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Formalizing the Logging Sector in Indonesia: Historical Dynamics and Lessons for Current Policy Initiatives

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Formalizing the Logging Sector in Indonesia: Historical Dynamics and Lessons for Current Policy Initiatives

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This article reviews the Indonesian central government's efforts to regulate logging activities in historical perspective to draw lessons for the new timber legality verification system called SVLK. It shows that throughout history, illegal logging networks have been a fixture in Indonesia's forestry sector and that the involvement of local and national power holders has given logging activities a formal backing. The SVLK is expected to help improve forest governance, but since it is primarily an administrative tool there is a risk that preexisting trends and practices will continue. This underlines the need for anticorruption measures and independent monitoring to make the legality adherence system more robust and reliable.

Keywords illegal logging, Indonesia, legality, SVLK, voluntary partnership agreement

Regulating the Logging Sector

Illegal logging is cause for international concern, as it circumvents the laws set up to protect the environment and the rights of people (Lawson and MacFaul 2010). It includes logging from areas where extraction is not allowed, logging of protected species, extracting more than the allowable harvest, and logging of oversized or undersized trees (Casson and Obidzinski 2002). In response to concerns over the negative effects of illegal logging practices, national governments and international institutions have been taking measures to better regulate the logging sector. Over the last few decades, the emphasis has moved from centralized and top-down regulations toward decentralization, marketization, and increased involvement of

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actors other than the central state, such as subnational level government authorities, nongovernmental organizations (NGOs), communities, and the private sector (Agrawal, Chhatre, and Hardin 2008; Ros-Tonen et al. 2008). Today, the national governments of most timber-producing countries see themselves primarily as the facilitator of private initiatives, for example, through the setting of standards and by providing business incentives. At the same time, international forest-related regulations have increasingly been focusing on voluntary instruments, such as the development of principles for good governance, standardization, and certification (Van Heeswijk and Turnhout 2013). Also, there has been growing interest in timber legality, which could in theory help timber-producing countries to control the sector, while increasing tax revenues. This resulted in international programs to stimulate legality control based on general legality standards (Wiersum et al. 2013).

A Focus on Legality

One of the most important international programs to support trade in legal timber is the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. This was developed by the European Commission in 2003 in order to ensure that only legal timber would enter the European Union (EU). The mechanism is simple: A timber-exporting country can sign a Voluntary Partnership Agreement (VPA) with the EU, in which the producer country commits to develop a system to verify that all timber is produced according to national laws. As part of the FLEGT program, the European Union developed general principles for timber legality, but the specification of the principles is left to the participating countries. The way the general principles are operationalized at the national level therefore highly depends on the history and prevalent discourses within the respective countries (Van Heeswijk and Turnhout 2013). Although the FLEGT policy states that legality standards should include measures to prevent negative impacts on local communities, the main focus is on verifying document-based compliance with government regulations in the traditional forest sector, and there is no reference to the legal position of artisanal timber exploitation and trade for domestic purposes (Wiersum et al. 2013).

Indonesia—the world's largest producer of tropical logs (International Tropical Timber Organization [ITTO] 2011) with a proportion of illegal timber that is estimated to be around 40% (Lawson and MacFaul 2010)—signed a VPA with the European Union on September 30, 2013. As part of Indonesia's preparation for the VPA, the government launched a timber legality assurance system in 2009, known as SVLK (*Sistem Verifikasi Leglitas Kayu*). Under the VPA, SVLK certification is sufficient for timber to enter the European market. The SVLK is the main government-run legality verification system and must ensure that all timber is harvested, transported, and processed in accordance with Indonesian law. There are, however, concerns about the robustness of the system (e.g., Luttrell et al. 2011; Human Rights Watch 2013; Wiersum and Elands 2013).

In general terms, Green, Ward, and McConnachie (2007) argue that there are problems with relying solely on the concept of legality as the basis for curbing damaging aspects of logging, as the state's law does not necessarily protect the interests of local people and the environment. When forests are owned by the state, logging is legal when it is in concordance with the conditions of government legislation relevant to concessions, but this does not necessarily result in sustainable extraction on the ground, and may conflict with customary rights and compromise local livelihoods.

A process of democratization, such as one that has occurred in Indonesia since 1998, may help to address such tensions between central and local levels of governance—at least in theory (Edmunds and Wollenberg 2003; Colfer and Capistrano 2005).

Objective of the Article

This article describes past efforts to regulate the Indonesian logging sector, in order to understand the possibilities and pitfalls of the newly established SVLK system. The article does not intend to provide an exhaustive review of regulations or statistical evidence of their effects, but presents a broad overview of some of the main trends based on qualitative data from a review of the literature. We adopt a political ecology perspective, assuming that insight into historical processes is required to fully understand contemporary phenomena and paying particular attention to the linkages between the logging sector and broader political, economic, and social processes (*cf.* Blaikie and Brookfield 1987; Peluso 1992a). The article's main objectives are to describe the historical dynamics of logging regulations, illuminating trends and patterns, and to draw lessons that are applicable to the current debate about timber legality adherence.

We first describe the main efforts to formalize logging in three time periods: (i) the colonial era; (ii) the early 1970s under the rule of General Suharto; and (iii) the decentralization period of the early 2000s. These periods were selected as they are characterized by very distinct government regimes, which each introduced new and far-going regulatory reforms in the logging sector. In the discussion section we first briefly address the extent to which communities have been able to benefit from regulatory reforms. Second, we argue that illegal logging networks tend to operate as “semi-autonomous fields,” operating with the backing of local power holders. Third, we reflect on the challenges that the SVLK system faces. We conclude that the current push for legality adherence runs the risk of defying its purpose, as long as it is primarily an administrative procedure.

State Regulation of the Indonesian Logging Sector

Colonial Era: From Local to Central Control

Until the early 1900s, the management and exploitation rights of Indonesia's forest resources were with the colonial government's Forest Service. An important point in the legal history of Indonesia's forest management was the agrarian law of 1870, through which the Dutch colonial government declared all forest lands and lands that were unclaimed (i.e., land that was not cultivated or land that had been fallow for more than 3 years) as the domain of the state—the so-called *Domeinverklaring* (Peluso 1992b). Initially the colonial government was primarily interested in the teak resources on Java. Although the *Domeinverklaring* was also enacted in other provinces in 1875, the colonial Forest Service applied this law differently in Java and the rest of the archipelago (Boomgaard 1996, 2005). On Java the forest administration was highly centralized, with direct state control over all land that could not be proven to be owned by villagers (Peluso 1992b). The main objective was to reduce the presence and activities of rural communities in the forest, and attempts by the communities to continue their customary ways of exploiting forest resources were considered illegal (Vandenbosch 1941).

The situation was different on the islands outside of Java, known as the Outer Islands. The forest resources outside of Java were perceived of less commercial

interest, primarily due to difficult access and the high costs of exploitation. The Dutch therefore installed a type of indirect control, leaving the forest resources under the authority of local leaders. As such, the colonial government allowed customary systems to coexist with the colonial legal system. As a whole, more than 50% of the area of the Outer Islands was under the administration of native sultanates (Vandenbosch 1941, 133). The indirect rule afforded local native leaders control over utilization of forests for timber and other products, which was an important source of independent income for sustaining prestige and authority (Furnivall 1944).

The sultanates outside of Java were free to engage in logging ventures of any kind. Timber trade was usually based on the *opkoop systeem* (buying-up system), also known as *bevolkingskap* (logging by locals) (Nandika 1937). It involved a town-based timber exporter, some middlemen, and contracted lumberjacks. These actors were interlinked by a system of advance payments in kind or in cash for deliveries of timber within an agreed-upon period of time. At the top of the trade network were timber firms and large-scale traders that secured a profit-sharing agreement with the local sultans (de Boer 1937; Ensing 1938).

Increased foreign-financed operations in the early 1930s resulted in increasing uncontrollability of the *opkoop* system. Dutch officials lamented the inefficiency of the system, wastefulness, and the use of indentured labor (Suchtelen van 1933). Also, the colonial government realized that it was missing out on potential revenues through taxation, as a large portion of the harvested timber was leaving Dutch territory without taxation. This led the Dutch authorities to impose stricter regulations on “logging by natives.” In 1934, in an attempt to eliminate the *opkoop* system, the government curtailed sultans’ authority over forest resources by requiring all prospective loggers to acquire large-scale concessions or smaller scale logging plots (Lindblad 1988). This regulation, known as *Houtaankap-reglement*, also imposed taxes on extracted timber and minimum production quota, introduced a timetable for operations, and imposed specific penalties for violations (Hahmann 1937; Soepardi-Wardi 1956). As a result, timber operators rushed to register logging plots and concessions rather than risk legal reprisals and confiscations (Potter 1988).

Despite the new regulation, the holders of concessions and logging plots continued to rely on the *opkoop* system for their production. One of the reasons for the continuation of the system was a legal loophole—that is, village communities were free to cut trees for their own use without taxation. As a result, subcontractors and traders preferred to continue contracting local lumberjacks to cut logs. Whenever loggers would encounter forestry or police officers, they could say the timber was for subsistence use (Emanuel 1935). The decree effectively struck a balance between generating timber revenues for the central government and at the same time allowing native rulers and their associates to derive benefits (Obidzinski 2003). The efforts to formalize the logging sector thus resulted in a situation that was acceptable to all the most powerful actors, namely, the colonial government, timber traders, and native leaders. The changing regulation had little effect on local communities, which continued to be hired as lumberjacks on a contract basis, with most benefits accruing to timber exporters, subcontractors, and sultans (Obidzinski 2003).

Suharto: Further Concentration of Benefits

In 1967, general Suharto replaced President Sukarno, who had been the first president of Indonesia after its independence. Under Suharto, the government’s approach

to forest resources became more centralized. Suharto introduced in May 1967 the Basic Forestry Law (BFL), which secured the state's control over forest areas in the whole country, designating 143 million ha as "forest land" (*Kawasan Hutan*)—not less than three-quarters of Indonesia's total land area. With the law, the central government in Jakarta aimed to affirm control over forest resources, with the main aim being to increase revenues in support of national development programs. The BFL recognized the existence of customary rights on forest resources, but at the same time it stated that national development objectives would always override local claims (Bachriadi and Sardjono 2006; Galudra and Sirait 2006).

During colonial times and under Sukarno, it had already been common for local elites to use timber trade as a tool for political mobilization and income supplementation. General Suharto further perfected the forestry sector as one of most important instruments of economic and political patronage. In 1970 the government issued Regulation No. 21/1970 concerning forest concession rights and forest product harvesting rights, after which Suharto started granting large-scale concession (HPH) rights within his own network of family and friends (notably among the military), as well as to generate local political support and gain financial contributions (Christanty and Atje 2004). As a result, individuals related to the military and members of the extended Suharto family formed an oligarchy of domestic timber industrialists—with a particular prominent position for Mohamad (Bob) Hasan—which managed to generate significant wealth (Gellert 2010). Under Suharto, logging permits progressively concentrated in the hands of a few, and by the mid 1990s five large timber companies controlled 18.5 million ha, which was 30% of the country's timber concessions (Casson and Obidzinski 2002).

Suharto structured forestry regulations in such a way that the concessionaries could capture nearly all profits from timber (Koehler 1972; Broad 1995; Firman 1999). The main beneficiaries of Suharto's policies were top military officers who had been granted concessions and the large-scale loggers they worked with (Ascher 1998). Rural communities residing in or near forest exploitation areas did not gain much from the booming timber trade. In fact, they were often negatively affected. While in the past there had been few direct interventions to stop the communities from forest resource extraction, the proliferation of large-scale and capital-intensive logging concessions in which the military had a major stake led to much stricter exclusion from utilizing forest resources for village communities. Also, Regulation No. 21/1970 clearly stated that the concessionaires' rights overrode customary rights of local communities (Christanty and Atje 2004).

During the first years of Suharto's regime the government would allow local districts and communities to engage in small-scale logging activities, and small-scale concessions could be issued locally. This was Suharto's way to appease regional politicians. The number of small-scale logging plots grew, particularly in East Kalimantan (Manning 1971; Slamet 1971; Peluso 1983). In 1971, however, Suharto decided to ban small-scale logging. Comparable to the *Houtaankap-reglement* of 1934, the ban was justified with arguments related to inefficiency, wastefulness, and the uncontrollability of manual logging, while praising the benefits of industrial intensification (Ruzicka 1979).

Although Suharto's reforms resulted in the concentration of logging benefits in the hands of his cronies, he did not succeed in eliminating small-scale logging. Its resilience can be explained by the fact that these practices were an important source of income for local elites and local government officials and institutions. Hence there

emerged widespread illegal logging activities, which existed alongside formal concessions (Casson and Obidzinski 2002). Small-scale logging continued to persist throughout most of the 1970s—officially illegal, but firmly embedded in local power structures (Lauriat and Sacerdoti 1977; Sacerdoti 1979). Lower level military and bureaucratic–entrepreneurial networks were able to effectively circumvent national regulations.

Post-Suharto: From Central to Local Control

The dictatorial regime of President Suharto fell in May 1998. This marked the start of a period of far-reaching reforms, known as *reformasi*, with decentralization as one of its key elements. Suharto's successor, President B. J. Habibie, passed two general laws to transfer decision-making power on a wide range of issues from the central government in Jakarta primarily to districts (*kabupaten*, headed by a district head) and municipalities (*kotamadya*, headed by a mayor), largely bypassing provinces because of the fear of separatist movements (Duncan 2007). This resulted in an enormous fragmentation, with control over the government's budget devolved to a large number of districts and municipalities.

Habibie also had to show that his government was willing to reform the forestry sector (Barr 1999; Brown 2001). The Ministry of Forestry and Plantations therefore issued instructions to allow communities residing in or near forest areas to be involved in extractive forest activities (including logging) through cooperatives, work groups, and associations. Moreover, the central government passed legislation giving provincial governors and district heads the authority to issue small forest concessions for logging. Governors were allowed to grant concessions of up to 10,000 ha, while district heads could issue concessions up to 100 ha. Thousands of such permits have been issued over time (Casson and Obidzinski 2002; Tacconi et al. 2004).

Enthused by these regulatory developments, district heads started issuing both small-scale logging permits (sometimes overlapping with existing concessions) and district regulations to impose new types of fees and taxes on activities in the forest sector, such as timber transportation fees. The district authorities were eager, because the concessions generated financial resources for individual and institutional use in the districts. The small-scale concessions were attractive for logging enterprises, as they required relatively small initial investments, faced much shorter bureaucratic networks, and had low tax obligations, as compared to large-scale (HPH) concessions. The result was a boom of small-scale logging in most of the forested parts of Indonesia (Casson 2001; Khan 2001; McCarthy 2002; Smith et al. 2003; Engel and Palmer 2006; Palmer and Engel 2007). The rapid rise of local logging activities was further stimulated by the economic crisis that had started in 1997, which led many people to lose jobs, and by the fact that local actors no longer feared illegal logging, as the army had stopped protecting large-scale concessions, as it had been doing under Suharto (Casson and Obidzinski 2002).

In the decentralized context, businesses and rich individuals were willing to provide financial support for individuals running for a position as district head or mayor, but they would expect favors in return. As a result, the newly elected leader would be more accountable to the money providers than to the local people (Rhee 2006; see also Aspinal 2013). As the central government's regulations were unclear about the exact extent of decentralized authorities, it was largely up to the local governments themselves to define the roles they would like to play in various sectors.

This freedom provided local businessmen the opportunity to heavily influence district-level policies (Christanty, Atje, and Roesad 2004; Christanty and Atje 2004). District governments would give out small concessions without clear regulations related to the monitoring of logging activities and without sanction mechanisms for loggers who logged outside of the concession areas. Timber would be considered legal as long as it was subject to district taxes, but there was no attention to whether the timber was harvested according to national laws. District authorities thus formalized activities that were previously considered illegal, and the distinction between legal and illegal became increasingly blurred. Because of this new reality, loggers became less responsive to law enforcement measures by central authorities (Casson and Obidzinski 2002; McCarthy 2002).

Because of widespread legal abuses and timber smuggling that followed, in 2003 the small-scale logging permit policy was abolished and a log export ban was reestablished. However, illegal logging for the expanding domestic market continued, partly driven by local infrastructure development due to the creation of new districts and provinces. In the late 2000s it became part of the forest clearing operations associated with the development of coal mining, oil palm, and other commercial commodities (Obidzinski et al. 2014b). In this context, communities were allowed to engage in small-scale land clearing of designated plantation sites. This too was short-lived, however, as community enterprises of this kind (which often involved business partnerships with external investors) were often found to be operating illegally.

In the early 2010s in areas where commercial timber became exhausted, rural communities and their business/politics partner coalitions moved on to other segments of the economy, notably plantations development (Smajgl and Bohensky 2012). However, in areas where timber remained a viable economic resource, illegal extraction continued (Obidzinski et al. 2014a).

Discussion

Local Community Benefits

In all three periods logging activities have brought only limited benefits for local communities—predominantly upstream, interior Dayak communities living in forested areas (see, e.g., Engel and Palmer 2006; Palmer and Engel 2007). When the decentralized government introduced new regulations that allowed communities to operate concessions through associations and cooperatives, the opportunities to benefit from logging activities increased compared to the period before decentralization (Palmer and Engel 2007). However, although one of the objectives of the small concession policy had been to enable communities to set up their own logging enterprises, communities often lacked experience and financial means to do so. Hence a pattern emerged whereby the communities' role was limited to providing forest areas for logging, and receiving compensation payments in return. Often local timber entrepreneurs took on the role of license holders and contractors, while foreign timber buyers financed the business. The village benefits came mainly in the form of company fees per cubic meter of extracted timber, and some labor opportunities. It captured only a fraction of the market value of timber (Obidzinski 2003), and local benefits were not equally spread, as most of the money went to local elites and companies (Dermawan, Komarudin, and McGrath 2006; Duncan 2007).

Moreover, entrepreneurs often employed manipulative strategies, violating the contracts that were signed with communities in terms of agreed financial compensations and the development of infrastructure (Obidzinski 2003).

The fact that many communities opted for fast cash through compensation payments could be related to widespread tenure insecurity as a result of the ongoing struggle for control over forest resources between the district, province and central governments. Another explanation for the limited local benefits is the lack of downward accountability of local politicians. Although decentralization increased the possibility for certain local actors to influence forestry regulations, local politicians' representation of, and accountability to, local populations left much to be desired; they have often been more concerned about satisfying the wishes of individuals who funded their election campaigns (Rhee 2006). Benefit distribution has thus remained associated with corruption and patronage through clientelist networks (Robertson-Snape 1999; Hadiz 2004; Robison 2006; Duncan 2007; Aspinnall 2013).

The Persistence of Semi-Autonomous Fields

Throughout the periods just described, local power holders have tolerated illegal logging practices, that is, logging practices that do not conform to the national law. Illegal logging networks, which involve local elites and their business confidantes, have been able to act as "semi-autonomous social fields," with their own principles, norms, rules, and practices, and selectively abiding by or ignoring laws that are imposed by the state (Moore 1973, cited in Wollenberg et al. 2006). The central government has not managed to eliminate these illegal logging practices because they have been forming an important source of income for local elites. Central authorities may even have deliberately tolerated these illegal activities at the periphery. As such, this can be perceived as a continuation of the system of indirect control established by Dutch colonial regime, with which it allowed "customary" systems under the authority of local leaders to coexist with the legal system of the national government. The result is a status quo that satisfies the most powerful actors at various levels.

Illegal logging networks have persisted through time; only the constellation of participants has been changing. Under the Dutch colonial rule they consisted of sultans, timber traders, and subcontractors, who continued playing a key role even when the sultans' rights to control and tax the mining sector were taken over by the colonial government. Under Suharto's regime, military officials and economic elites were able to generate large financial benefits from logging concessions. When log exports were banned in 1983 they shifted their focus to developing downstream timber-processing industries, and when the importance of plywood production started declining, the same constellation of actors continued to be active in the pulp and paper industry and timber plantation sector. After the collapse of the Suharto regime in 1998 and subsequent decentralization, district-level government officials became key players.

Although decentralization opened space for positive changes, such as the increased sense of local ownership, and local participation in government affairs, the possibilities for corruption, clientelism, and patronage politics also increased (Aspinnall 2013; McCarthy 2004). The fragmentation of the state benefitted local elites, as the unclear and inconsistent legal framework set by the national government allowed them to advance their own interpretations of laws and

regulations. McCarthy (2004, 1218) calls it “state pluralism,” as different logics of regulation are co-existing. He writes:

After decentralization the clientelist arrangements which shaped access to and use of natural resources to a significant extent have taken a more visible form. Decentralization enhanced the opportunities of existing district elites to use district regulations to extract resources and extend their businesses under the umbrella of district “legality.” In this sense, rather than establishing a new system, the implementation of regional autonomy extends the well-established district modes of clientelism. (McCarthy 2004, 1216)

This situation maintained or even increased opportunities for collusion, corruption, and the promotion of self-interest. Indonesia had become a fragmented state in which district-level government actors and their partner coalitions could evade central notions of legality, to their own benefit (Wollenberg et al. 2006; Aspinall 2013).

Intent on uprooting the entrenched nexus of illegal logging, corruption, and collusion, in late 2013 the government of Indonesia signed the Voluntary Partnership Agreement (VPA) with the European Union, an agreement that requires that all timber exported to Europe meet certain legality criteria. The process toward VPA began in 2005 with the multistakeholder national process of defining timber legality criteria and indicators. This process has been instrumental in defining the Timber Legality Assurance System (TLAS), in Indonesia known by the acronym SVLK. The Indonesian government originally decreed that all timber producers in the country must be SVLK compliant by end of 2014. However, facing slow progress in the vast small-scale sector, a 1-year extension was granted for compliance among the small and medium enterprises.

Challenges for the SVLK System

Under the Voluntary Partnership Agreement between Indonesia and the European Union, SVLK is the main legality verification system. SVLK certification indicates that the timber has been harvested according to Indonesian law and can therefore enter the European market. The system has been criticized for, among other reasons, interpreting legality in a narrow way, and focusing on traditional extraction and processing sectors rather than on community-based activities (e.g., Wiersum and Elands 2013). There are also concerns about the auditing mechanisms. Although the SVLK mandates independent monitoring by third parties, the Independent Forest Monitoring Network (*Jaringan Pemantau Independen Kehutanan*, JPIK) has complained about a lack of transparency and the fact that auditors and the government are failing to provide the necessary information on time. It also found that several companies have become certified under the SVLK process while the Anti-Corruption Commission had associated them with “indications of corruption.” Human Rights Watch (2013) concludes that the shortcomings both in the legality criteria themselves and in independent oversight are compromising the legitimacy of legal verification. Moreover, the SVLK audit criteria only assess the legality of company practices, and not the legality of government practices, such as the government’s issuance of concession permits. Since powerful individuals within or closely associated to district governments have built up large vested interests in logging practices over the last decades, there is a chance that district governments will continue to protect these interests, facilitating the legalization of timber.

Conclusions

In this article we described the efforts of the Indonesian central state to regulate the logging sector in the colonial period (until 1940), under the authoritarian regime of General Suharto (1967–1998), and in the period of decentralization (since 1998). Our review revealed a common feature in all three periods, regardless of the type of regulatory reforms, namely, the ability of local elites to uphold logging practices, even when they are illegal according to national legislation. Efforts by the central government to regulate the logging sector have not been effective in eliminating these illegal logging practices and the Indonesian decentralization process has so far not been conducive to the effective use of legal standards. Instead, district governments have formed new semi-autonomous fields with local business elites, effectively circumventing state regulation and formalizing hitherto illegal activities. This has led to an unclear distinction of what is lawful and what is not. There is a risk that existing illegal logging networks will continue to be able to circumvent national regulation by administratively legalizing their activities, without changing their practices. The success of the SVLK—which was developed to assure timber legality under the Voluntary Partnership Agreement with the European Union—therefore partly depends on independent monitoring of actual activities on the ground.

Indonesian logging has a history of serving the short-term interests of powerful actors, with little consideration for either environmental sustainability or local livelihoods. This is due to a combination of factors, including political patronage, poor accountability of local leaders, and a lack of property rights of local communities. The current interpretation of legality in Indonesia's SVLK system does not directly address these root causes and therefore may not spur the wider reforms that are needed. Still, the SVLK system can provide an important step toward streamlining legality, and eliminating illegal networks, but only if combined with independent monitoring and anticorruption measures that also address the role of the district government.

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