On the Future OF EUROPE

Policy Papers 6

New Neighbourhood – New Association Ukraine and the European Union at the beginning of the 21st century

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Introduction

he present report is the sixth in the series of publications (*Policy Papers*), which present the position of the Polish non-government organisations concerning important issues for the future of Europe.

Although we are keenly committed to initiating public debates in Poland, we do not wish to limit ourselves only to presenting the Polish view and the Polish interests. The target audience of our policy papers comprises both readers from the West and from the East. We attach importance to making sure that our proposals should take into account their mode of perception of the issues discussed.

The initiator of this project is the Stefan Batory Foundation. We invite other leading non-government organizations to collaborate with us on the preparation of the successive reports. We believe that – as the non-government community – due to not being attached to any government institutions, and therefore not constrained by any necessity to be subordinated to the policy of the state or to the government's position in the negotiations with the European Union, we have a chance to make a substantial contribution to the discussion on the future of the Union and its external policy.

The text, which we have the pleasure to present to You, was drafted in cooperation with the Polish-Ukrainian Forum and with the Faculty of International and Political Studies of Łódź University. Its preparation was also contributed to by experts from the "Social – Economic Analyses Centre" Foundation and by independent specialists.

We cordially thank all the persons who have contributed to the creation of this report for their friendly helping hand and valuable comments.

We invite you to read this paper and to participate in the discussion.

Stefan Batory Foundation

In the next decade Ukraine has no chances for European Union membership, although in the future this may be possible. At present the most important is to arrange anew the relations between the EU and Ukraine in the context of the EU Eastern Enlargement, which may occur already in the year 2004. The EU bordering with Ukraine must therefore be interested in the rapprochement with Kiev. The hitherto existing legal regulation of the relations between the EU and Ukraine - the Partnership and Cooperation Agreement (PCA) which entered into force in 1998 - is insufficient. Also the EU Common Strategy on Ukraine, adopted in 1999, will not be adequate to the new situation, which will emerge after the accession of Poland, Slovakia and Hungary.

In order to develop closer EU – Ukrainian relations it is also indispensable for the government of Ukraine to become much more deeply committed to the process of European integration. For the European future of this country its internal situation will be of enormous significance. The approaching parliamentary elections will be a test for Ukrainian democracy. The Ukrainian ruling elite must become aware that respect for democratic freedoms and economic reforms of the country is condition for developing close relations with the EU.

I. Diagnosis of the situation

1. Ukrainian society

In the 90's the Ukrainian society had to face many challenges. In the post-communist countries of Central and Eastern Europe this was a time marked by the development of free market economy and democracy. For Ukraine this implied also the building of a sovereign state's structures and the national consolidation of the Ukrainian people. It was an enormous task for a society divided in terms of history, language, culture, nationality and political orientations. The political elite, mostly of Soviet origin, did not have the courage to undertake radical social and political domestic reforms, whereas in foreign policy it attempted to reconcile divergent and sometimes contradictory public feelings.

While in the past decade pro-European policy was not consistently promoted in Ukraine, the scale of public support for that option in foreign policy is surprisingly large. For a number of years over 50% of the Ukrainians consistently opt in favour of European integration (in 2001 almost 56%), whereby the percentage of people advocating the integration with Europe is much higher among the Ukrainian elites, exceeding 70% in this segment of the population. In spite of the fact that the indicator of support for European integration is promising, it has to be treated carefully, as other results of public opinion polls indicate the strong ambivalence of attitudes of the Ukrainians when making this choice. Half of the Ukrainians opt for the integration of their country with the Union of Belarus and Russia, and as many as 36% are undecided.

The relatively high public support for the integration with EU, lack of an explicit declaration on this issue on the part of the Ukrainian decision makers and passive policy of countries and EU institutions in Ukraine allow to draw the conclusion that in the case of an appropriate policy on the part of the latter the pro-European sentiments in Ukraine could be significantly strengthened.

A distinct issue consists of the level of knowledge concerning the European Union and the process of integration. Public opinion polls demonstrate convincingly that it is relatively low, both in the case of the average citizen, and in the case of the political elites. It should be stressed, that more ample knowledge of the subject and stronger pro-European feelings may be observed in the case of those Ukrainians, who have had the opportunity to visit other member countries of the Union, or just the countries striving for accession to the EU, such as Poland.

A clearly visible trend in Ukraine consists of the diminishing nostalgia for the Soviet Union. This is indicated by the opinion polls in anticipation of the approaching parliamentary elections, in which for the first time since the early 90's the Communist Party of Ukraine fails to be ranked in first place. One of the basic features of the electorate of that party is indeed that very nostalgia for the Soviet Union. The sympathy for the USSR has to be recognised as being a different factor than the pro-Russian attitude, although they are frequently confused as being identical.

2. The Ukrainian Economy

The Ukrainian economy is closely linked to the Russian market. Russia still continues to be the most important trading partner of Ukraine, which is a consequence of the ties created before the year 1991. In both countries the manners of conducting business are similar. They are characterised by the lack of transparency, widespread corruption and dominance of so called oligarchs in economic life. Both in Ukraine and in Russia the shadow economy plays a great role. In the case of Ukraine it is estimated to represent as much as even between 50% and 70% of the official GDP. Business enterprise in Ukraine is additionally hampered by the lack of a stable legal system, especially of a stable tax system. In this situation it is no surprise that Russians dominate among the foreign investors in Ukraine. Russian entrepreneurs manage to function without any major problems in the difficult economic realities of Ukraine.

Nevertheless, the Ukrainian economy is not a part of the Russian economy. This is manifested, for example, by the weaker consequences of the crisis of August 1998 there than in Russia, probably because state control of the economy in Ukraine is more extensive than in Russia. Moreover, different sectors of the economy are of strategic significance for the two countries. In the case of Ukraine metallurgy plays an enormous role, whereas in Russia it is the mining of minerals as raw materials, especially the extraction of crude oil and natural gas. The Ukrainian economic elite has its own economic interests, which are sometimes in contradiction with the Russian ones, and Ukrainian businessmen are very well aware that their success is largely dependent on the degree of independence from the Russian economic elites.

It seems that both in Ukraine and beyond its borders the importance of contacts of Ukraine with the European Union and the candidate countries still continues to be underestimated. The European Union is an important trading partner for Ukraine. The Union is the destination of 18.4% of all exports of goods from Ukraine (official data for January – September 2001). The volume of Ukrainian exports of goods to the present EU and to the candidate countries combined is much greater, as it represents 33.2% of total Ukrainian exports. This is more than not only the size of its exports to Russia (23.9%), but also to the entire Commonwealth of Independent States (29.9%). After its enlargement the EU may become the most important sales market for Ukrainian goods. The structure of the goods exported to the Union is unfavourable, however. It consists mainly of semi-finished products, especially from the metallurgical industry, originating from enterprises, which have not been restructured and represent relics of the command economy from the time of the USSR.

A big role in the economic contacts between the EU and Ukraine is played by migrations in search of employment to the Union and to the candidate countries. It is difficult to estimate the number of migrants from Ukraine, because most of them are employed illegally. The example of Portugal indicates, however, that their numbers are not small. It is estimated that in that country almost 100,000 inhabitants of Ukraine find seasonal jobs. Most recently over 45,000 among them received employment permits. Without much risk it may be claimed that in the EU countries and in the candidate countries, including above all Poland, Slovakia, Hungary and the Czech Republic, several hundred thousand Ukrainian citizens work on a seasonal basis. Their number may even be (bigger than) a million. The money earned by them provides significant contributions to the household budgets of many Ukrainian families. In the case of economic migrations to the West not only the purely economic aspect is important. When working in the EU and in the candidate countries Ukrainians are exposed to different realities than what prevails in their home country.

The Achilles' foot of the EU – Ukraine relations continues to consist in the small level of direct EU investments in Ukraine. Owing to the unfavourable investment climate in Ukraine the amount of

investment coming from EU countries is insignificant compared to the countries of Central-Eastern Europe (Hungary, Poland, Czech Republic). The lack of such investment implies the widening of the technological gap between the enterprises operating in Ukraine and the firms in the Union and in the EU candidate countries.

Economic growth of Ukraine depends on the intensification of its relations with the West. Increasingly frequently the opinion is encountered in Ukraine that the economic development of the country is connected with the introduction of new technologies (apart from the benefits flowing from transit), the sources of which may only be found in the highly developed countries. Cooperation within the CIS may be favourable for Ukraine, but will not enable its sustainable economic growth, which last year reached a level unprecedented since the beginning of Ukraine's independence, amounting to 9%. Forecasts for GDP growth during the current year are now much lower.

3. Ukraine's Policy

Past experience indicates that the Ukrainians have not fully exploited the opportunity for the construction and strengthening of democracy granted by free elections. Those were both the consequences of the solutions adopted by their electoral law and of their political practice.

The parliamentary elections in 1990 and 1994 took place according to a majority system provided by the electoral law, which did not favour the formation and stabilization of the party system in Ukraine. The introduction of an electoral law combining elements of the proportional and the majority system before the elections of 1998 did not change this situation radically. The more so, the young party system was undergoing a crisis caused, according to some analysts, by pressures exerted especially by the presidential administration. The crisis was manifested by successive break-ups of the existing parties and promotion of marginal groupings or of movements fully subservient to their political sponsors by the mass media, which are linked to authorities and business (oligarchic) circles.

An outright manifestation of the crisis of the young Ukrainian democracy consisted also of the presidential elections in 1999. The involvement of a large part of the administration apparatus, of state controlled and commercial mass media in support of Mr Leonid Kuchma caused the emergence of the opinion that these elections, to a greater extent than any earlier ones, brought Ukraine closer to the Russian version of democracy. The approaching parliamentary elections (also according to a combined proportional – majority system), according to all the indications available, will be subject to greater degree of independent monitoring, but are unlikely to enhance any strengthening of the party system. Only four of the electoral committees, which according to public opinion polls have the chances of exceeding the 4-percent electoral threshold, represent political parties. These are parties of left wing orientation (the Communist Party of Ukraine – KPU, the Social-Democratic Party of Ukraine (united) - SdPU/o/, the Socialist Party of Ukraine - SPU, the Green Party of Ukraine). The political right and centre-right wing is concentrated in the electoral block "Our Ukraine", which is bound together not by any political programme but by the person of its leader – the former Prime Minister Mr Victor Yushchenko. The leader unites also a number of ideologically differing groupings gathered in the "Block of Julia Tymoshenko" (BJuTy). The block "For one Ukraine" is not so much an alliance combining the parties belonging to it, as rather an emanation of the ruling camp. After the elections it will be difficult to maintain the cohesion of those, sometimes strange, electoral coalitions. The formation of a transparent party system is also not favoured by the fact that half of the mandates in the future Supreme Council will be allocated to the winners from the majority system districts. It is indeed the deputies from such districts that have most frequently changed their party allegiances. In spite of the fact that the nearest elections will not stabilize the Ukrainian political scene, there are many indications that the strength of the oligarchic groups in parliament will be weakened, and that the pro-European lobby will become larger.

Since 1998 the question of European integration is a regular element of public statements by the Ukrainian politicians. This concerns not only the contacts of representatives of Ukraine with EU institutions, but any appearance of members of the Ukrainian ruling elites on the international forum in general. This has coincided in time with the entry into force of the Partnership and Cooperation Agreement (PCA), which had been expected since a long time. This agreement currently regulates the relations between Ukraine and the EU. Since the time of its conclusion, both president Kuchma and representatives of the Ukrainian government have been declaring their wish for Ukraine to enter the EU.

The year of 1999 was a year of vivid contacts between Kiev and the EU and also with NATO. However, the operations of the NATO forces during the war in Kosovo, negatively received by a large part of public opinion in Ukraine, prevented for some time the Ukrainian elite from manifesting its will to cooperate with the West through contacts with NATO. Especially Leonid Kuchma was sensitive to public opinion during the presidential electoral campaign. The rapprochement with the EU did not give rise to any emotions of that kind and in 1999 it was politically much more convenient for the Ukrainian elites. In spite of the dismissal of the pro-Western Ukrainian Minister of Foreign Affairs, Mr Borys Tarasiuk in October 2000, the Ukrainian administration continues to declare the wish to maintain as close contacts with the EU as possible. The government programme for the integration of Ukraine with the EU for the year 2002 is the last example of this. It assumes the submission of an official application for the association of Ukraine with the European Union by Kiev, probably already in the second half of the year 2002.

There is a huge gap, however, between the official declarations and the specific actions. The declarations of the will to become closer to the EU were not followed by respective legislative measures, reforming the legal system, and above all the economic system of Ukraine. Even the newly adopted laws were not verifies in terms of their compatibility with the *acquis communautaire*. After the reelection of Mr Kuchma in 1999 the activities of the president and of the government were not constrained by the Supreme Council to the same extent as before any more. But nevertheless, none of the measures adopted by the president nor the government at that time indicated that the European option for Ukraine was treated by Kiev as any tangible political priority in that period. In the presidential camp the proclaimed declarations were not substantiated by any readiness for tangible actions.

The basic problem of Ukraine's foreign policy continues to be its vagueness. As part of that policy, the strategic partners of Ukraine are at the same time Russia and the USA. The strategic partnership with Russia and the USA in the sphere of declarations was combined with pro-European aspirations of Ukraine. During the most recent period an interesting change of accentuation may be noted, although it is still unclear to what extent it may be significant, in the debate on the foreign policy of Ukraine. Voices have arisen that European integration is the priority, although Russia and the United States continue to be the most important partners. The growing interest of at least a part of the Ukrainian political elites in European integration, may be demonstrated by the renaming of the Ministry of the Economy. Now it bears the name: the Ministry of the Economy and European Integration. The increasing interest on the part of Ukrainian government representatives in the technical aspect of the negotiations of the present candidates to the Union might be given as an example as well. In official statements it is being repeatedly stressed that the Ukrainian foreign policy is multi-directional.

4. Activities of the European Union Concerning Ukraine

On the part of the EU there is still a lack of any official, explicit declaration concerning the possibility of Ukraine's accession to the European Union. Suggestions by leaders of particular Union member states and representatives of the European Commission indicating such a possibility are indeed occasionally voiced. But nevertheless, the second document in the order of importance, after the PCA, defining the position of Brussels with respect to Kiev – the Common EU Strategy on Ukraine – is limited to the statement that the Union "recognizes the European aspirations of Ukraine and welcomes with pleasure its pro-European choice". Ukraine, similarly as the other CIS countries, since the beginning of the 90's, has been treated differently than the countries of Central Europe, such as Poland or Hungary. The best evidence of that consists of the nature of the basic agreements regulating the relations between the Union and those countries. The PCA, signed with the CIS countries, are different from the Europe Agreements, which concern the countries of Central Europe. The latter have the nature of association agreements and recognize the membership aspirations of the countries of Central Europe. The PCA proposes to Ukraine only the creation of a free trade zone with the EU, but the commitment to implement that proposal in real terms refers only to a distant future. The EU assistance to Ukraine concerning its strivings to join the World Trade Organisation (WTO) is also mentioned.

The conviction that Ukraine belongs to the so-called "close foreign lands" attached to Russia is still strong at the European Commission and in many EU countries. Precisely owing to this reason in the joint report of the Ministries of Foreign Affairs of France and Germany from the year 2000 it was clearly stressed that Ukraine should not become a member of the Union. According to the authors of the report the case of Ukraine is more complicated than that of Belarus, as: "significant political forces there are advocating integration with the West. But nevertheless, the admission of Ukraine would imply the isolation of Russia. It is sufficient to content oneself with close cooperation with Kiev. The Union should not be enlarged to the East any further than by the 10 countries of Central Europe, with which it is currently negotiating. The EU has hitherto been ready to admit new countries, but its mission is not to unite the entire continent". On the other hand, however, the EU stresses the significance of Ukraine as an independent subject in European politics. Evidence of this is provided by the publication of the already mentioned Common EU Strategy on Ukraine as a document that is independent from the earlier elaborated Common Strategy on Russia. In comparison with the PCA, the Common EU Strategy on Ukraine contains interesting proposals for cooperation in the areas of security policy, justice and internal affairs.

Probably due to the approaching enlargement of the Union to the East, greater interest concerning Ukraine on the part of the EU is visible. A manifestation of this tendency was provided by the involvement of the EU in the affair concerning the unexplained disappearance of the journalist Georgi Gongadze. Representatives of the Union clearly hinted to the Ukrainian authorities, that the issue of maintaining the democratic liberties in Ukraine, including i.a. the freedom of speech, is of great importance to the EU. The EU – Ukrainian relations improved in June 2001. Its most important manifestation consisted of the EU summit in Göteborg (15–16 June 2001). The European Council invited Ukraine to participate in the European Conference, stressed the strategic significance of the development and stabilization of Ukraine for the EU. It also recognised the European aspirations of Ukraine by promising its support for the development of democracy, free mass media and a market economy on the banks of the river Dniepr. This political line was confirmed on September 11, 2001 during the V-th Ukraine – EU summit in Yalta.

In the EU countries one can encounter the opinion that the relations with Ukraine hitherto, and especially the PCA, will become unsatisfactory after the accession of Ukraine's neighbours to EU. But a serious cause of concern for the Union consists of the fact that Ukraine continues to be incapable of making full use even of those possibilities, which are granted by the PCA.

II. Recommendations

The recommendations are divided into two groups. The first one concerns what the EU could do for Ukraine (distinguishing the actions by the prospective new members, as the western neighbours of Ukraine). The second one – the postulated changes in Ukraine, which could influence the development of cooperation with the Union.

Group One

1. Ukraine's Right to Strive for the Status of an Associated Country

The recognition of Ukraine's right to seek the status of an associated country without a specified time perspective ought to be the current task for the EU. A declaration concerning this matter should efface the connotations of the aforementioned report by the French and German Ministries of Foreign Affairs It was stated in that report, among other things, that Ukraine will never become a member of the European Union. The Union should also support the Ukraine's efforts toward the signing of an association agreement. Such agreement should contain the acknowledgment, undefined in terms of timing, but explicitly recognizing the perspective of future membership of Ukraine in the EU. The fulfilment of the so called Copenhagen criteria by Kiev should be a condition of such declaration.. EU actions ought to happen as promptly as possible, as one can increasingly hear the opinion being voiced in Ukraine that: "Nobody wants us in Europe".

If the EU does not issue the respective declaration before the year of 2004, Poland, Slovakia and Hungary should strive to coordinate the timing of the EU's declaration (concerning Ukraine's right to seek the status of a country associated with the EU) with the date of accession of the new members. It would be positive if the issue of such a declaration would become the first common political initiative of the enlarged Union. It should be initiated by Poland, Slovakia and Hungary – the neighbours of Ukraine newly admitted to the EU – possibly supported by the Czech Republic and the Baltic states, or at least by Lithuania.

The new EU members, especially the countries bordering with Ukraine: Poland, Slovakia and Hungary ought to share their experiences related with the process of European integration. This objective could, among other things, be served by the Permanent Polish-Ukrainian Conference on European Integration, which is functioning since 1999.

2. Change of the Nature of EU Assistance

One of the elements of support for Ukraine's efforts to obtain the status of an associated country ought to consist of a change of the nature of the assistance granted by the Union. The TACIS programme is insufficient in the new realities of Ukraine – as a direct neighbour of the Union undergoing enlargement. EU assistance should be of a kind similar to the PHARE programme, embracing the associated countries of Central Europe.

It is also necessary to adapt the EU assistance to the needs of the specific country, in this case Ukraine, and not to treat all of them in the same way (CIS countries and Mongolia), as it is the case with the TACIS programme. It would be advisable to differentiate the strategy of the EU with regards to the CIS countries, assuming a privileged position with respect to the assistance programmes of those countries, which, like Ukraine, declare their commitment for the pro-European option and the will to participate in the process of integration.

The EU should support the development of new routes for the transmission of energy sources: crude oil and natural gas from the Caspian Sea basin via Ukraine to Western Europe. Such activities are advantageous for the security of the EU in terms of the supply of energy sources. The countries of the Caspian Sea basin would become a new supplier of raw materials to the Union. It is also advantageous for Ukraine, which by using new routes and new suppliers could differentiate the sources of its own sources of supplies of energy sources.

3. Facilitation of Entry for Ukrainian Citizens to the Enlarged EU

The facilitating measures, among other things, ought to consist in the development of the EU countries consulates network in Ukraine. Building of common consulates might be also considered. Consulates should be located in as many towns of Ukraine as possible, both in the western and in the eastern part of the country, so that persons applying for visas should not need to undertake lengthy travels to reach them.

New member states of the Union, bordering with Ukraine, could broadly apply national visas entitling to a stay only in the country issuing such a document, at least until the time when the Schengen frontier between the old and new EU members will be removed. It would be advisable to introduce particular regulations for the inhabitants of the border zone.

In the future one should also consider the possibility to delete Ukraine from the so called black list of the countries, the citizens of which are required to have visas for entry to the states of the EU. Ukrainian citizens could possibly stay on the territory of the Union for a period of three months, similarly as it is presently in case of citizens of the candidate countries.

4. Scholarship Programme for Young Ukrainians (Students, Graduate Students)

The creation of a special broadly conceived scholarship programme for students from Ukraine (i.e. enabling to send to universities in the EU and in the candidate countries at least several thousand students per year, rather than several hundred as it is the case hitherto). Such a programme should:

- Offer scholarships with full financial backing;
- Adopt the principle of proposing short period studies abroad (maximum one year long), adapted to the course of studies at their home colleges. The granting of scholarships for full five-year long studies carries the risk that the students may become well rooted abroad resulting in their permanent emigration.

Such a programme could help build up a pro-European elite in Ukraine, which is necessary for the integration of that country with the EU.

5. Youth Exchange

Public opinion research indicates that the most pro-European part of the population consists of the young

people and of those who have themselves visited the EU countries or its candidate states. From that point of view, one of the most effective methods of pro-European education would consist of the exchange of youth, and in particular enabling young Ukrainians to visit the EU countries and the candidate countries.

6. Support for Non-Government Organisations

The EU should support the development of civil society in Ukraine. Aid could originate both from Union and particular member states funds. It would also be advisable to assure as much EU Non-Government Organisations' involvement in the implementation of projects in Ukraine as possible.

Group Two

1. Internal Reforms in Ukraine

In the nearest forthcoming time Ukraine will face a very important test, consisting of the parliamentary elections. It is necessary that they should proceed with observance of democratic rules. In this context it is extremely important that the situation of the mass media should improve. The freedom of the mass media that control the authorities is one of the most important tests of the state of democracy.

The judiciary system also requires profound reforms. Only an independent judiciary is capable of facing and tackling such problems as the Gongadze case.

It is necessary to reform the local self-government authorities. So far, they differ substantially from similar institutions in the EU, as well as in the candidate countries. They lack sufficient autonomy from the central state power. Reform would help the Ukrainian self-government authorities in establishing relations with local authorities in the EU and in the candidate countries.

Without democratisation it will not be possible to enter into closer relations with the EU, as the respect for the principles of democracy is one of the Copenhagen criteria, the fulfilment of which is a prerequisite for entry to the EU.

2. Ukraine's Foreign Policy

It is necessary to turn from a declarative pro-European orientation to specific and tangible actions. Ukraine ought to begin to make use of the possibilities contained in the PCA and in the Common EU Strategy on Ukraine as soon as possible.

It is indispensable that Ukraine should get involved in the process of integration of the global economy. In order to achieve this it is above all necessary that Ukraine should join the WTO. Ukraine cannot remain in isolation from the process of integration on the global scale if it intends to become integrated with the EU.

3. Compatibility of Ukrainian Legislation with EU standards

The Ukrainian parliament ought to devote serious efforts to assure that newly adopted laws should be compatible with the regulations in force in the EU. It is also equally important that the law should be implemented in such a way as to assure that it will not just remain on paper.

4. Transparency in the Economy

Deregulation in the Ukrainian economy is indispensable. The excessive number of regulations, often contradictory, very strongly hampers any legal business activity. It is also one of the important reasons of corruption. The fight against this phenomenon, omnipresent in Ukraine, should become one of the priorities both for the government authorities, as well as for the civil society just emerging in Ukraine.

It is necessary to establish clear tax regulations. This is one of the fundamental conditions for attracting foreign investors, i.a. from the EU.

5. Facilitation of Tourism

It would be advisable for Ukraine to unilaterally abolish the visa requirement for EU citizens. Greater investment in tourism than hitherto is also needed. The increase of tourist traffic, in which also the inhabitants from the Union would participate, would contribute to a change of Ukraine's image among the inhabitants of the UE countries.

6. The Necessity to Regulate the Border with Russia

The signing of agreements concerning the regulation of border issues with all of its neighbours ought to be one of the priorities of Ukrainian foreign policy. The border with Russia cannot be an exception. The delimitation, subsequently followed by the demarcation of the border with Russia, does not imply any limitation of personal contacts nor of the cross-border exchange of goods.

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