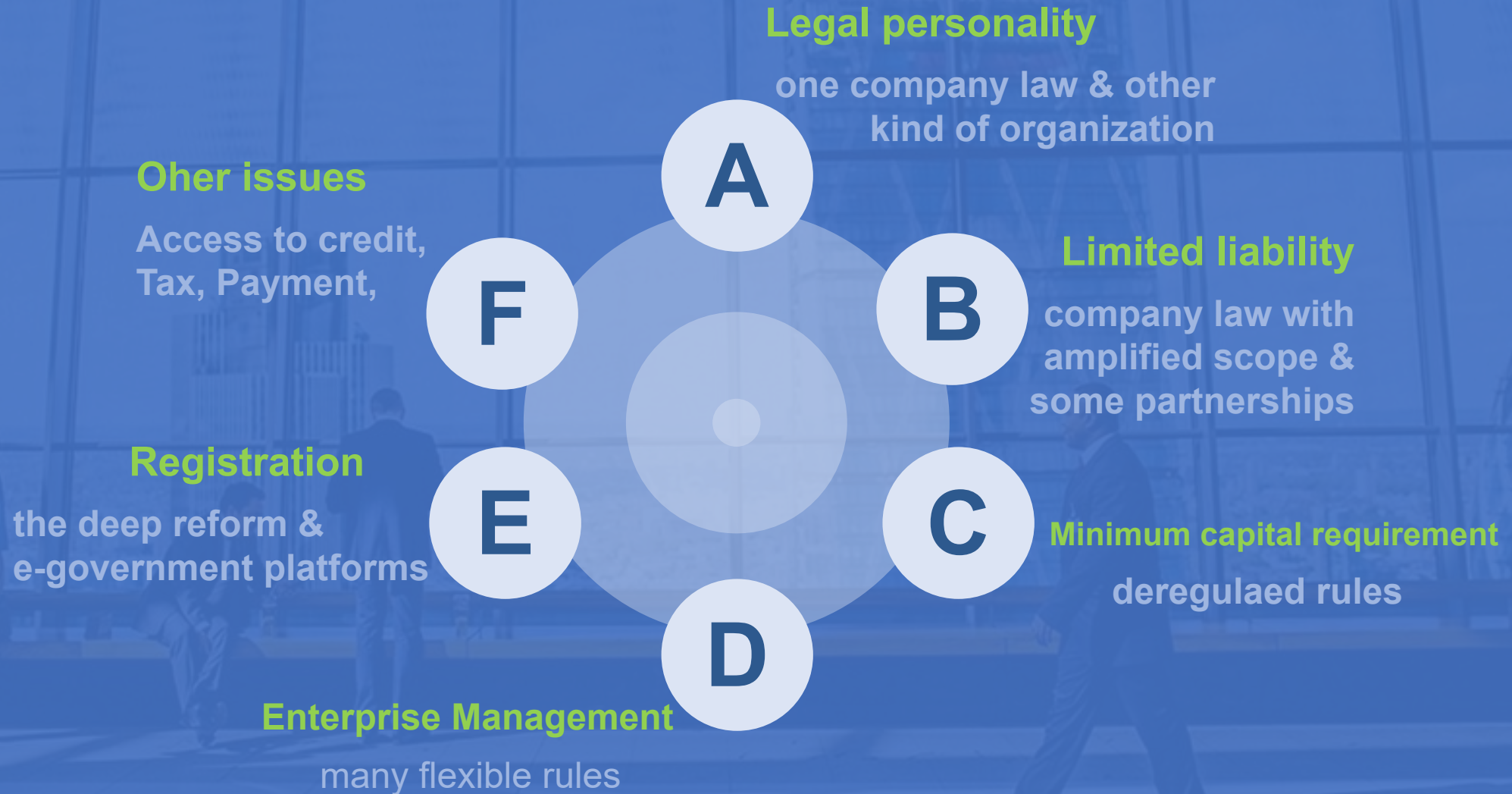
4 ▶

Some Legal Issues

Chinese approaches & UNLLO

Some legal issues

Whether Chinese experiences are in the same direction with UNLLO? I think so.





LLC & Stock
company limited



Partnership & LLP



one natural person
as the sole investor



individual person
or individual family



The possible types of the organizations for MSMEs in China



Legal Personality

Company Law (China)

Article 3 A company is an enterprise **legal person**. It has independent legal person property and enjoys legal person property rights.

All other types of enterprises in China can not have the legal personalities. However, they could play as the civil subjects after registration.

Recommendation 3: The law should provide that the UNLLO has a legal personality distinct from its members.



Limited Liability

Company Law (China)

Article 2 A company referred to in this Law means a **limited liability company** or a joint stock **limited** company.

Article 57 "one-person **limited liability** company".

Partnership Enterprise Law (China)

Chapter 3 **Limited** partnership enterprises

Recommendation 4: The law should provide that a member is not personally liable for the obligations of the UNLLO solely by reason of being a member of that UNLLO.



Contribution & Minimum Capital

Company Law (China)

Article 26 The registered capital of a limited liability company shall be the amount of capital contributions **subscribed** by all the shareholders.



- Recommendation 5: The law should not require a minimum capital for the formation of an UNLLO.
- Recommendation 21: The law should establish that members may agree in the organization rules on the type, timing and value of their contributions.

Enterprise management

Partnership Enterprise Law (China)

Article 26 All partners shall enjoy **equal rights** in the management of partnership affairs.

Article 30 Where the partners intend to adopt a resolution, the method of vote of the partnership agreement shall be used.

Where no such method is stipulated in the partnership agreement, a resolution is adopted by a **majority vote**.



- Recommendation 11 ...members have equal rights in the UNLLO irrespective of their contributions, if any.
- Recommendation 14: the UNLLO is managed by all of its members exclusively, unless....
- Recommendation 15: ..., differences among members on matters concerning day-to-day operations of the UNLLO should be resolved by a majority decision of the members.
- Recommendation 16:..., designated manager(s) may be appointed and removed by a majority decision

Registration

Regulations on the Administration of Registration of Market Entities(2021)

A.16 The State Administration for Market Regulation shall, according to the types of market entities, **make lists of registration materials and sample forms of documents** and **publicize** them **on** the government **website**.

A.19 The registration authority shall conduct **formal examination** and register on the spot those that are conform to the legal form. If the application materials cannot be registered on the spot, the registration shall be made **within 3 working days**. If the circumstances are complicated, the period may be extended for another 3 working days upon approval by the person-in-charge of the registration authority.

Recommendation 8: The law should provide that the UNLLO is formed once it is registered.

52.issuance of the notice of registration should be as fast and as streamlined as possible.

Recommendation 9: The law should:

...

(b) keep additional information required, if any, to a minimum.

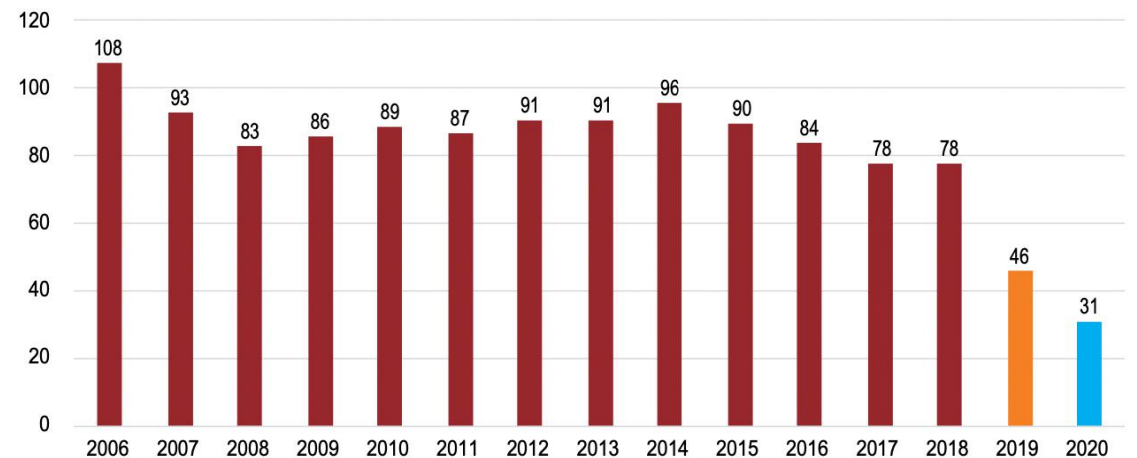


- “One web all done” public services

- To enable administrative departments to share information with each other
- To provide services to the market entities with higher efficiency



China's Ease of Doing Business Rankings, 2006-2020



Other issues

- Access to Credit
 - State Council: *Guidelines on giving full competence to the role of Government Financing Guarantee Funds to support MSMEs and the development of agriculture, rural areas and farmers(2019)*
- Tax
 - Tax rate are differentiated to different types of MSMEs
- Payment to MSMEs
 - Regulation of ensuring the payment to MSMEs (2020)
- Specialized, Fined, Peculiar and Innovative MSMEs
- Counter Covid-19 measures



Taxation

- **Law on Promotion of MSMEs**

- Article 11 The State shall implement tax policies conducive to the development of small and micro enterprises, implement measures such as delaying or reducing the collection or exemption of enterprise income tax and value-added tax for qualified small and micro enterprises in accordance with relevant provisions.

5. The Guide focuses on the formation and operation of the UNLLO and does not consider other matters that may be relevant to the existence of the business, for example issues of taxation policy.

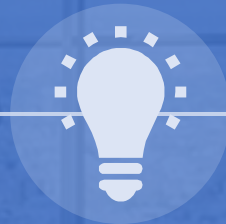


Not A Conclusion



Traditional laws

company law, partnership law,
etc.



UNCITRAL LLE

Combination of existing rules
Gift for MSMEs



Organization rules in the future

more flexible internally,
higher efficiency externally,
lower cost for investors





Thanks for listening

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