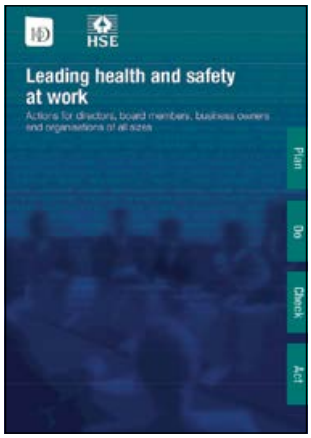
Leading health and safety at work

Actions for directors, board members, business owners and organisations of all sizes



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Introduction

This guidance sets out an agenda for the effective leadership of health and safety. It is designed for use by all directors, governors, trustees, officers and their equivalents in the private, public and third sectors. It applies to organisations of all sizes.*

Protecting the health and safety of employees or members of the public who may be affected by your activities is an essential part of risk management and must be led by the board.

Failure to include health and safety as a key business risk in board decisions can have catastrophic results. Many high-profile safety cases over the years have been rooted in failures of leadership.

Health and safety law places duties on organisations and employers, and directors can be personally liable when these duties are breached: members of the board have both collective and individual responsibility for health and safety.

By following this guidance, you will help your organisation find the best ways to lead and promote health and safety, and therefore meet its legal obligations.

The starting points are the following essential principles. These principles are intended to underpin the actions in this guidance and so lead to good health and safety performance.

Essential principles

- Strong and active leadership from the top:
  - visible, active commitment from the board;
  - establishing effective 'downward' communication systems and management structures;
  - integration of good health and safety management with business decisions.
- Worker involvement:
  - engaging the workforce in the promotion and achievement of safe and healthy conditions;
  - effective 'upward' communication;
  - providing high-quality training.
- Assessment and review:
  - identifying and managing health and safety risks;
  - accessing (and following) competent advice;
  - monitoring, reporting and reviewing performance.

** The Health and Safety Executive (HSE) has further advice on leadership for small businesses and major hazard industries – see 'Key resources' section.*

In this guidance

The following pages set out:

- a four-point agenda for embedding the essential health and safety principles;
- a summary of legal liabilities;
- a checklist of key questions for leaders;
- a list of resources and references for implementing this guidance in detail.

The agenda consists of:

- core actions for boards and individual board members that relate directly to the legal duties of an organisation. These actions are intended to set a standard;
- guidelines that set out ways to give the core actions practical effect. These guidelines provide ideas on how you might achieve the core actions;
- case studies selected to be relevant to most sectors.

A website, www.hse.gov.uk/leadership, provides links to all the resources mentioned. It includes online and downloadable versions of this guidance and further advice for small enterprises.

Benefits of good health and safety

Addressing health and safety should not be seen as a regulatory burden: it offers significant opportunities. Benefits can include:

- reduced costs and reduced risks – employee absence and turnover rates are lower, accidents are fewer, the threat of legal action is lessened;
- improved standing among suppliers and partners;
- a better reputation for corporate responsibility among investors, customers and communities;
- increased productivity – employees are healthier, happier and better motivated.

Costs of poor health and safety at work

HSE statistics reveal the human and financial cost of failing to address health and safety. Each year:

- Millions of working days are lost due to work-related illness and injury.
- Thousands of people die from occupational diseases.
- Around a million workers self-report suffering from a work-related illness.
- Several hundred thousand workers are injured at work.
- A worker is fatally injured almost every working day.

Organisations can incur further costs – such as uninsured losses and loss of reputation.

For the latest statistics see: www.hse.gov.uk/statistics/index.htm

Legal responsibilities of employers

Health and safety law states that employers must:

- assess risks to employees, customers, partners and any other people who could be affected by their activities;
- arrange for the effective planning, organisation, control, monitoring and review of preventive and protective measures;

- have a written health and safety policy if they have five or more employees;
- ensure they have access to competent health and safety advice;
- consult employees about their risks at work and current preventive and protective measures.

Failure to comply with these requirements can have serious consequences – for both organisations and individuals. Sanctions include fines, imprisonment and disqualification.

Under the Corporate Manslaughter and Corporate Homicide Act 2007, an offence will be committed where failings by an organisation's senior management are a substantial element in any gross breach of the duty of care owed to the organisation's employees or members of the public, which results in death.

The maximum penalty is an unlimited fine and the court can additionally make a publicity order requiring the organisation to publish details of its conviction and fine. (See also the back page of this guidance for the legal status of this advice.)

"Health and safety is integral to success. Board members who do not show leadership in this area are failing in their duty as directors and their moral duty, and are damaging their organisation."

"Health and safety is a fundamental part of business. Boards need someone with passion and energy to ensure it stays at the core of the organisation."

"An organisation will never be able to achieve the highest standards of health and safety management without the active involvement of directors. External stakeholders viewing the organisation will observe the lack of direction."

"Board level involvement is an essential part of the 21st Century trading ethic. Attitudes to health and safety are determined by the bosses, not the organisation's size."

Quotes from health and safety leaders in the public and private sectors.

Plan

Case study – *North Staffordshire Combined Healthcare NHS Trust*

The board found itself facing service improvement targets. Using new corporate and clinical guidance, it set about taking a 'whole systems' approach to managing corporate risk, giving one of its directors responsibility for the leadership of health and safety for the first time. Health and safety was also made a key item on the board agenda.

This has resulted in a much better integrated health and safety management system that increases the opportunity to identify and manage all corporate risks, and a much more open culture, improving reporting and monitoring. The board actively promotes a culture that gives staff the confidence to report incidents. This has resulted in:

- 16% reduction in incidence rates over two years;
- 10% reduction in insurance premiums.

The board should set the direction for effective health and safety management. Board members need to establish a health and safety policy that is much more than a document – it should be an integral part of your organisation's culture, of its values and performance standards.

All board members should take the lead in ensuring the communication of health and safety duties and benefits throughout the organisation. Executive directors must develop policies to avoid health and safety problems and must respond quickly where difficulties arise or new risks are introduced; non-executives must make sure that health and safety is properly addressed.

Core actions

To agree a policy, boards will need to ensure they are aware of the significant risks faced by their organisation.

The policy should set out the board's own role and that of individual board members in leading the health and safety of its organisation. It should require the board to:

- 'own' and understand the key issues involved;
- decide how best to communicate, promote and champion health and safety.

The health and safety policy is a 'living' document and it should evolve over time, eg in the light of major organisational changes such as restructuring or a significant acquisition.

How it can be done

- Health and safety should appear regularly on the agenda for board meetings.
- The chief executive can give the clearest visibility of leadership, but some boards find it useful to name one of their number as the health and safety 'champion'.
- The presence on the board of a health and safety director can be a strong signal that the issue is being taken seriously and that its strategic importance is understood.
- Setting targets helps define what the board is seeking to achieve.
- A non-executive director can act as a scrutineer – ensuring the processes to support boards facing significant health and safety risks are robust.

Corporate governance

For many organisations, health and safety is a corporate governance issue. The board should integrate health and safety into the main governance structures, including board sub-committees, such as risk, remuneration and audit.

The Turnbull guidance on the Combined Code on Corporate Governance requires listed companies to have robust systems of internal control, covering not just 'narrow' financial risks but also risks relating to the environment, business reputation and health and safety.

Do

Case study – *British Sugar*

British Sugar had an excellent safety record and was devastated in 2003 when it suffered three fatalities. Although health and safety had always been a business priority, the company recognised that a change in focus was needed to achieve behavioural change. This included:

- the CEO assigning health and safety responsibilities to all directors, and monthly reports go to the board;
- creating effective working partnerships with employees, trade unions and others;
- overseeing a behavioural change programme and audits;
- publishing annual health and safety targets, and devising initiatives to meet them.

Results included:

- a two-thirds reduction in both lost time and minor injury frequency rates over a ten-year period;
- much greater understanding by directors of health and safety risks.

Delivery depends on an effective management system to ensure, so far as reasonably practicable, the health and safety of employees, customers and members of the public.

Organisations should aim to protect people by introducing management systems and practices that ensure risks are dealt with sensibly, responsibly and proportionately.

Core actions

To take responsibility and 'ownership' of health and safety, members of the board must ensure that:

- health and safety arrangements are adequately resourced;
- they obtain competent health and safety advice;
- risk assessments are carried out;
- employees or their representatives are involved in decisions that affect their health and safety.

The board should consider the health and safety implications of introducing new processes, new working practices or new personnel, dedicating adequate resources to the task and seeking advice where necessary.

Boardroom decisions must be made in the context of the organisation's health and safety policy; it is important to 'design-in' health and safety when implementing change.

How it can be done

- Leadership is more effective if visible board members can reinforce health and safety policy by being seen on the 'shop floor', following all safety measures themselves and addressing any breaches immediately.
- Consider health and safety when deciding senior management appointments.
- Having procurement standards for goods, equipment and services can help prevent the introduction of expensive health and safety hazards.
- The health and safety arrangements of partners, key suppliers and contractors should be assessed; their performance could adversely affect yours.
- Setting up a separate risk management or health and safety committee as a subset of the board, chaired by a senior executive, can make sure the key issues are addressed and guard against time and effort being wasted on trivial risks and unnecessary bureaucracy.
- Providing health and safety training to some or all of the board can promote understanding and knowledge of the key issues in your organisation.
- Supporting worker involvement in health and safety can improve participation and help prove your commitment.

Check

Monitoring and reporting are vital parts of a health and safety culture. Management systems must allow the board to receive both specific (eg incident-led) and routine reports on the performance of health and safety policy.

Much day-to-day health and safety information need be reported only at the time of a formal review. But only a strong system of monitoring can ensure that the formal review can proceed as planned – and that relevant events in the interim are brought to the board's attention.

Core actions

The board should ensure that:

- appropriate weight is given to reporting both preventive information (such as progress of training and maintenance programmes) and incident data (such as accident and sickness absence rates);
- periodic audits of the effectiveness of management structures and risk controls for health and safety are carried out;
- the impact of changes such as the introduction of new procedures, work processes or products, or any major health and safety failure, is reported as soon as possible to the board;
- there are procedures to implement new and changed legal requirements and to consider other external developments and events.

How it can be done

- Effective monitoring of sickness absence and workplace health can alert the board to underlying problems that could seriously damage performance or result in accidents and long-term illness.
- The collection of workplace health and safety data can allow the board to benchmark the organisation's performance against others in its sector.
- Appraisals of senior managers can include an assessment of their contribution to health and safety performance.
- Boards can receive regular reports on the health and safety performance and actions of contractors.
- Some organisations have found they win greater support for health and safety by involving workers in monitoring.

Case study – *Mid and West Wales Fire and Rescue Service*

Mid and West Wales Fire and Rescue Service recognised that it was critical to demonstrate to staff that health and safety was fundamental to the success of its overall service delivery – and that commitment to health and safety came from the top of the organisation.

The director of service policy and planning was made health and safety director, and implemented a revised framework for health and safety. The director made site visits to engage the workforce and placed renewed emphasis on the need to improve incident reporting, investigation and monitoring procedures. The service has reported:

- £100 000 reduction in insurance liability premiums in one year through improved corporate strategic risk management;
- 50% reduction in sickness absence resulting from work-related injury over two years;
- 50% reduction in injury rates over three years.

Act

Case study –
Sainsbury's

Sainsbury's rethought its approach to health and safety after an external audit highlighted the need for a more unified approach across the company. The key element was a health and safety vision, set out by the group HR director and backed by a plan that included targets over three years.

As part of the plan, all board directors were given training on health and safety responsibilities. Health and safety now regularly features on board agendas. The business benefits include:

- 17% reduction in sickness absence;
- 28% reduction in reportable incidents;
- improved morale and pride in working for the company, as indicated by colleague surveys.

A formal boardroom review of health and safety performance is essential. It allows the board to establish whether the essential health and safety principles – strong and active leadership, worker involvement, and assessment and review – have been embedded in the organisation. It tells you whether your system is effective in managing risk and protecting people.

Core actions

The board should review health and safety performance at least once a year. The review process should:

- examine whether the health and safety policy reflects the organisation's current priorities, plans and targets;
- examine whether risk management and other health and safety systems have been effectively reporting to the board;
- report health and safety shortcomings, and the effect of all relevant board and management decisions;
- decide actions to address any weaknesses and a system to monitor their implementation;
- consider immediate reviews in the light of major shortcomings or events.

How it can be done

- Performance on health and safety and wellbeing is increasingly being recorded in organisations' annual reports to investors and stakeholders.
- Board members can make extra 'shop floor' visits to gather information for the formal review.
- Good health and safety performance can be celebrated at central and local level.

Auditing and reporting

Larger public and private sector organisations need to have formal procedures for auditing and reporting health and safety performance.

The board should ensure that any audit is perceived as a positive management and boardroom tool. It should have unrestricted access to both external and internal auditors, keeping their cost-effectiveness, independence and objectivity under review.

Various codes and guides (many of them sector-specific) are available to help organisations report health and safety performance and risk management as part of good governance. See the 'Key resources' section.

When leadership falls short

When board members do not lead effectively on health and safety management the consequences can be severe. These examples mark issues for all boards to consider.

Competent advice, training and supervision

Following the fatal injury of an employee maintaining machinery at a recycling firm employing approximately 30 people, a company director received a 12-month custodial sentence for manslaughter. The machinery was not properly isolated and started up unexpectedly.

An HSE and police investigation revealed there was no safe system of work for maintenance, instruction, training and supervision were inadequate.

HSE's investigating principal inspector said: 'Evidence showed that the director chose not to follow the advice of his health and safety advisor and instead adopted a complacent attitude, allowing the standards in his business to fall.'

Monitoring

The managing director of a manufacturing company with around 100 workers was sentenced to 12 months' imprisonment for manslaughter following the death of an employee who became caught in unguarded machinery.

The investigation revealed that, had the company adequately maintained guarding around a conveyor, the death would have been avoided. The judge made clear that whether the managing director was aware of the situation was not the issue; he should have known as this was a long-standing problem. An area manager also received a custodial sentence. The company received a substantial fine and had to pay the prosecution's costs.

Risk assessment

A company and its officers were fined a total of £245 000 and ordered to pay costs of £75 500 at Crown Court in relation to the removal of asbestos. The company employed ten, mostly young, temporary workers; they were not trained or equipped to safely remove the asbestos, nor warned of its risk. The directors were also disqualified from holding any company directorship for two years and one year respectively.

Legal liability of individual board members for health and safety failures

If a health and safety offence is committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the organisation, then that person (as well as the organisation) can be prosecuted under section 37 of the Health and Safety at Work etc Act 1974.

Recent case law has confirmed that directors cannot avoid a charge of neglect under section 37 by arranging their organisation's business so as to leave them ignorant of circumstances which would trigger their obligation to address health and safety breaches.

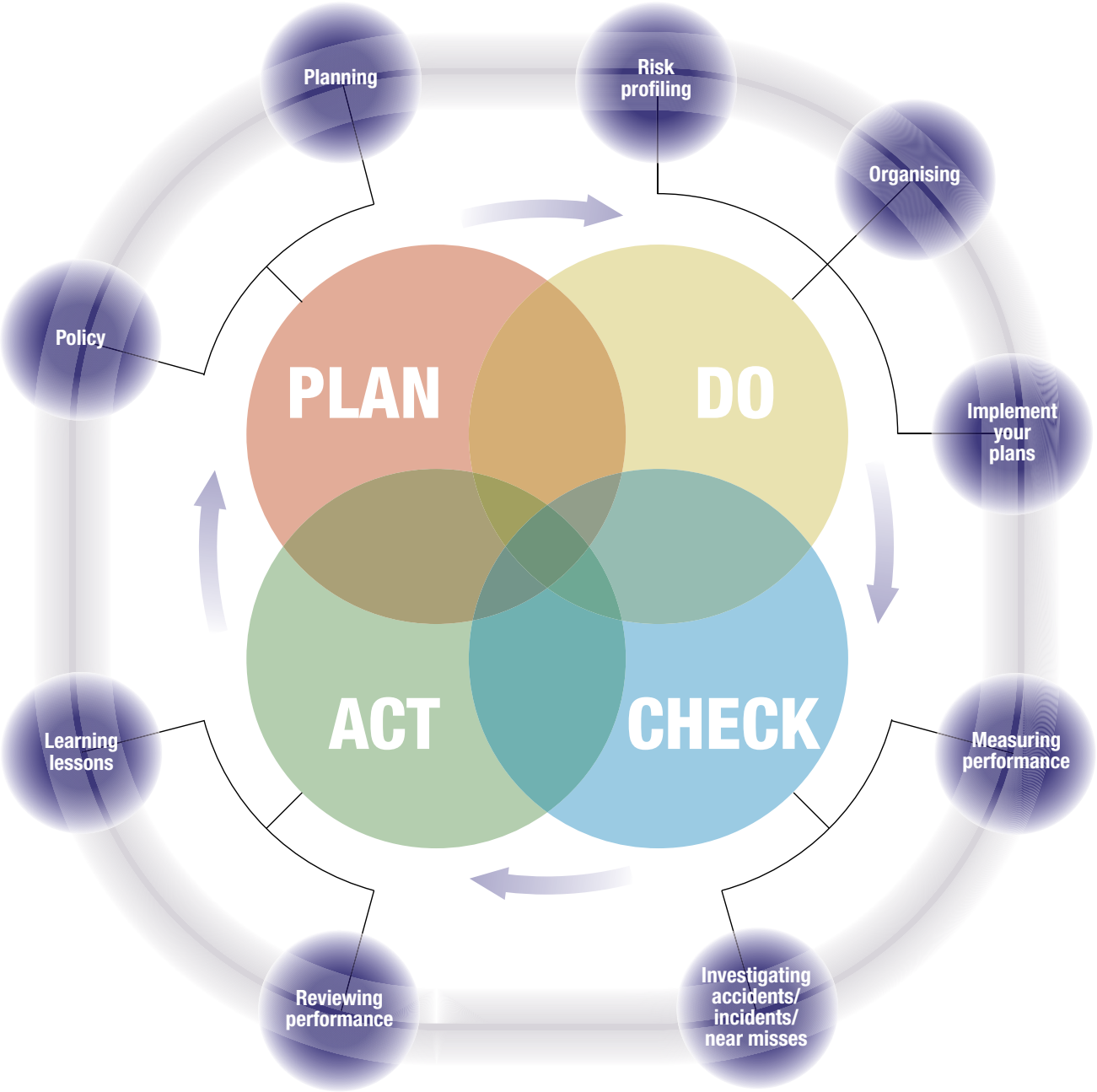
Those found guilty are liable for fines and imprisonment. In addition, the Company Directors Disqualification Act 1986, section 2(1), empowers the court to disqualify an individual convicted of an offence in connection with the management of a company. This includes health and safety offences. This power is exercised at the discretion of the court; it requires no additional investigation or evidence.

Individual directors are also potentially liable for other related offences, such as the common law offence of gross negligence manslaughter.

Under the common law, gross negligence manslaughter is proved when individual officers of a company (directors or business owners) cause death by their own grossly negligent behaviour. This offence is punishable by an unlimited fine and a maximum of life imprisonment.

Note: equivalent legislation exists in Northern Ireland, ie article 34A of the Health and Safety at Work (Northern Ireland) Order 1978 and article 3(1) of the Company Directors Disqualification (Northern Ireland) Order 2002.

Plan, Do, Check, Act



Health and safety checklist

Plan

- How do you demonstrate the board's commitment to health and safety?

www.hse.gov.uk/toolbox/managing/writing.htm

Notes

Do

- What have you done to ensure your organisation, at all levels including the board, receives competent health and safety advice?

www.hse.gov.uk/toolbox/managing/deciding.htm

- How are you ensuring all staff – including the board – are sufficiently trained and competent in their health and safety responsibilities?

Health and safety training: A brief guide
www.hse.gov.uk/pubns/indg345.htm

- How confident are you that your workforce, particularly safety representatives, are consulted properly on health and safety matters, and that their concerns are reaching the appropriate level including, as necessary, the board?

www.hse.gov.uk/involvement

- What systems are in place to ensure your organisation's risks are assessed, and that sensible control measures are established and maintained?

www.hse.gov.uk/toolbox/managing/managingtherisks.htm

Notes

Check

- How well do you know what is happening on the ground, and what audits or assessments are undertaken to inform you about what your organisation and contractors actually do?
- What information does the board receive regularly about health and safety, eg performance data and reports on injuries and work-related ill health?

www.hse.gov.uk/leadership/auditing.htm

- Do you compare your performance with others in your sector or beyond?
- Where changes in working arrangements have significant implications for health and safety, how are these brought to the attention of the board?

Notes

Act

- What do you do to ensure appropriate board-level review of health and safety?

Successful health and safety management HSG65
www.hse.gov.uk/pubns/books/HSG65.htm

Notes

Key resources

A dedicated web page has been created to provide boards and board members with further advice and guidance. It includes links to various publications and websites, as well as online versions of this guidance.

The web page can be found at: www.hse.gov.uk/leadership

You can get further information from the following organisations:

Health and Safety Executive (HSE) (www.hse.gov.uk)

- Managing for health and safety website www.hse.gov.uk/managing/
- *Successful health and safety management* HSG65 www.hse.gov.uk/pubns/books/hsg65.htm
- *Leadership for the major hazard industries: Effective health and safety management* Leaflet INDG277(rev1) HSE Books 2004 www.hse.gov.uk/pubns/indg277.htm

Health and Safety Executive for Northern Ireland (www.hseni.gov.uk)

Institute of Directors (IoD) (www.iod.com)

- dedicated web page at: www.iod.com/hsguide
- *Wellbeing at work: A Director's Guide* IoD 2006 ISBN 978 1 9045 2048 1

Institution of Occupational Safety and Health (IOSH) (www.iosh.co.uk)

- *Questioning performance: The director's essential guide to health, safety and the environment* IOSH ISBN 978 0 901357 37 3
- toolkits
- competent health and safety assistance

Royal Society for the Prevention of Accidents (RoSPA) (www.rospa.com)

- DASH: Director Action on Safety and Health
- GoPoP: Going Public on Performance – measuring and reporting on health and safety performance
- case studies

Trades Union Congress (TUC) (www.tuc.org.uk)

- safety representatives

European Agency for Safety and Health at Work (www.osha.europa.eu)

Further information

For information about health and safety, or to report inconsistencies or inaccuracies in this guidance, visit www.hse.gov.uk. You can view HSE guidance online and order priced publications from the website. HSE priced publications are also available from bookshops.

This guidance, issued jointly by the Institute of Directors and the Health and Safety Executive, is addressed to directors (and their equivalents) of corporate bodies and of organisations in the public and third sectors.

This guidance is issued by the Health and Safety Executive. Following the guidance is not compulsory, unless specifically stated, and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. Health and safety inspectors seek to secure compliance with the law and may refer to this guidance.

In considering the liability of an organisation under the Corporate Manslaughter and Corporate Homicide Act 2007, a jury must consider any breaches of health and safety legislation and may have regard to any health and safety guidance. In addition to other health and safety guidance, this guidance could be a relevant consideration for a jury depending on the circumstances of the particular case.

This leaflet is available at www.hse.gov.uk/pubns/indg417.htm.

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