The Governance of Land Use in France
CASE STUDIES OF CLERMONT-FERRAND AND NANTES SAINT-NAZAIRE

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Notes

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France is a unitary state with a strong national government that continues to exercise direct oversight over the decisions of subnational governments, even as it devolves additional responsibilities to them. There are 35,855 basic units of government in France—the commune or municipality. The large number of, mostly small, communes provide a high degree of contact between citizens and their elected local government representatives. In addition, there are several layers of subnational government above communes, with either directly or indirectly elected leaders. However, France also maintains a system of préfets, who are the direct representatives of the state, at all levels of subnational government to monitor the decisions of elected officials.

In the case of land use, the ultimate responsibility for drafting the laws that govern the uses of specific land parcels are made by communes, the lowest level of subnational government. Individual communes are assigned the responsibility for land use laws because they are deemed best-placed to understand how a change in land use for one parcel of land can affect adjoining parcels, and balance conflicting local interests. Yet, while communes have technical responsibility for defining land uses, their actual decisions are increasingly shaped and constrained by: European Union directives, national laws and regulations, spatial plans of regional governments and the planning policies of intercommunal organisations. They can also cede their authority to the intercommunal level to make land use decisions.

The national government continues to play a role in local decision making, including land use decisions, in some cases. The system of préfets who share overlapping power with local elected councils can still have a great deal of influence, especially in small and rural communes that have limited professional staff and part time councils. In addition, the common practice in France of members of the National Assembly also holding a local elected office leads legislators to be highly involved in local decisions, more so than if they only held national office.

Towards comprehensive integrated spatial and land-use planning
Spatial planning in France involves multiple levels of government and a plethora of intergovernmental organisations

Each layer of sub-national governments has its own competences. There are three formal levels of government—regions, départements and communes—that have specific functions that are assigned by national law. In the past there was significant overlap in responsibilities and the hierarchy of authority among levels was not clear. That is, higher level governments could adopt policies, but they were not binding on lower level governments. More recent legislation has both reallocated responsibilities and clarified the hierarchical relationship.

France continues to have a very large number of small communes. All governments at the same level in France have equal authority, irrespective of differences in size. In principle, the Paris commune has no more authority as a commune than does a small rural commune with 500 people. While France has acted to reduce the number of regions to capture size efficiencies, it has not done this with communes. Further, local governments at the same level cannot impose their wishes on other governments. Yet, in a modern economy the boundaries of communes no longer correspond to economic activity and they certainly do not correspond to environmental or ecological zones. Since there is no possibility of large scale amalgamations of communes in France, some other governance mechanism is required to facilitate co-ordinated action across a larger geographic space. Consequently, there are a growing number of administrative entities that do not have a formal existence as units of government, but are special purpose voluntary agreements among subnational governments.

The most common of these are intercommunal agreements, where a number of communes agree to establish an organisation to which they will delegate authority and resources to act on their collective behalf. Spatial planning is one of these functions. With recent reforms the French government is providing additional authority to strengthen co-operation among groups of communes by establishing more complex agreements that have broader powers to manage development opportunities and challenges. These include a variety of new organisations that establish plans and undertake actions for the collective benefit of the members. Crucially, these are voluntary processes that only function well if they are managed such that all participating communes perceive that they will individually benefit from the agreement.
France has broadened the objectives of land use planning from economic development to a more integrated approach that includes social and environmental objectives.

Every country’s spatial policies are driven by an underlying logic. France’s planning system has long been characterised as following the “regional economic” form, wherein spatial planning pursues a wide range of social and economic planning objectives, with a particular emphasis on correcting regional disparities in wealth, employment and social conditions. But the system is shifting towards a “comprehensive integrated” form, which focuses more on spatial co-ordination through a hierarchy of plans, rather than mainly focusing on economic development per se.

The objectives of land use planning now include environmental protection and efforts to minimise sprawl in order to reduce climate change effects. In addition, there are also aspects of the planning process that aim to foster greater social cohesion. This has made the objectives for planning more complex because trade-offs among these objectives may be required, and because the different levels of subnational government can place different weights on the various objectives for land use plans.

The role of regions has recently been strengthened relative to its authority a decade ago. In November 2014, the National Assembly adopted legislation to reduce the number of regions in France from 22 to 13 by 2016. The legislation also reduced areas of jurisdictional overlap, so that the powers of regions and départements are specific and exclusive. For planning purposes, regions will pursue integrated planning and broad economic development strategies; départements will focus on providing social development and related services; and communes will focus on land use plans and local public services.

Under this new framework, regional plans are now binding on lower order plans. While in the past, regional plans provided only non-binding guidelines and strategies for the départements and commune levels, the new regional spatial plans (SRADDET) require conformity by lower order plans. The new law replaces the essential elements of the three regional sectoral plans (on transport, ecology and climate air and energy) and adds a requirement for the region to develop a specific plan on the prevention and management of waste by 2017. The deadline for regions to adopt a SRADDET is 31 December 2018. Thus, local land use plans will need to adopt the logic of the regional plan once it comes into force.
As planning has become more complex, the commune is now too small a unit for effective planning but amalgamation of communes is usually perceived as politically unacceptable

France has recently put in place a more co-ordinated and hierarchical planning structure. Recent planning reforms have: devolved additional powers to subnational government, clarified which level of government has responsibility for specific decisions, and now require lower level plans to incorporate the structure of higher subnational government plans. Prior to these changes there was only limited co-ordination among the various land use plans, and no requirement that plans be nested in a hierarchy. The resulting contradictory requirements led to decisions resulting in conflicting land uses, especially along commune borders.

Most communes have less than 5 000 people and cover a small geographic area. However, their land use plans can affect people far away, both in terms of environmental spill overs and as a direct consequence of incompatible land use changes. The use of voluntary intercommunal agreements allows individual communes agree to a land use plan that covers a larger territory and that reduces the chance of conflicts. Intercommunal agreements have increased in number and in the topics they cover over time. They can be special purpose or multi-purpose and there are now complex layers where intercommunal agreements, in turn, form additional agreements with each other in order to expand their scope. While these agreements offer a high degree of flexibility and provide a focused way to align common interests, the growing number and scope of agreements and the importance of all participants seeing some benefit to them in order to take part, makes them complex to negotiate.

The increasing complexity and multi-scalar nature of spatial and land use plans requires capacity building for smaller communes to meaningfully take part. The supervisory role of the state has evolved with delegation, but remains in place. Land use planning has become more complex and the objectives at all levels of government are less aligned. This makes it more important that land use plans be consistent over a larger territory than a single commune. While many other OECD countries have relied on forced amalgamation to accomplish this, France has chosen to maintain a strong local democratic process defined by geographically compact and independent communes. This means that co-ordination has to come through voluntary agreements that can be challenging to establish, because they have to be structured as a positive sum game in order to attract participants. Where they have been successful they can allow a high degree of local “buy-in” to the plans.

Communes enter into a variety of binding agreements with other communes even though the agreements can limit the degree of flexibility they have in making independent choices. While they give up flexibility they must believe that the agreements offer greater rewards. In the case of joint land use planning, the benefits come from the delegation of additional responsibility from higher levels of government, or additional funds, to those participating in a particular type of intercommunal agreement.

Coordination benefits can come in the form of being better able to manage where new housing is built. This allows communes to ensure that infrastructure is built where it is needed and to better plan for the expansion of services. In addition, intercommunal plans can be vital for a commune to be able to comply with higher level environmental regulations on subjects, such as watershed management or solid waste disposal, that spread across multiple communes. Because economic activity also does not respect local administrative boundaries, intercommunal agreements can be a key element in efforts to improve employment and income across a larger territory by creating a spatial plan that improves the quality of life in a larger geographic area.
In places where civic engagement is weak or there is a great imbalance between the interests and capacities of the communes involved, collaborative governance is hard to establish and may not evolve beyond a narrow set of functions, thus limiting their effectiveness. In particular, communes and intercommunautés in rural and mountainous areas can be more likely to face constraints in various forms of capital—financial, human, social and institutional—that limit the inclusion of their interests in the elaboration of the SCoT and its eventual implementation. Thus, there is a significant capacity-building issue required in order to ensure that all local authorities have the ability, resources and buy-in to realise the planning objectives through the tools at hand.

Urban planning agencies have been critical actors in helping communities meet the challenges associated with increasingly complex strategic spatial and land use plans. They provide advice and expert assessment on urban planning and land management issues and develop urban planning documents. They are a centre of expertise on spatial planning and are linked to a national federation which shares best practices, tracks major trends and provides opinions on major national and European debates related to urban policy and spatial planning. The expertise that these agencies provide is critical. However, there is a risk that some elements of the planning process become a technocratic exercise that is not adequately embedded in community aims and visions, nor is it responsible and accountable to it through local democratic processes. These agencies, together with local governments, need to strike a careful balance so that the planning process—while increasingly sophisticated in the tools and analyses it draws on—is fundamentally rooted in local communities.
French municipalities should draw on a wider array of fiscal instruments to meet their spatial, economic, environmental and social objectives

Over the past decade, local governments in France have seen increasing fiscal autonomy. State transfers have declined and are anticipated to fall further over the short term, and local governments are responsible for more own source revenues. But local governments face several constraints in how they adjust to this environment: the ratio of own source revenues to total revenues (excluding borrowing) cannot fall below thresholds set in 2003 (the “fiscal autonomy rule”) and by law, they are not permitted to run budget deficits and can only borrow to finance future investments, which they do with increasing frequency.

Local governments are under pressure to reduce their operating expenses, cut back on investment, pool services and increase their revenue from local taxes. However local tax increases are limited by thresholds set by the State and can be very unpopular with local residents. Communes presently rely to large degree on property taxes on developed land, and in an effort to increase their take in the absence of tax increases, it is increasingly important to expand tax bases by encouraging new residential and business developments, including on suburban and peri-urban land. Such an approach is generally contrary to planning objectives. Further, there are a number of permanent or temporary exemptions that can be granted for all types of local taxation, some of which may undermine land use policies. Limited use is made of other fiscal instruments that could direct desired land uses and behaviours (e.g. increase density, develop on brownfield sites instead of greenfield ones). Local governments also make too little use of their power to modulate taxes on new low-density construction, while a number of measures to ease property access give undue encouragement to new construction at the expense of renovations. This also contributes to urban sprawl.

French municipalities should be given authority to draw on a wider array of fiscal instruments to meet their spatial, economic, environmental and social objectives. Presently, the property tax on developed land generates the largest share of revenue followed by the residence tax, the value-added tax on business income, the tax on business premises and finally, the tax on underdeveloped land. There are many other fiscal instruments that could be drawn on in order to complement spatial development objectives such as land value capture mechanisms.
Greater Clermont-Ferrand: Planning amidst territorial rescaling

The current strategy is to find a way to expand the size of the local economy in order to make it more attractive for inward investors by linking adjacent communes into a larger métropole.

Clermont-Ferrand is a medium size metropolitan area that is trying to restructure its economy. The metropolitan area is dominated by the city of Clermont-Ferrand, which had a strong manufacturing base largely driven by its role as the headquarters for the Michelin Tire Company. While the corporate headquarters remain, most of the tire manufacturing work has left the region. In 2016, due to a reorganisation of regional government in France, Clermont-Ferrand lost its role as the regional capital of the Auvergne region, which was merged with the Rhone-Alpes region. Lyon is the new capital of the merged region. This has not only reduced the number of direct jobs in public administration, but it may make the city less attractive in the future as a location for private firms. Moreover, the region is somewhat challenged in terms of connectivity with a small airport and limited rail connections. Like many other similar-sized agglomerations in OECD countries that have experienced such changes, there is no obvious strategy to define a new economic role.

The city is working to establish as stronger system of intercommunal linkages to increase the size of Greater Clermont-Ferrand, so it is seen as a larger urban agglomeration at a European scale. The belief is that this will make the region more visible and attractive to potential investors and lead to a new economic role. The city has some advantages in the form of good universities and strong local cultural resources. It also has a large amount of former industrial land that could be used for new purposes. Clermont-Ferrand’s main weaknesses are a somewhat peripheral location in a semi-mountainous topography, and weak air and rail links.
**Peri-urbanisation and farm abandonment threaten the terrain**

Situated in the Massif Central area of France amidst mountainous topography, Clermont-Ferrand faces particular transport and land use challenges. The agriculture lands surrounding Clermont-Ferrand are relatively productive if located on flat and fertile land, or unproductive if located on less fertile hilly land. Two key land use challenges are, trying to limit the conversion of the limited quantity of higher productivity flat land, and trying to reduce the rate of abandonment of lower quality hill land. In the first case, pressure for new suburban housing is leading to conversion. While the number of jobs lost and implications for agricultural output are not huge, the visual amenity implications are considerable. The amenity loss is seen as having negative consequences for the growing tourism industry. In addition, there are concerns that continued construction of new housing outside the urban core has adverse consequences for the city. Similarly, the loss of farms in the hilly areas is leading to a shift in the local ecology as land that has been managed for centuries reverts back to a wild state. The new terrain is typically less attractive for tourism.

**Given its situation, Clermont-Ferrand seems to have chosen the best option available to it, but it has not executed the plan particularly well**

Successful intercommunal agreements have to be structured to provide benefits to all participants. The spatial strategy for the agglomeration is based upon a growing number of intercommunal agreements that are intended to have two effects. The first is to improve local co-ordination to better manage the development opportunities in the area. The second is to shift the focus of those outside the region from the city of Clermont-Ferrand to metropolitan Clermont-Ferrand. Evolution of the local economy away from traditional industries like Michelin as the main engine for economic prosperity has placed greater importance on local governments being proactive, rather than simply relying on the private sector to drive growth. This entails greater co-operation among communes because the local labour market extends well beyond the administrative boundaries of the city. While the city of Clermont-Ferrand is the dominant local economy, making its prosperity central for the prosperity of all other communes, the current strategy seems excessively structured to benefit the urban centre with no effort to show how other surrounding communes might benefit in turn.

Clermont-Ferrand has additional ambitions to form linkages with other more distant cities in order to create an even larger agglomeration. Because Clermont-Ferrand is no longer the capital of its own region, and is now the third city in a much larger region, it faces the challenge of being marginalised by Lyon and Grenoble which are both considerably larger in population. To gain more weight, both in the region and in the nation, the strategy is to emphasise the expanded metropolitan area as the unit for consideration by firms and higher level governments. The thought is that if Clermont-Ferrand is perceived as being a larger urban agglomeration, it will be more attractive as an investment location.
More tools and incentives are needed to meet the objectives of urban density and revitalisation and the development of rural amenities for tourism and residents

Urban sprawl into adjacent communes weakens the ability of the city to attract redevelopment investment. While there is ample vacant land in the city, recent housing and commercial development has been outside the urban core, often in adjacent communes. Because French communes have no right to regulate other communes, Clermont-Ferrand is relying on intercommunal agreements to conduct joint spatial planning to focus any new development in the city centre. While this idea of a compact city is clearly consistent with French urban planning philosophy, for adjacent communes, giving up new development only makes sense if the strategy to make Clermont-Ferrand a “bigger” agglomeration ultimately leads to trickle-down benefits from new investment.

Current spatial plans for the métropole have a strong concern with minimizing adverse environmental impacts. Fostering compact development is part of this approach, as is maintaining agriculture on existing farmland and protecting natural areas in hilly terrain as tourist opportunities. The region has an attractive mountainous topography, but this land is marginal for farming and is experiencing land abandonment. With farm abandonment there are significant ecological changes that reduce the amenity value of the mountains. However, planning seems to offer no obvious solution to this problem. On the other hand, opportunities to expand farming on the arable valley and plain lands are limited due to their restricted area.

The planning objectives for urban and rural locales will be more effectively met if they combine various tools and incentives in order to promote density, develop brownfield sites, protect agricultural land, and development amenities for residents and tourists. This could include land use value capture mechanisms, density bonusing, brownfield redevelopment incentives and joint development where necessary.
Nantes Saint-Nazaire: Maintaining quality of life and the environment in a growth context

Nantes Saint-Nazaire is a successful and growing area; its future success relies on it maintaining the high quality of life that has spurred its residential economy.

This is a successful, larger mid-size agglomeration that has two distinct urban cores that used to be in direct competition, but in recent decades have joined forces. The cities had a historical rivalry in ship-building and in port facilities along the estuary of the Loire River. Ship-building and most port facilities ultimately concentrated in Saint-Nazaire, but ship building proved to be a highly cyclical industry, and while shipping is still important, the focus is now on bulk commodities and an liquefied natural gas terminal. Nantes has successfully shifted from heavy industry to advanced producer services and research and development, while Saint-Nazaire has diversified its manufacturing capacity beyond the maritime industry to aero-space. Successful economic restructuring has led to rapid demographic growth driven by: expanded employment opportunities in high wage positions, the fact the area offers a high level of natural amenities, and due to its relative proximity to Paris. Consequently, the region is experiencing a new set of land use issues.

Rapid economic and demographic growth in an area with a fragile water based eco-system now requires a more co-ordinated spatial planning approach. A significant share of the new residents are young families with children who desire detached housing and another significant group are retired people looking for appropriate housing. Both of these groups have often turned to suburban development, leading to growth in adjacent communes. New housing has placed pressure on fragile wetlands and complicated transport and infrastructure due to the difficulties of building in an estuary. Meanwhile, Nantes, in particular, was interested in redeveloping industrial brownfield sites in the urban core along the river. Resolving these issues has required a series of intercommunal arrangements that determine jointly acceptable spatial plans.

There is a general recognition in the entire region that preserving its unique water based set of amenities is a key factor for future growth. There is a strong consensus for additional economic and population growth, and a recognition that preserving the current amenities will be central to achieving this ambition. The area has locational advantages, but they are not that much better than those of many other areas of a similar size. What sets the Nantes Saint-Nazaire apart is the high amenity quality of the Loire estuary and adjoining Atlantic coast. But, overcrowding and inappropriate development could reduce this benefit. This makes it important that all communes in the area agree to a joint spatial development plan that balances environmental protection and access to natural amenities with growth.
Because Nantes and Saint-Nazaire were able to reconcile their differences and co-operate on economic development, this provided a demonstration that intercommunal agreements could be structured to benefit all parties and offered a model for other agreements. Both Nantes and Saint-Nazaire are involved in intercommunal agreements with their closest neighbours and there are other agreements among more rural communes. These agreements then roll-up into larger agreements for broader spatial planning. The area was one of the first to adopt a comprehensive spatial planning approach using a territorial coherence plan (SCoT, Schema de Coherence Territorial), and is now on its second version.

A major focus for spatial planning is to manage and increase the ongoing growth process. The aspiration is to continue to increase the population while protecting the natural environment that is one of the key drivers of economic prosperity because it makes the area attractive to firms and new migrants. There is strong sense that having good natural amenities can tip relocation decisions in favour of Nantes Saint-Nazaire. With ongoing growth there is a need for new housing and new sites for firms. A focus of the spatial plan is to concentrate new housing and firm locations in the urban cores where there is a considerable amount of available brownfield land due to a reduction in industrial activity. In order to encourage such developments, local governments can permit temporary uses of sites to increase interest and highlight the potential of a location for development. They can also provide fiscal incentives (e.g., tax breaks) for brownfield development.

The area’s spatial strategy seeks to balance population growth with environmental protection
Although the main orientation of the spatial plan is to concentrate future growth in the core to slow the conversion of farmland and protect the natural environment there is also a recognition that growth in the rural communes will be required. This reflects several phenomena. The first is that a large share of new migrants are families with young children who are not looking for urban housing and prefer more space that can be found in existing villages in rural communes. The second is that some firms may require greenfield location and are not interested in the available brownfield sites for a variety of reasons. Finally, maintaining development options in the smaller rural communes provides them with an economic incentive to participate in intercommunal agreements.

Spatial planning in the area is complicated by balancing a variety of interests including competition between the two urban communes and structuring a variety of different levels of co-operation among the considerable number of rural communes. While the number and complexity of these relationships is challenging for an outside observer, the participants seem to have developed a way to understand and manage the process. Perhaps more important is the history of all participants benefitting from intercommunal agreements. In addition, the complexity of living in a region where water is a common and critical feature that cuts across all communes creates a strong incentive to cooperate, if only to deal with mandates from the national government.

Despite collaborative structures, conflict over land use in the agglomeration still exists, particularly over the proposed Notre-Dame-des-Landes airport (Aéroport du Grand Ouest project)

While a tradition of comprehensive intercommunal agreements has resolved many potential land use conflicts, others remain. Some revolve around managing larger bodies of water, where any decision has significant benefits or costs for important groups. The largest is the proposal for a new Notre-Dame-des-Landes airport that will be built on land that many perceive as being important environmentally. Proponents favour the construction because they see it as contributing to economic growth. Opponents believe it will have considerable negative impacts on the environment and that the expanded capacity of the proposed airport is not necessary for the region. The conflict is emblematic of the challenge of balancing development with environmental preservation, and it shows that large projects, even in a milieu where co-operative decision making is strong, can be controversial. In the long run, an important question is how this will impact the currently strong degree of cooperation—and if it will, in fact, weaken it.

This issue also raises questions about the scale at which decisions should be made. A referendum on the issue, conducted at the level of the département, resulted in 55.17% voting “yes” in support of the new airport project. However, one could argue that the impact of the project is in fact regional in nature, and as such, a referendum on the matter should have been at that scale instead. Land use decisions in France need to navigate complex multi-scalar politics which are ultimately bound to questions about political legitimacy, accountability and embeddedness in local democracy.
Key recommendations

**Strengthen the political authority and visibility of strategic planning authorities**

Developing territorial coherence plans (SCoT) can be a lengthy and complicated process. In both case study areas, public engagement in these plans was limited. Consequently, there is a risk of capture by organised interests. Major efforts should be made to inform residents about this process and how it affects their communities. To be successful in the longer term, these associations need to be visible and understandable to citizens across the areas that they govern.

**Strengthen the planning capacities of smaller communes**

The territorial coherence plan establishes ambitious sustainable development goals. However, interpretations of what is “sustainable” can vary substantially across communities and contexts. These are not politically neutral instruments, and asymmetry in human, financial, or political/institutional capital can create real differences in the ability of the various actors involved to monitor, assess and implement plans. If the ambitions of the new regional plan and the territorial coherence plans are to be realised, there will need to be strong community capacity building among local actors who face such limitations, particularly in the smaller communes. This will help overcome the risk that the shift to ever more multi-sectoral and integrated plans across a larger functional scale are inadequately implemented in practice.
Enhance monitoring and management of periurban zones

Periurban areas are under a great amount of development pressure in France and face the greatest number of land-based conflicts (i.e., appeals to plans and development decisions). It is critical that mechanisms for exchange between levels of government are enhanced to facilitate vertical coordination. The newly created Territorial Conferences of the Regional Council President are important in this regard. They assemble all regional and local authorities under the chairmanship of the regional council president to facilitate an integrated and cross-disciplinary planning process. Given the number of changes to the planning system in recent years, further legal and institutional arrangements under the chairmanship of the regional council president are needed in order to ease community transitions to the new requirements.

Combine regulatory and economic incentives to meet spatial goals

Local legislation, which encourages urban sprawl, is particularly important given the trend of opposition to generalized developments. This is opposed to the planning reforms of Clermont-Ferrand, which focuses on a similar vein, where planning reforms are a higher-density housing that includes a smaller array of fiscal tools and incentives to promote more compact and sustainable urban form. It would be very difficult for both localities to achieve these objectives through land-use planning alone. Instead, they should use a broader range of tools, such as fiscal incentives, to promote higher-density housing that occupies a smaller square footage per person. In a similar vein, Clermont-Ferrand should use fiscal tools to enhance vertical coordination to facilitate policy learning.

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About the OECD’s work on the Governance of Land Use

The report *The Governance of Land Use in France: Case studies of Clermont-Ferrand and Nantes Saint-Nazaire* is part of the OECD’s Regional Development Policy Committee (RDPC) and its Working Party on Urban Policy (WPURB) and the Working Party on Rural Policy (WPRUR) programme of research on the Governance of Land Use.

This study of spatial and land-use planning in France is one of several land-use case studies that the OECD has undertaken (i.e. Poland, The Netherlands, Israel and the Czech Republic). This report, together with other governance of land use case studies, have in turn informed *The Governance of Land Use in OECD Countries: Policy Analysis and Recommendations* (2017), which provides policy analysis and a synthesis of the main recommendations from OECD work on land use. The OECD has also produced a companion volume to the aforementioned report—*Land-Use Planning Systems in the OECD: Country Fact Sheets* (2017)—which provides a descriptive overview of land-use planning systems across OECD countries.

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