

WORKING GROUP OF MEMBER STATES ON THE PROCESS AND METHODS OF THE ELECTION OF THE DIRECTOR-GENERAL OF THE WORLD HEALTH ORGANIZATION Agenda item 4

EB/EDG/WG/2/3 26 October 2011

A review of best practices with regard to codes of conduct for electoral campaigns

Report by the Secretariat

1. In its interim progress report to the Sixty-fourth World Health Assembly, the Working Group of Member States on the Process and Methods of the Election of the Director-General of the World Health Organization requested the Director-General to inform the deliberations of the Working Group at the second session by providing, inter alia, a review of best practices with regard to codes of conduct for electoral campaigns, drawing from relevant experiences.¹

SOURCE OF A CODE OF CONDUCT

- 2. While the use of codes of conduct for electoral campaigns is increasingly common at the national level, there are only a few precedents for the regulation of electoral campaigns leading to elective positions within international organizations, in particular the ethical codes adopted or under consideration by the International Federation of Red Cross and Red Crescent Societies and by the International Olympic Committee. In addition, FIFA (Fédération Internationale de Football Association) has adopted "rules of conduct" governing the bidding process for the selection of the venue of the FIFA World Cup. The Secretariat has drawn from these codes and the ideas contained therein for the preparation of the present report.
- 3. Codes of conduct concerning national elections were also considered by the Secretariat. Notwithstanding different environments and functions, such national electoral codes of conduct are based on a number of underlying principles and purposes that may be relevant for a code of conduct for the election of the Director-General, such as: respect for the rule of law and the role of competent authorities; fairness in all electoral activities; non-discrimination; avoidance of undue influence by political parties, supporters and candidates; clarity of rights, responsibilities and obligations of all stakeholders; mutual respect among parties and candidates; and equitable campaign opportunities. The ultimate goal of national codes of conduct is the creation of a climate of equitable implementation of electoral regulations and responsible campaigning with a view to ensuring the perception of legitimacy of the electoral process and its outcome, and hence the acceptance of that outcome. These are, in the view of the Secretariat, values and principles that are also applicable *mutatis mutandis* to elective processes within international organizations. The complete list of documents used and cited in this report can be found in the Annex.

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¹ Document WHA64/41, Annex, paragraph 21.

- 4. The Regional Committee for the Western Pacific is considering the elaboration of a code of conduct with regard to the nomination of the Regional Director, and discussed this topic during its Sixty-second session from 10 to 14 October 2011.
- 5. In particular, the Regional Committee considered a draft code of conduct prepared by the Secretariat at its request² and decided to invite all Members of the Regional Committee to provide textual suggestions for the draft code. The Secretariat will revise the draft code accordingly in order to prepare for further consideration of it, with a view to its possible adoption, at the Sixty-third session of the Regional Committee in September 2012.
- 6. Furthermore, the Regional Committee took note that the Executive Board, at its special session in November 2011, may consider the possibility of harmonizing certain regional committee procedures, and that the Working Group on the Election of the Director-General may consider best practices with regard to codes of conduct for electoral campaigns. The Regional Committee noted that its work on the elaboration of a code of conduct should be brought to the attention of these two forums, as appropriate, in connection with the relevant agenda items, to support discussion, and to put into practice the principle of harmonization of approaches.

CODES OF CONDUCT – LEGAL NATURE

7. The purpose of a code of conduct is to influence the conduct of the persons or entities addressed by it. Although there are codes of conduct enacted by legislation and thus of a binding legal nature, a typical feature of many codes of conduct is that they are of a non-binding nature, i.e. they are either issued as a recommendation or are negotiated and accepted by political parties and other stakeholders. The non-binding character of many codes is due in part to the fact that the conduct addressed therein sometimes escapes traditional legal regulation, and in part to the reluctance of political parties to fall under strict and enforceable rules on delicate political issues. At the same time, parties to a code of conduct would normally feel bound by commitments laid down in it because they have negotiated and freely subscribed to that code³ and do not see it as a document coming from a superior legislative authority.⁴

REVIEW OF BEST PRACTICES WITH REGARD TO CODES OF CONDUCT

8. There are several issues and practices in codes of conduct that are generally accepted and recurrent and which, therefore, may be seen as best practices. They may thus be seen by Member States as relevant with regard to the nomination and appointment of the Director-General of WHO:

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¹ See Regional Committee for the Western Pacific, WPR/RC62/9.

² Document WPR/RC62/9.

³ IDEA, 1999, p. 9.

⁴ Cf. IPU, 1998, p. 59.

(a) Equal opportunities

The aspect of equality is, for example, reflected in provisions that provide parties and candidates with the equal opportunity to convey their messages to the electorate; this includes equal access to public facilities, services and assistance. Only if all parties have the sense of starting from an equal footing and of being treated equally throughout the electoral process, can there be a campaign in an atmosphere of a fair and balanced competition among candidates.

(b) Abstention from abuse of a position of power²

An abuse of power might take place where the current office holder uses his or her position as well as its assets and resources to promote re-election. This may, for example, lead to the use of official functions to promote oneself but can also take the form of the distribution of benefits to others if the position so allows. The prohibition of an abuse of power aims at protecting public assets from being used for private purposes, at achieving equal opportunities for all candidates and at avoiding that those in power abuse their position to improve their chances of re-election.

(c) Respect for the rights of the other parties to campaign and disseminate their ideas³

Codes of conduct typically provide that each party and candidate should have the opportunity to make their views known to the voters and present them without interference, including without threatening or defamatory language from other parties or candidates.⁴ Candidates are also asked to refrain from criticism that concerns the private life of other candidates or which is based on unverified allegations.⁵ Like the prohibition of the abuse of power, the protection of the rights and reputation of the other parties and candidates against politically motivated allegations is essential to guarantee a fair campaign according to ethical principles.

¹ Cf. IOC, 2009, B 1., p. 90; OSCE, 2002, IV.F.1.; F.3.; OSCE, 2003, Part One, 7.3, p. 18; Seychelles, 2001, General Aspects, 9; United Republic of Tanzania, 2010, 3.1(a) and (c).

² IDEA, 1999, p. 20; IPU, 1998, p. 64; Nigeria, 2011, Campaign issues, 14; cf. Panama, 1993, in: IPU, 1998, Annex 10, p. 120; Sudan, 2010, Part VI 33; Zambia, 2006, 7(1)(i).

³ Bangladesh, 1996, in: IPU, 1998, Annex 4, p. 93; Cambodia, 1993, 3, in: IPU, 1998, Annex 11, p. 122; Ghana, 1992, 10, in: IPU, 1998, Annex 12, p. 124; IDEA, 1999, p. 16; cf. IOC, 2009, E 1, p. 92; IPU, 1998, pp. 65 and 66; Kyrgyzstan, 2010, pp. 3 and 4; Liberia, 1997, 3, in: IPU, 1998, Annex 2, p. 87; Nigeria, 2011, Rule of Law, 2; OSCE, 1996, Article 122, in: IPU, 1998, Annex 5, p. 96; OSCE, 2003, Part One, 7.2. and 7.4., p. 18; Pakistan, 1997(2), in: IPU, 1998, Annex 3, p. 89; Seychelles, 2001, General Aspects, 3; South Africa, 2006; Thailand, 2011, 4; UNTAES, 1997, Part I 7 and 9, in: IPU, 1998, Annex 1, pp. 78 and 79.

⁴ Bangladesh, 1996, in: IPU, 1998, Annex 4, p. 94; Cambodia, 1993, 4 (5) and (6), in: IPU, 1998, Annex 11, p. 122; Canada (Manitoba), 1999; FIFA, Rules of Conduct; IOC, 2009, E 2, p. 92; The former Yugoslav Republic of Macedonia, 2011, 7; Nigeria, 2011, Campaign issues, 5; Saint Kitts and Nevis, 1995, in: IPU, 1998, Annex 8, p. 106; South Africa, 2006; Sudan, 2010, Part III 6; Tanzania, 2010, 2.2(b); Thailand, 2011, 5; Zambia, 2006, 7(1)(c).

⁵ Cf. Ghana, 1992, 8, in: IPU, 1998, Annex 12, p. 124; India, 2009, I.2; IPU, 1998, p. 67; Pakistan, 1997(14), in: IPU, 1998, Annex 3, p. 90; Panama, 1993, in: IPU, 1998, Annex 10, p. 120; Sudan, 2010, Part III 19.

(d) Compliance with the code of conduct¹

Most codes of conduct mention that the parties who have subscribed to them commit themselves to comply with their provisions. This statement is relevant especially for non-binding codes of conduct since it increases their ownership by the parties concerned and thus helps in facilitating the implementation of the code.

(e) Cooperation with election officials²

A number of prescriptions in codes of conduct address the communication and cooperation between the participants and election officials appointed by the government or public authority responsible for the elections. Participants and election officials shall, for example, inform one another about important developments and closely cooperate on the day of election.

(f) Communication³

Parties to the code of conduct are required to make every effort to maintain effective communications with other parties to the code and to discuss issues of common concern. Besides being essential for avoiding misunderstandings and facilitating smooth implementation of electoral activities, mutual communication also facilitates the establishment of human relations that contribute to a fair and trustworthy election campaign.

(g) Coordination of campaign activities

A more recent feature of a code of conduct is the coordination of campaign activities among the competing parties.⁴ This requirement helps to avoid the problem of campaign activities becoming an instrument of interference with other candidates' campaigns, which in turn may lead to tension, challenges and even violence.

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¹ Cambodia, 1993, 1, in: IPU, 1998, Annex 11, p. 122; Canada (Manitoba), 1999; FIFA, 2009, Rule 4.1; FIFA, Rules of Conduct; IDEA, p. 15; IOC, 2009, A 3, p. 90; IPU, p. 64; Kyrgyzstan, 2010, p. 3; Liberia, 1997, 1, in: IPU, 1998, Annex 2, p. 87; Nigeria, 2011, Rule of Law, 5; OSCE, 1996, Article 119, in: IPU, 1998, Annex 5, p. 95; South Africa, 2006; Sudan, 2010, Part II 2; Thailand, 2011; UNTAES, Part I 2, in: IPU, 1998, Annex 1, p. 77; Zambia, 2006, 4(1).

² Bangladesh, 1996, in: IPU, 1998, Annex 4, p. 94; cf. Cambodia, 1993, 4(15), in: IPU, 1998, Annex 11, p. 123; Ghana, 1992, 4 and 13, in: IPU, 1998, Annex 12, pp. 124 and 125; IDEA, 1999, p. 17; India, 2009, IV.1; IPU, 1998, pp. 64 and 69; Kyrgyzstan, 2010, p. 4; The former Yugoslav Republic of Macedonia, 2011, 2; Nigeria, 2011, Rule of Law, 7; Pakistan, 1997, (24), in: IPU, 1998, Annex 3, p. 91; Panama, 1993, in: IPU, 1998, Annex 10, p. 120; Seychelles, 2001, General Aspects, 4; Sudan, 2010, Part VII 38; Tanzania, 2010, 2.1 (h).

³ Cambodia, 1993, 4(11), in: IPU, 1998, Annex 11, p. 123; IDEA, 1999, p. 21; IPU, 1998, p. 65; Kyrgyzstan, 2010, p. 4; Nigeria, 2011, Rule of Law, 7 (d); Zambia, 2006, 8(1)(a).

⁴ Nigeria, 2011, Campaign issues, 7; United Republic of Tanzania, 2010, 2.1(o).

(h) Abstention from improper practices¹

Parties to a code of conduct are usually requested not to offer money or other advantages to voters and candidates. This prescription aims to avoid undue influence on the outcome of the election. It is essential for a fair, legitimate and transparent election campaign that any attempts to incorrectly influence the voters be avoided.

(i) Financing²

In many codes of conduct, there is a provision concerning the transparency of the financing of electoral campaigns, requiring the parties to the code to disclose their income and assets, sources of income and expenses.³ Also, in some cases, legislation provides for financial assistance to establish equal opportunities among the parties.

(j) Acceptance of the outcome of a fair election⁴

Most codes of conduct provide that their parties will accept the outcome of an election conducted in conformity with it. This is to foreclose the possibility that the results of elections are easily challenged and overturned. A general perception about the finality of the electoral process aims at ensuring that the legitimacy of election results is not questioned and that those results are rather perceived to be final and reliable.

¹ Bangladesh, 1996, in: IPU, 1998, Annex 4, p. 93; Canada (Manitoba), 1999; FIFA, 2009, Rules 10 to 12; FIFA, Rules of Conduct; Ghana, 1992, 14, in: IPU, 1998, Annex 12, p. 125; IDEA, 1999, p. 20; India, 2009, I.4; IOC, 2009, B 3, p. 90; IPU, 1998, p. 64; JIU, 2009, p. 19; Kyrgyzstan, 2010, pp. 5 and 6; Liberia, 1997, 3(f), in: IPU, 1998, Annex 2, p. 88; The former Yugoslav Republic of Macedonia, 2011, 6; Nigeria, 2011, Election day issues, 6; Pakistan, 1997, (25), in: IPU, 1998, Annex 3, p 91; Panama, 1993, in: IPU, 1998, Annex 10, p. 121; Seychelles, 2001, General Aspects, 11; Sudan, 2010, Part VII 39; Thailand, 2011, 3; UNTAES, 1997, Part I 5, in: IPU, 1998, Annex 1, p. 78.

² IPU, 1998, p. 65; Nigeria, 2011, Party finance; OSCE, 2003, Part One, 7.6.–7.9, pp. 18–19.

³ Canada (Manitoba), 1999; The former Yugoslav Republic of Macedonia, 2011, 12; OSCE, 2002, IV.F.5.

⁴ Ghana, 1992, 22, in: IPU, 1998, Annex 12, p. 125; IDEA, 1999, p. 18; IPU, 1998, p. 71; Kyrgyzstan, 2010, p. 6; The former Yugoslav Republic of Macedonia, 2011, 13; Nigeria, 2011, Election day issues, 8; OSCE, 1996, Article 124, in: IPU, 1998, Annex 5, p. 96; Panama, 1993, in: IPU, 1998, Annex 10, p. 121; Saint Kitts and Nevis, 1995, in: IPU, 1998, Annex 8, p. 106; South Africa, 2006; Sudan, 2010, Part VII 45; United Republic of Tanzania, 2010, 2.2(k); Thailand, 2011, 6; UNTAES, 1997, Part I 13, in: IPU, 1998, Annex 1, p. 79; Zambia, 2006, 8(1)(b).

(k) Enforceability of the code of conduct

While the value of a code of conduct is often seen to lie in the extent to which it creates public expectations as well as ownership by its parties with regard to electoral conduct, a number of codes of conduct establish an electoral commission or similar body that deals with complaints concerning breaches of the code and that may make recommendations or publish its findings on the allegation, or even impose sanctions in case of breaches if the applicable law so allows. This feature is seen to increase the strength and enforceability of codes.

CONCLUSION

9. The Working Group may wish to take into account the common features identified in the foregoing review of codes of conduct in its further discussion of a possible code of conduct in relation to the nomination and appointment of the Director-General.

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¹ Canada (Manitoba), 1999; cf. FIFA, 2009, Rules 15 to 19; cf. FIFA, Rules of Conduct; IOC, 2009, G 1. and 2, p.93; IPU, 1998, pp. 54 and 71; Nigeria, 2011, Implementation, monitoring and enforcement, 5; OSCE, 1996, Article 123, in: IPU, 1998, Annex 5, p. 96; Sudan, 2010, Part VIII and Annex 1; United Republic of Tanzania, 2010, 5.5(g); UNTAES, 1997, Part I 10. and Part IV, in: IPU, 1998, Annex 1, pp. 79 and 83-86.

ANNEX

OVERVIEW: LIST OF DOCUMENTS AND CODES OF CONDUCT

Organization	Title	Year	Internet address
International Institute for Democracy and Electoral Assistance (IDEA)	Code of Conduct for Political Parties: campaigning in democratic elections (cited as "IDEA, 1999")	1999	http://www.idea.int/publications/coc campaigning/upload/polparties.pdf (accessed 18 October 2011)
Inter-Parliamentary Union (IPU)	Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union (cited as "IPU, 1998")	1998	http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Joint Inspection Unit (JIU)	Selection and Conditions of Service of Executive Heads in the United Nations System Organizations, JIU/REP/2009/8 (cited as "JIU, 2009")	2009	http://www.unjiu.org/data/reports/20 09/en2009_08.pdf (accessed 18 October 2011)
Organization for Security and Co- operation in Europe (OSCE)/Bosnia and Herzegovina	Annex 5: Electoral Code of Conduct for Political Parties, Candidates and Election Workers (cited as "OSCE, 1996") (from Codes of Conduct for Elections: a study prepared for the Inter-Parliamentary Union)	1996	Annex 5 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Organization for Security and Co- operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights	International Standards and Commitments on the Right to Democratic Elections: A Practical Guide to Democratic Elections Best Practice (cited as "OSCE, 2002")	2002	http://www.osce.org/odihr/elections/ 16859 (accessed 18 October 2011)

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Organization	Title	Year	Internet address
Organization for Security and Co- operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights	Existing Commitments for Democratic Elections in OSCE Participating States (cited as "OSCE, 2003")	2003	http://www.osce.org/odihr/elections/ 42931 (accessed 18 October 2011)
United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (UNTAES)	Annex 1: Code of Conduct for Elections in the Region under the United Nations Transitional Administration in Eastern Slavonia, Baranja and Western Sirmium (cited as "UNTAES, 1997") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1997	Annex 1 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Council of Europe	Code of good practice for political parties, Resolution 1546 (2007)	2007	http://assembly.coe.int/Main.asp?link =/Documents/AdoptedText/ta07/ERE S1546.htm (accessed 18 October 2011)
Fédération Internationale de Football Association (FIFA)	FIFA Code of Ethics (cited as "FIFA, 2009")	2009	http://www.fifa.com/mm/document/a ffederation/administration/50/02/82/e fsdcodeofethics_web.pdf (accessed 18 October 2011)
Fédération Internationale de Football Association (FIFA)	Bid Registration regarding the submission of bids for the right to host and stage the 2018 FIFA World Cup or the 2022 FIFA World Cup – Rules of Conduct (cited as "FIFA, Rules of Conduct")		http://www.fifa.com/mm/document/a ffederation/administration/01/12/41/4 0/rulesofconduct.pdf (accessed 18 October 2011)
International Olympic Committee (IOC)	Ethics (cited "IOC, 2009")	2009	http://www.olympic.org/Documents/ Reports/EN/Code-Ethique-2009- WebEN.pdf (accessed 18 October 2011)

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Organization	Title	Year	Internet address
Member State			
Bangladesh	Annex 4: Code of Conduct for Elections 1996 (cited as "Bangladesh, 1996") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1996	Annex 4 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Cambodia	Annex 11: Code of Conduct 1993 (cited as "Cambodia, 1993") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1993	Annex 11 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Canada (province of Manitoba)	Shared Code of Ethical Conduct (cited as "Canada (Manitoba), 1999")	1999	http://www.elections.mb.ca/en/Political Participation/Shared Ethical Code of Conduct.html (accessed 18 October 2011)
Ghana	Annex 12: Code of Conduct for Political Parties in Ghana for Public Elections (cited as "Ghana, 1992") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1992	Annex 12 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
India	Model Code of Conduct for the Guidance of the Political Parties and Candidates (cited as "India, 2009")	2009	http://www.indian- elections.com/model-code-of- conduct.html (accessed 18 October 2011)
Kyrgyzstan	Code of Ethical Conduct of Political Parties in Elections in the Kyrgyz Republic (cited as "Kyrgyzstan, 2010")	2010	http://www.osce.org/bishkek/71167 (accessed 18 October 2011)

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Organization	Title	Year	Internet address
Member State			
Liberia	Annex 2: Special Elections Code of Conduct 1997 (cited as "Liberia, 1997") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1997	Annex 2 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Nigeria	Nigeria Political Parties Code of Conduct 2011 (cited as "Nigeria, 2011")	2011	http://www.elombah.com/index.php? view=article&catid=47%3Apolitics& id=5650%3Anigeria-political-parties- code-of-conduct- 2011&format=pdf&option=com_con tent&Itemid=65 (accessed 18 October 2011)
Pakistan	Annex 3: Code of Conduct for the Political Parties and Contesting Candidates: General Elections 1997 (cited as "Pakistan, 1997") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1997	Annex 3 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Panama	Annex 10: Panama: Commitment of Santa Maria La Antigua: Ethical Electoral Commitment, 'Justice and Peace' Commission (cited as "Panama, 1993") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1993	Annex 10 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Seychelles	Seychelles: Code of conduct: Political parties (cited as "Seychelles, 2001")	2001	http://www.eisa.org.za/WEP/seycode 1.htm (accessed 18 October 2011)
South Africa	Electoral Code of Conduct (cites as "South Africa, 2006")	2006	http://www.elections.org.za/National MediaConference/htm/Electoral%20 Code%20of%20Conduct%20- %20Summarised.pdf (accessed 18 October 2011)

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Organization	Title	Year	Internet address
Member State			
Saint Kitts and Nevis	Annex 7: St Kitts and Nevis: Code of Conduct for the Political Process (cited as "Saint Kitts and Nevis, 1995") (from Codes of Conduct for Elections: a study prepared for the Inter- Parliamentary Union)	1995	Annex 7 to http://www.ipu.org/PDF/publications/CODES_E.pdf (accessed 18 October 2011)
Sudan	Electoral Code of Conduct for Sudan: March 2010 (cited as "Sudan, 2010")	2010	http://southsudaninfo.net/wp- content/uploads/reference_library/rep orts/electoral-code-of- conduct03_2010.pdf (accessed 18 October 2011)
Thailand	Code of Conduct for the General Election Campaign in 2011 (cited as "Thailand, 2011")	2011	http://www.anfrel.org/0000/res_display.asp?res_id=609&country_id=16 (accessed 18 October 2011)
The former Yugoslav Republic of Macedonia	Code of Conduct for Free and Fair Parliamentary Elections: Macedonia 2011 (cited as "The former Yugoslav Republic of Macedonia, 2011")	2011	http://www.ndi.org/files/Macedonia- code-of-conduct-2011.pdf (accessed 18 October 2011)
United Republic of Tanzania	Electoral Code of Conduct for the Presidential, Parliamentary and Councillors' Elections, 2010 (cited as "Tanzania, 2010")	2010	http://www.tz.undp.org/ESP/docs/Le gal_Documents/2010_NEC_Electora l_Code_of_Conduct.PDF (accessed 18 October 2011)

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