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Business Insolvency Worlwide

Corporate insolvencies: the true nature of the Eurozone crisis

Euler Hermes Economic Research Department

Economic Outlook

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* Germany, Austria, Switzerland

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Editorial

Creative destruction

Whether one wants it or not, companies have been and continue to be the actual victims of the ongoing European crisis. Corporate insolvencies in the eurozone are expected to increase by +21% in 2013 before ebbing back to a (more) moderate growth rate of +7% in 2014. In Spain alone, we expect a new all-time high with nearly 11,000 companies defaulting this year. Such a high number of insolvencies is disconcerting and sadly gives rise to soaring unemployment and a real phenomenon of deindustrialization. After record figures in 2009, another flood of bankruptcies – from the United States to China to France – poured into sectors with tax incentives coming to a halt such as construction and services. Once the ripples began, many companies were no longer profitable. Currently, the acceleration in the number of insolvencies is more a result of market fundamentals: from slowdown in household consumption in Europe to sluggish exports for Asia. In Europe, the retailing, furnishing, consumer electronics and automobile sectors have been hit strongly. It is this industrial Darwinism that appears to be the underlying theme for 2013, against a backdrop of ongoing credit rationing. The consequences are myriad: in Asia, for example, companies are seeing their export markets melt like snow under the sun and overcapacity is posing a problem. Could this economic turbulence (with the number of companies created also increasing in many countries) come to be synonymous with a renewal? If we believe the evolutionary theory of Schumpeter, such economic entropy could indeed foster a new beginning. The least adapted and, especially, the least innovative companies will give way to those that reinvent themselves and which meet the needs of today. After the perfect storm of 2009 and the current chill in the economy, now Schumpeter's "perennial gale"; it starts to make a lot. And yet... it is in sectors with high value added, intensive in talent, human capital and social capital, driven by research, innovation and entrepreneurship that these needs can be found. So the news may be bad, with soaring corporate insolvencies and heightening non-payment risk at a time when margins are already eroded. However, could this be a case of a step back in order to make a bigger leap forward? Perhaps. The condition for success is indeed that adequate policy steps are taken in terms of innovation, business environment and incentives, especially to support startups and incubators; before it is too late._*Ludovic_Subran*

Change in insolvencies
annual change in%

	2012	2013
Spain	32%	40%
Brazil	26%	20%
Belgium	4%	11%
Sweden	7%	10%
Greece	30%	10%
Czech Republic	46%	10%
Poland	29%	10%
Portugal	42%	9%
Global Insolvency Index	**1%**	**8%**
Netherlands	21%	7%
Italy	2%	7%
Taiwan	2%	6%
Latvia	0%	6%
Slovakia	6%	5%
Lithuania	5%	5%
Hungary	13%	4%
China	-14%	4%
Austria	3%	4%
Australia	1%	3%
Finland	1%	3%
Denmark	0%	3%
Hong Kong	-6%	3%
Russia	10%	2%
France	2%	2%
Germany	-6%	1%
Singapore	34%	1%
Chile	-3%	1%
Korea (South)	-10%	1%
Estonia	-19%	1%
Luxembourg	8%	0%
New Zealand	-8%	-2%
Switzerland	-4%	-2%
Romania	31%	-3%
Japan	-5%	-3%
Norway	-12%	-3%
Ireland	3%	-3%
Canada	-11%	-4%
South Africa	-17%	-4%
USA	-16%	-7%
UK	-8%	-7%

Sources: national figures, Euler Hermes forecasts

Overview

Corporate insolvencies, the real crisis

The decline in global corporate insolvencies in 2010-2011 proved to be short-lived. Insolvencies confirmed their rebound in 2012 (+1%), the result of two major and contrasting trends: while they fell more than expected in the Americas (-15%) and Asia (-5%), there was a sharper-than-expected rise in Europe, with bankruptcies up in each of the three major sectors (+3% in industry, +9% in construction and +7% in services). This was especially the case in the eurozone (+16% despite the German exception). The upturn in insolvencies is likely to gather pace in 2013 (+8%), in line with the downward revision in our macroeconomic scenario, in particular for Europe, and will probably continue through 2014 (initial forecast of +2%).

2012 overview: rise in the Global Insolvencies Index confirmed (+1%) after two years of moderate decline

By continuing into 2012 (global GDP down -0.5pp to +2.4% and trade -2.6pp to +3.3%), with ongoing problems in the eurozone, the slower global economic growth regime initiated in 2011 put an end to the decline in bankruptcies seen in 2010 (-6%) and 2011 (-4%). Over the full year, our Global Insolvencies Index – *see our methodology on page 29* – increased by +1%, i.e. in line with our estimates in late 2012 and slightly down on initial forecasts (+3% on a comparable basis). As the 2008-2009 crisis caused insolvencies to soar (+56% from 2007 to 2009), this rise means that global corporate failures remain high in absolute terms: our Global Insolvencies Index is just around 9% below its 2009 peak and still 18% above its average over the decade prior to the crisis (1997-2007). All in all, corporate bankruptcies in 2012 exceeded 2008-2009 averages in more than half of our sample countries (21 out of 39).

These overall figures nevertheless mask two major and contrasting trends. On the positive side of the ledger, two major regions recorded a slightly steeper decline than expected and underpinned global growth and trade in 2012. This can be seen in our Americas index (15%), where the rise in insolvencies in Brazil – from a record low – was more than offset by steep falls in North America (-16% in the United States and -11% in Canada). It was also the case for our Asia-Pacific index (-5%), despite the exceptions of Taiwan and Singapore. On the negative side, insolvencies increased slightly more than expected in many European countries: first and foremost in the Mediterranean countries (+27%), but also in the northern countries (+5%), especially the Netherlands (+21%), as well as France (+2%). Germany (-6%), the United Kingdom (-4%), Switzerland (-4%) and Norway (-12%) provided notable exceptions.

Taking a closer look at European insolvency indices by sector, calculated using the same methodology as for the Global Insolvencies Index, the overall picture unsurprisingly translates into an equally unfavorable assessment for the three major sectors. The insolvency index for construction in Europe increased for the second year in a row in 2012, reflecting a significant deterioration in the situation for companies (+9% after +4% in 2011). The increase was less pronounced – but equally symptomatic – for the business and consumer services insolvency index (+7% after +6% in 2011). Last, the European industry index was up +3% after falling the two previous years (-13% in 2010 and -5% in 2011), meaning that the spike in 2009 (+40%) is yet to be erased.

Some explanations...

In very many countries, there is a close correlation between the business cycle and insolvency figures. Generally, it takes GDP growth of 2% to 3% to stem the rise in insolvencies, and there is a very high elasticity of insolvencies to growth. A GDP growth reduction of 1 percentage point implies a 5% to 10% increase in insolvencies. In the second half of 2008, however, these general approximations, seen in practice from the start of the 1990s, were significantly exceeded: on top of the normal shock resulting from the economic cycle came the abrupt addition of exceptional factors directly stemming from the nature and impact of the global crisis. Indeed, the financial constraints now affecting businesses from summer 2008 onwards are behind half of the rise in insolvencies posted that year. But in 2009, it was in fact the record collapse in economic growth, due to the collapse in demand, that explains the bulk of the rise in insolvencies, which proceeded with exceptional ferocity (see opposite, and the country analyses on pages 8 through 28).

Over the long term, different countries have enjoyed very different average rates of growth, and this is reflected in diverging long-term insolvency trends, at least through 2007. Besides being affected by cyclical fluctuations, business insolvency figures can experience large variations due to changes in the provisions governing new business creations (because of the higher insolvency risk for start-ups) and, even more, due to changes in laws governing insolvency procedures. As in Slovakia in 2005, the change in US bankruptcy legislation in October 2005 triggered a wave of anticipatory insolvencies in that country, followed by a sharp fall in insolvencies in the first quarter of 2006, resulting in marked volatility in the annual US figures for 2005, 2006 and 2007.

Global Insolvency Index

(annual change)

Basis 100 = 2000	% of world GDP (**)	weight (*)	2011	2012	Forecasts 2013 f	Forecasts 2014 f
Global Insolvency Index	**85.4**	**100**	**-4%**	**1%**	**8%**	**2%**
Americas Index	29.2	34.2	-15%	-15%	-5%	-5%
Asia-Pacific Index	25.4	30.2	-6%	-5%	1%	2%
Northern Europe Index	13.0	15.3	-2%	5%	2%	-3%
Germany-Austria-Switzerland Index	6.9	8.1	-5%	-5%	1%	-2%
France Index	4.1	4.8	0%	2%	2%	-1%
Medit. & African countries Index	6.9	8.1	17%	27%	32%	12%
Euro zone Index	19.2	22.5	8%	16%	21%	7%

(*) share of Global Insolvency Index
(**) GDP 2011 weighing at current exchange rates
Sources: National figures, Euler Hermes forecasts

Forecasts

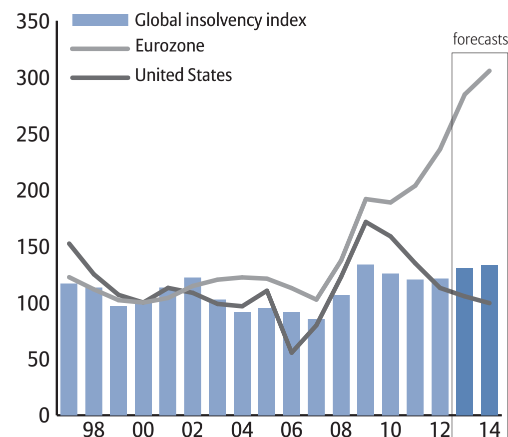
Statistics by country

	% of world GDP (**)	weight (*)	2012 number	2012 change	Forecasts 2013 f	Forecasts 2014 f
USA	22.5	26.4	40,075	-16%	-7%	-6%
China	10.9	12.8	2,626	-14%	4%	3%
Japan	8.8	10.3	12,124	-5%	-3%	3%
Germany	5.3	6.2	28,297	-6%	1%	-2%
France	4.1	4.8	60,958	2%	2%	-1%
Brazil	3.7	4.3	1,495	26%	20%	0%
UK	3.6	4.2	29,940	-8%	-7%	-6%
Italy	3.3	3.8	12,442	2%	7%	0%
Russia	2.8	3.2	14,072	10%	2%	-3%
Canada	2.6	3.0	3,236	-11%	-4%	-2%
Spain	2.2	2.6	7,799	32%	40%	15%
Australia	2.2	2.6	10,632	1%	3%	2%
Korea (South)	1.7	2.0	1,228	-10%	1%	-2%
Netherlands	1.2	1.5	8,616	21%	7%	-1%
Switzerland	0.9	1.1	4,513	-4%	-2%	-4%
Sweden	0.8	0.9	7,471	7%	10%	3%
Poland	0.8	0.9	941	29%	10%	2%
Belgium	0.8	0.9	10,587	4%	11%	2%
Norway	0.7	0.8	3,814	-12%	-3%	-6%
Taiwan	0.7	0.8	260	2%	6%	4%
Austria	0.6	0.7	6,041	3%	4%	0%
South Africa	0.6	0.7	2,928	-17%	-4%	-4%
Denmark	0.5	0.6	5,456	0%	3%	-3%
Greece	0.4	0.5	1,400	30%	10%	3%
Finland	0.4	0.5	3,471	1%	3%	-2%
Singapore	0.4	0.5	151	34%	1%	-3%
Chile	0.4	0.4	129	-3%	1%	-4%
Hong Kong	0.4	0.4	312	-6%	3%	-2%
Portugal	0.4	0.4	6,727	42%	9%	1%
Ireland	0.3	0.4	1,684	3%	-3%	-8%
Czech Republic	0.3	0.4	3,764	46%	10%	10%
Romania	0.3	0.3	29,769	31%	-3%	-14%
New Zealand	0.2	0.3	2,345	-8%	-2%	-2
Hungary	0.2	0.2	22,389	13%	4%	-4%
Slovakia	0.1	0.2	1,050	6%	5%	4%
Lithuania	0.1	0.1	1,339	5%	5%	-5%
Luxembourg	0.1	0.1	1,053	8%	0%	-5%
Latvia	0.0	0.0	881	0%	6%	-3%
Estonia	0.0	0.0	506	-19%	1%	-4%

(*) share of Global Insolvency Index
(**) GDP 2011 weighing at current exchange rates
Sources: National figures, Euler Hermes forecasts

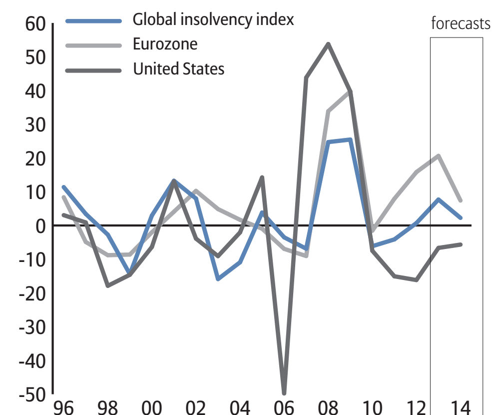
Forecasts

Global Insolvency Index
basis 100 = 2000



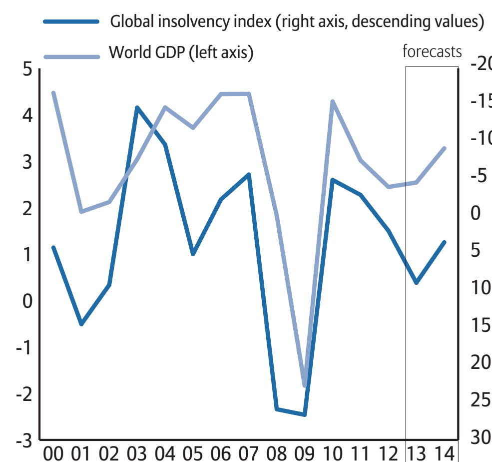
Sources: National figures, Euler Hermes calculation and forecasts

Global Insolvency Index
annual change in %



Sources: National figures, Euler Hermes calculation and forecasts

Insolvency and world GDP
annual change in %



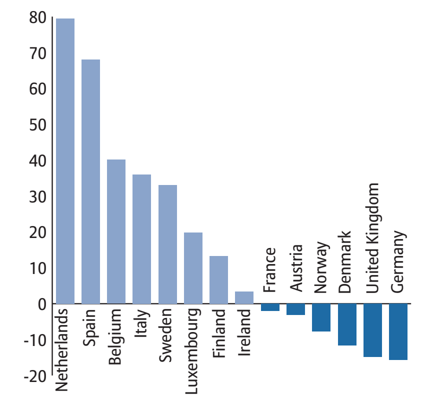
Sources: National figures, Euler Hermes calculation and forecasts

2013-2014 outlook: insolvencies set to rise further, especially in Europe

The downward revision in our macroeconomic scenario despite the easing of global financial tensions – *see our Economic Outlook no. 1193* – does not favor an across-the-board downward revision in insolvency forecasts. On the contrary. Indeed, we have revised downwards our estimates for Asia (1pp), which could nevertheless post a (slight) rise in bankruptcies after the low levels reached in 2012. On the other hand, our estimates are unchanged for the Americas, where insolvencies should continue to fall albeit at a slower annual pace than in 2012 (-5%). Likewise, our estimates are unchanged for northern Europe, France and Germany-Austria-Switzerland. These countries should all see a rise in bankruptcies (+2%, +2% and +1% respectively). Last, confirmation of the tougher climate in the Mediterranean countries further delays any hope of a growth recovery rapidly filtering through to a more favorable climate for business. With its economy expected to remain in recession (0.3% after -0.5% in 2012), our insolvency index for the eurozone is likely to again rise sharply (+21%). The European authorities are aware of this and are paying increasing attention to cross-border aspects of insolvencies – *see focus on page 7*. This rise in Europe accounts for most of the upward revision in our Global Insolvencies Index. All in all, we expect the global index to increase significantly in 2013 (+8% compared with +4% in our previous estimate). The outlook points to a slowdown in 2014 (+2%) on the back of a recovery in global growth (0.8pp increase in GDP growth to +3.2%) spreading to a greater number of countries, including Europe._*ML*

Insolvencies in construction

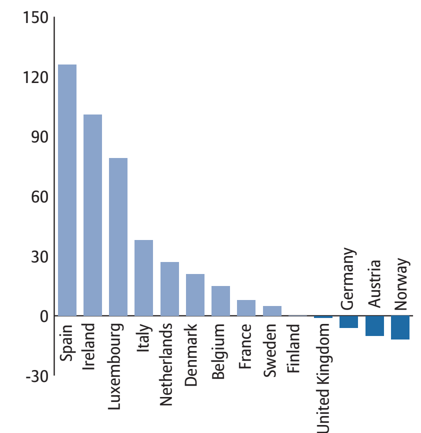
level of insolvencies 2012 compared to 2008-2009 average, in %



Sources: National figures

Insolvencies in services

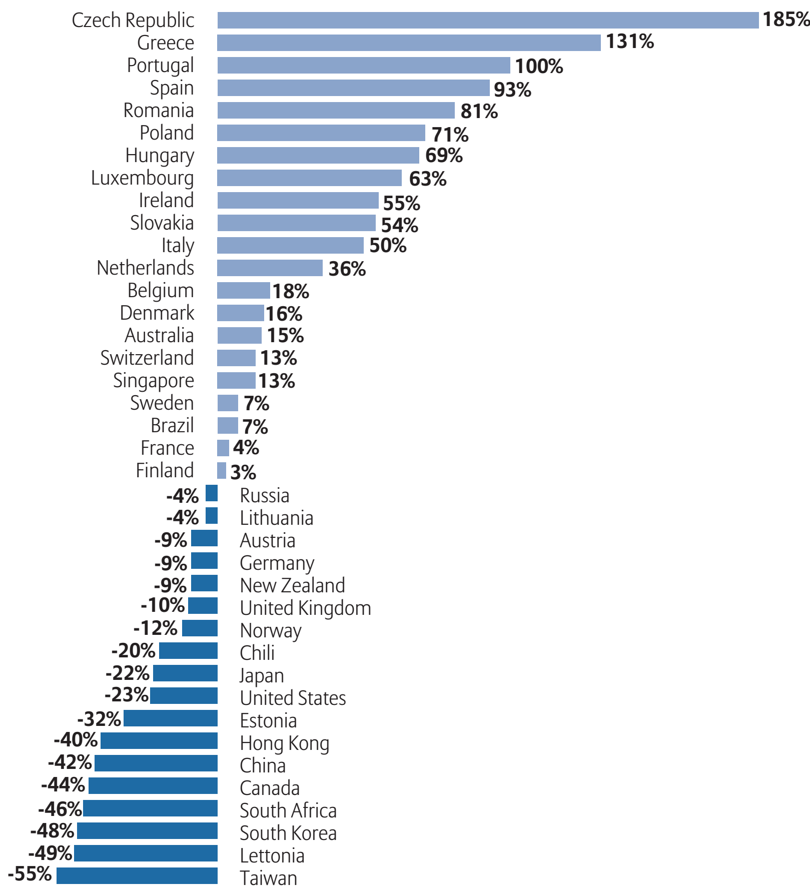
level of insolvencies 2012 compared to 2008-2009 average, in %



Sources: National figures

Insolvency in 2012

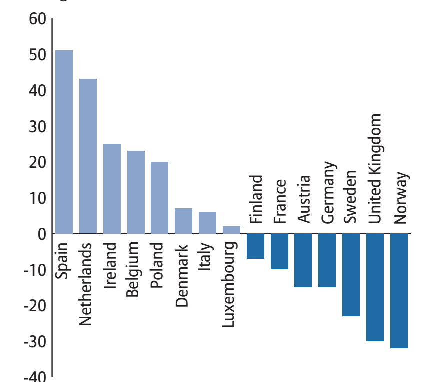
level of insolvencies 2012 compared to 2008-2009 average , in %



Sources: National figures

Insolvencies in industry

level of insolvencies 2012 compared to 2008-2009 average, in %



Sources: National figures

European Regulation
on cross-border aspects of bankruptcy

The regulation of cross-border aspects of bankruptcy was originally based on a principle of universality of bankruptcy, meaning that a single debtor cannot be the subject of several insolvency proceedings even if some of its assets are located abroad. Since 31 May 2002, the Regulation (EC) no.1346/2000 on insolvency proceedings adopted by the Council of the European Union in 2000 applies to all Member States of the European Union (except Denmark which did not ratify the text). The EU regulation lays down the coordination of national insolvency proceedings with a view to overcoming the problem of forum shopping, where litigants seek the most favorable jurisdiction.

Scope of the regulation (EC) N° 1346/2000: single proceeding

Since 2000, in order to avoid multiple different insolvency proceedings from being opened in several Member States where a multinational firm is present, the Regulation has established a single procedure for recovery plans or judicial liquidation. The law of the Member State in which main interests of the debtor are located shall govern insolvency proceedings.

► "Main" proceedings

Member State can open insolvency proceedings against a company if this company's main interests reside in that state. These so-called "main" proceedings have universal effect.

► "Territorial" or secondary proceedings

Other Member States are nevertheless entitled to open so-called secondary insolvency proceedings if the debtor owns an establishment and carries out a non-transitory economic activity in this other state's territory. However, a hierarchy exists in favor of the liquidator of the main proceedings, who can exercise a certain control over the secondary proceedings.

Amendment to the regulation and potential progress: a second chance for companies in difficulties

The 2007 economic crisis battered many companies, which may have been able to pull out of trouble if they were offered a second chance. Well aware of this problem, the European Commission wishes to adopt a new approach and tabled in front of the European Parliament on 12 December 2012 a proposal to amend Regulation no.1346/2000 with a view to promote cross-border investment and protect employment. This initiative seeks to update the rules concerning bankruptcies after 10 years of application and to stimulate economic recovery.

We note five main reforms:

- extension of the Regulation's scope of application to pre-insolvency proceedings;
- clearer definition of the centre of main interests that determines the competent jurisdiction;
- liquidation must no longer be the rule in terms of secondary proceedings;
- application of the Regulation to groups of companies;
- the introduction of rules on publicity of insolvency proceedings and the lodging of claims.

The new rules will no longer be based on liquidation but will adopt a novative approach to assist companies with sufficient means to rapidly and adequately overcome their financial difficulties, all the while protecting the creditors' right to be paid. The proposal therefore provides for a larger-scaled harmonization of national bankruptcy laws. A period of three years for debt rehabilitation and resolution should constitute a maximum limit for honest entrepreneurs and be as automatic as possible. Solutions must also be found to decrease restructuring costs for SMEs, such as a limit on fees, given that bankruptcy is often, for now, their only viable option.

► Advantages

- This would enable creditors to recover larger sums if a decision were taken to improve prospects of reorganization by encouraging more creditors to support restructuring plans.
- This would increase confidence in the efficiency of EU financial infrastructure from trade and financial sectors.

The Commission highlighted a certain number of areas where differences in national law can give rise to legal uncertainty and to an "unfavorable" environment for businesses and investment, such as:

- The criteria applied for opening insolvency proceedings. In certain Member States, proceedings may be opened only for debtors that are already affected by financial difficulties and are insolvent (Netherlands, Italy, France). In others, proceedings can be opened for solvent companies that anticipate insolvency in the imminent future (Germany, Great Britain).
- The rules governing the opening of the proceedings and the deadlines debtors must meet (between two weeks and two months to file for bankruptcy). The length of the timeframe may impact a debtor's ability to solve financial difficulties.
- Possibilities granted to creditors. Any limitations on the creditor's ability to commence insolvency proceedings may lead to situations where a creditor is treated differently when it comes to opening main and secondary proceedings against the same debtor.
- The transparency and efficiency of the claims filing and verification process. They impact significantly on creditors' ability to obtain a satisfactory outcome of insolvency proceedings. Concerning failure to meet the time limit, in some countries a creditor who missed the time limit may lose its rights to advance and obtain a satisfactory outcome of its claim in bankruptcy proceedings, whereas in other Member States it does not.
- National legal frameworks for restructuring plans. While the laws of Member States generally accept that it is up to the debtor to put forward a restructuring plan, the rules on whether creditors may propose a plan or influence its preparation vary. *_Mathilde.L*

NB: The Regulation does not apply to the particular situation of banks, insurance companies and other lending establishments. Ditto for groups of companies.

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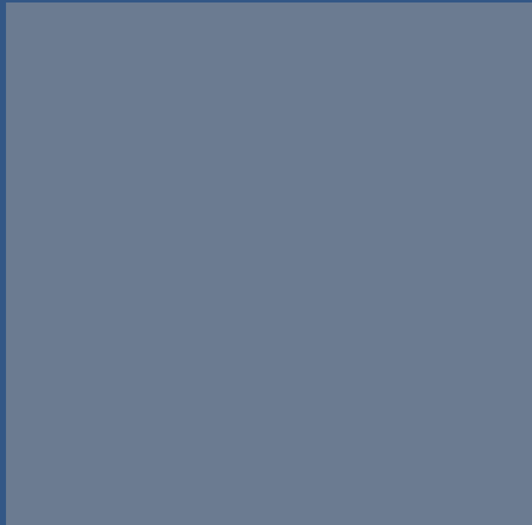

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