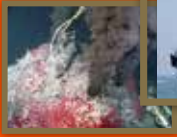
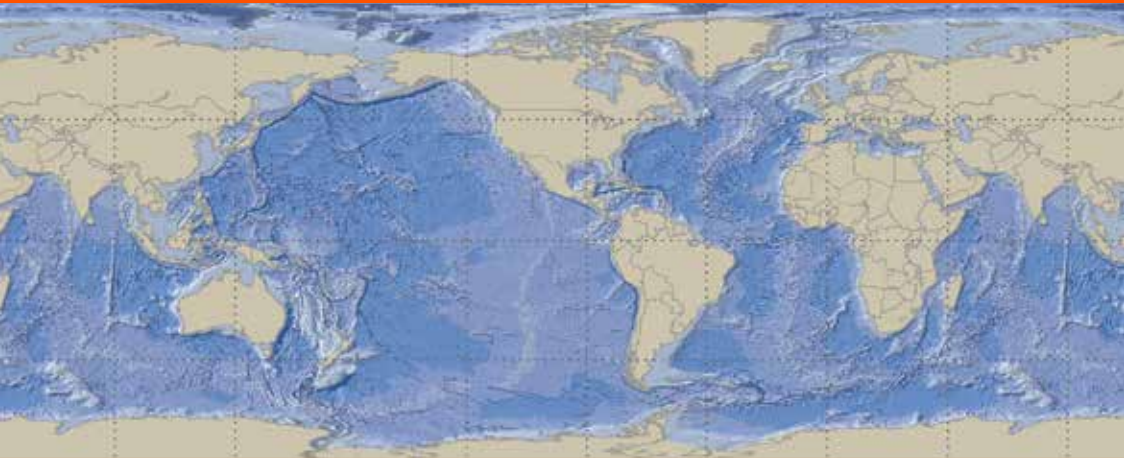


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Policy Brief on Capacity Development as a Key Aspect of a New International Agreement on Marine Biodiversity Beyond National Jurisdiction (BBNJ)



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Policy Brief on Capacity Development as a Key Aspect of a New International Agreement on Marine Biodiversity Beyond National Jurisdiction (BBNJ)

OVERVIEW

This is a multi-author, multi-institutional effort, led by the GEF/FAO/GOF Capacity Development Project and its Communities of Practice, involving a set of 39 Authors, contributing in their personal capacities. The Policy Brief addresses the challenges of capacity building; relevant international prescriptions on capacity development; deliberations on capacity in the BBNJ process so far; existing efforts in capacity building relevant to BBNJ;

financing capacity building for BBNJ; a possible clearing-house mechanism, and possible modalities for linking capacity efforts at global, regional, and national levels. The Brief is intended to contribute directly to the discussions at the Intergovernmental Conference on development of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ).

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1. The Challenge of Capacity Development Regarding Biodiversity Beyond National Jurisdiction (BBNJ)

Capacity development and technology transfer are cross-cutting issues which will be essential for the success of the new international legally binding agreement on biodiversity beyond national jurisdiction (hereinafter referred to as ‘International Agreement’). This Policy Brief seeks to provide analyses and suggestions for capacity development related to BBNJ that are both specific and practical. Section 1 discusses the challenges of capacity development and technology transfer, and depicts the types of capacity and skills that might be required to support the International Agreement, including skills relating to marine scientific research, area-based management, environmental and impact assessment (including strategic impact assessment addressing cumulative and cross sectoral impacts), development of marine genetic resources, and development of national and regional policies and actions vis-à-vis areas beyond national jurisdiction (ABNJ).

It should be noted that while this Policy Brief focuses mainly on capacity development, this topic is closely linked with the transfer of marine technology. Like capacity development, the transfer of marine technology is vital

for the implementation of the new International Agreement, and the two should be considered together as a cross-cutting issue. Transfer of marine technology is a key part of capacity development; in turn, adequately built capacity will ensure that technology transfer delivers lasting benefits.

The Policy Brief examines the various actors and stakeholders operating at different levels (global, regional, and national) and institutions which will be entrusted with the implementation of the new International Agreement. It addresses what capacities will need to be developed by these individuals and institutions to achieve the objectives of the International Agreement, considering the interconnections between areas within and beyond national jurisdiction. The Policy Brief also considers how these enhanced capacities will support the conservation and sustainable use of marine biodiversity in coastal areas and national EEZs—the continuum from coastal zones to EEZs to ABNJ.

Countries and regions have different starting points, cultures, capacities, and achievements, including socioeconomic and institutional/governance arrangements. Therefore, it is important to address the following questions: What do we know about the current capacity needs of countries and regions with regard to implementing the new International Agreement, including relevant

natural science aspects, and aspects related to the social sciences, policy, politics, and law? What are the best ways to ensure that capacity development responds to the needs of all countries? This section (and subsequent sections 4 and 7) discuss these capabilities/skills from the perspective of individual, institutional, and societal capacity development, and examine how governments and international agencies can provide an enabling environment for the use and application of specific capacities related to understanding and management of areas beyond national jurisdiction.

Bottom Line:

Capacity Development and Technology Transfer, the fourth major issue being addressed in the BBNJ process, is in fact, the “enabler” of the other three issues (marine genetic resources and access to benefit sharing; area-based management; and environmental impact assessment). Without appropriate capacity development and technology transfer, the other three major emphases of the BBNJ International Agreement will not be realized. This section delineates the need to develop further institutional and societal capacity to understand and act on ABNJ, in addition to continued development of capacity at the individual level.

Other sections of the report expand considerably on the major points made in Section 1. Sections 2 (Relevant

International Prescriptions on Capacity Development), Section 3 (Review of What Has Come Out of the BBNJ Process), Section 4 (Existing Efforts in Capacity Development), and Section 7 (Possible Modalities and Approaches for Linking Global, Regional, and National Processes on BBNJ).

2. Relevant International Prescriptions on Capacity Development

Capacity development for BBNJ is not starting from a vacuum; there are already many existing efforts by international and regional organizations that contribute to improved conservation and management of biodiversity in ABNJ. The Policy Brief takes stock of what provisions exist in international law and policy relevant to capacity development in ABNJ.

There is an existing and impressive “architecture” already in place on capacity development and technology transfer, emanating from the UNCLOS stream (1982 Convention, 1994 and 1995 implementing agreements), the UNCED stream (1992 UNCED, 2002 WSSD, 2012 Rio+20, Agenda 2030), as well as in related agreements—the 1994 Convention on Biological Diversity, the 2014 Small Island Developing States Accelerated Modalities of Action (SAMOA) Pathway, the 2012 Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services,

and the 2015 Paris Agreement on climate change.

While this “architecture” of capacity development and technology transfer is excellent and rightly ambitious, it appears that there has been limited implementation of these frameworks and guidelines. In most cases, implementation has not been tied to a funding mechanism, nor to a follow-up mechanism to assess progress and impact. Additionally, existing processes do not necessarily coordinate across various efforts, leading to duplication and to the absence of synergy among existing efforts. Significant attention/work has been focused at the individual level of capacity development (training individuals), and while this is very important, insufficient attention/work has focused on the development of institutional and societal capacity, which is essential in the longer-term to guarantee the sustainability of capacity development efforts.

Bottom Line:

There are already important provisions on capacity development in the UNCLOS and in other relevant international agreements which have only seen limited implementation. The major challenge is not to reconstruct these global prescriptions in the context of ABNJ, but instead to build a tangible system for capacity development and technology transfer.

Expressed needs for capacity development vary considerably from region to region of the world, suggesting that future provisions of a new International Agreement should be cognizant of regional diversity and provide the opportunity for tailoring solutions to the particularities of different regions.

National and regional representatives make clear linkages regarding capacity development along the continuum of coastal zones, territorial seas, Exclusive Economic Zones, and Areas Beyond National Jurisdiction. Efforts to build capacity regarding ABNJ must benefit EEZ and coastal management at the national level as well.

3. Summary of Discussions on Capacity Development in the BBNJ Process

The BBNJ PrepCom process has, to date, provided the perspectives of nations on the scope of and modalities for capacity development and technology transfer. The Policy Brief summarizes the content of the scope of and modalities for capacity development and technology transfer from the Chair’s streamlined non-paper on elements of a draft text of an international legally-binding instrument under UNCLOS on BBNJ at the conclusion of the preparatory process in 2017. The non-paper notes that both capacity-development and transfer of marine technology could

address: Access, collection, analysis and use of data, samples, publications and information; Implementation of UNCLOS obligations to promote the development of marine scientific research capacity in developing States and to promote the transfer of marine science and technology; Benefits from developments in marine science related activities; Capacity-development in respect to access and benefit sharing; Development, implementation and monitoring of area-based management tools (ABMTs), including MPAs; Conduct and evaluation of EIAs, and participation in SEAs; Implementation of the Sustainable Development Goals, in particular Sustainable Development Goal 14.

Bottom Line:

The discussions carried out so far in the BBNJ process have gone a long way in laying out a broad vision of capacity development and technology transfer, especially regarding scope and principles that should guide the endeavor. More detailed discussions are needed at this point, especially in terms of possible modalities for building capacity at global, regional, and national levels; the development of a clearinghouse mechanism; the development of sustained financing; and the development of a regular process for monitoring, review, and follow-up.

4. Existing Efforts in Capacity Development by United Nations Agencies, Other International Entities, Governments, Non-Governmental Organizations, and the Academic Sector Relevant to ABNJ

The Policy Brief presents the findings of an informal survey of 25 providers of capacity related to ABNJ on the part of various UN agencies, other international entities, non-governmental organizations, and the academic sector relevant to ABNJ carried out by the Policy Brief authors, including: *Secretariat of the Convention on Biological Diversity; Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations; Food and Agriculture Organization of the United Nations (FAO); The Intergovernmental Oceanographic Commission of UNESCO (IOC/UNESCO); International Ocean Institute (IOI); International Seabed Authority (ISA); Partnerships in Environmental Management for the Seas of East Asia (PEMSEA); Global Ocean Forum; Greenpeace International; Greenpeace USA; Institute for Advanced Sustainability Studies; International Chamber of Shipping; International Ocean Institute; Intramerican Association for Environmental Defense; Islands First; Natural Resource Defense Council (NRDC); Nausicaá National Sea Centre; The Nippon Foundation; Ocean Care; Ocean Policy Research Institute of the Sasakawa Peace Foundation (OPRI-*

SPF); *Pew Charitable Trusts*; *Tara Expeditions Foundation*; *Vietnam National University*; *World Maritime University*; *World Wildlife Fund* (WWF).

The survey asked respondents to report on the type of capacity development activities regarding ABNJ (e.g., training programs, conferences, manuals, guidelines, documentation and other materials, academic programs, public education programs, etc.), as well as the level (global, regional, national) at which the capacity development activity is aimed. As well, respondents were asked to report, for each capacity development activity, the issues addressed, objectives, target participants, region/country served, number of participants served, methodology, impacts, as well as the total budget used to implement the capacity development activity. These results are summarized in Section 4 with the detailed information appearing in the Annex to the paper.

This Section also reviews and provides examples with regard to scientific collaboration and of data and information sharing, including on marine genetic resources, and in relation to the Global Ocean Science Report.

Bottom Line:

Although there has been considerable growth of activities related to capacity building on ABNJ in recent years, overall, the number of activities on ABNJ

capacity development remain relatively limited, with many of the capacity activities being part of broader training in ocean policy, governance, and science. Most of the efforts are focused on training at the individual level rather than at the institutional and societal levels. The funding amounts are generally limited as well. There is no evidence of coordination among the various efforts.

Going forward, it would be useful to bring together the various efforts involved in ABNJ capacity development to ascertain lessons learned, what worked well and didn't, and to discuss possible modalities for scaling up activities in order to achieve capacity building at the institutional and societal levels. Connecting ABNJ capacity development to EEZ capacity development will be essential as well, since wise management of EEZs is of top interest and concern to member States. Creating some form of coordination among existing capacity development efforts will also be important to achieve greater synergy and forward movement.

As well, with regard to scientific collaboration and the sharing of data and information, at present, these activities tend to be ad hoc and not coordinated across different institutions. A more integrated approach with coordination and information sharing would better benefit developing countries and SIDS in implementing the new International Agreement. A central clearing-house of

opportunities (see section 5) would be one way to provide for such coordination.

5. A Possible Clearing-house Mechanism for BBNJ: Considerations and Lessons From Existing Clearinghouses

Many countries have proposed a clearing-house mechanism to assist in implementing a new International Instrument for marine biodiversity beyond national jurisdiction, including through sharing data and information related to BBNJ and to facilitate capacity development. While countries broadly agree on the importance of information sharing, many questions remain about the format and content of a potential clearing-house mechanism and the role that it might play in facilitating capacity development. For example, how might a clearing-house mechanism help in coordinating capacity development efforts and highlighting existing opportunities? Can it act as a matchmaking facility for users and providers? And how could it help articulate country needs? What features and components are needed in a clearing-house to address such needs?

This section specifically examines the use of existing clearing-houses established under international instruments to address the capacity-development needs of their users.

The 9 clearing-houses reviewed here include the Convention on Biological Diversity's Clearinghouse mechanism, the Access and Benefit-Sharing (ABS) Clearinghouse, the Biosafety Clearinghouse; UNFCCC's Capacity Development Portal; the Joint Clearinghouse Mechanism for the Basel, Rotterdam and Stockholm Conventions; the Intergovernmental Platform on Biodiversity and Ecosystem Services (IPBES); the Biodiversity and Ecosystem Services Network (BESNet); the Global Action Programme (GAP) Clearinghouse; and the Global Sustainable Consumption and Production (SCP) Clearinghouse. These were selected on the basis of their function, role and relevance to the potential capacity-development role of a BBNJ clearing-house.

Bottom Line:

This section provides a detailed look at the functioning and challenges faced by clearing-houses in 9 relevant international agreements. It summarizes what aspects of existing clearing-houses could be useful for a new International Agreement for BBNJ; what lessons can be learned from implementing clearing-house mechanisms; and details options for operationalizing a clearing-house-mechanism for the BBN International Agreement.

The section concludes that a clearing-house mechanism can provide a useful tool for facilitating information

sharing about capacity development opportunities, provide access to online training materials, facilitate scientific collaboration, and build networks of practitioners working on similar issues. It can also provide a platform for countries, institutions and individuals to register their capacity development needs, both initially and on an ongoing basis, thus facilitating dialogue and cooperation between those providing capacity development and those requiring it.

Lessons learned from other clearing-house mechanisms indicate, however, that keeping the user community engaged and the information in the clearing-house currently are some of its biggest challenges. Additional challenges include providing compatibility with other existing data repositories and enabling access in multiple languages.

6. Financing Capacity Development for BBNJ

The success of capacity development largely depends on the availability of adequate, predictable and sustainable funding, though progress can also be made through new and existing partnerships between private-public institutions and between regional and national institutions and research organizations. In this section, the Policy Brief discusses potential options for funding from public, philanthropic and private sources, such as support from multilateral institutions and

funds; private investment; contributions from a benefit-sharing mechanism (e.g., royalties from MGR exploration); contributions from fees related to EIAs; voluntary payments by oceans users; public-private partnerships; and other innovative funding mechanisms. The Brief discusses, as well, the potential establishment of a financial mechanism for the International Agreement, including options such as a stand-alone mechanism, an existing mechanism such as the Global Environment Facility (GEF), as well as trust funds to finance capacity development, drawing lessons from a review of the financial arrangements of various environmental conventions.

It is likely that capacity development and technology transfer under a new International Agreement for BBNJ would need to rely on a range of different financing types from both public and private sources. Regardless of the actual type of finance, the new International Agreement would also require a financial mechanism, a body and/or a process to facilitate the provision of funding for nations and regions, especially developing countries and SIDS, to build their capacity to successfully implement and comply with the provisions of the Agreement.

This section provides a review of the financial mechanisms and arrangements of the following existing 12 international agreements: *UN Frame-*

work Convention on Climate Change (UNFCCC); Convention on Biological Diversity (CBD); United Nations Convention to Combat Desertification (UNCCD); The Montreal Protocol on Substances that Deplete the Ozone Layer; CITES; Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention); FAO International Treaty on Plant Genetic Resources; United Nations Convention on the Law of the Sea (UNCLOS); Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982; Convention on the Conservation of Migratory Species of Wild Animals. The following information is presented: Presence or absence of a financial mechanism operating entity and associated funding amounts (in US dollars); presence or absence of special funds and their monetary value (as available); provisions for administration of the fund; and other resources.

The differences found between the mechanisms of various conventions are

a consequence of the different functions the instruments were designed to meet. The financial mechanism can be operated by one or more international entities, which take direction from a COP (Conference of the Parties) and are accountable to it. The COP would decide on the policies, program priorities and eligibility criteria for funding. This is the case, for example with the Rio Conventions--UNFCCC, CBD and UNCCD. In addition, special funds can be established to provide funding for specific purposes or recipients. The UNFCCC, for example, has two operating entities: The Global Environment Facility (GEF) and the Green Climate Fund and the UNFCCC Parties have established several special funds: the Special Climate Change Fund (SDDF), the Least Developed Countries Fund (LDCF) and the Adaptation Fund (AF). A review of the financial resources available to conventions shows that UNFCCC with its two operating entities and several special funds has raised the largest amount of financing for its activities. Conventions relying only on voluntary contributions have raised the least.

Bottom Line:

For capacity development efforts to be effective, sustained and steady financing will be essential. The Law of the Sea Convention, adopted early on, in 1982, does not have a standing financial mechanism, in contrast to the UNCED related conventions that were adopted in

1992 or later (i.e., UNFCCC, CBD, and UNCCD), all of which have a standing financing mechanism. The LOS Convention has relied mainly on voluntary contributions to voluntary trust funds and to the Assistance Fund, which have not provided sufficient funding for the implementation of the Convention.

While funds from philanthropic sources have been mobilized to support specific capacity development activities in support of the LOS Convention, the extensive work that will need to be done under a new BBNJ International Agreement will require a sustained public finance mechanism to finance implementation of the Agreement, including needed capacity development activities at global, regional, and national levels. Deliberations on the appropriate type of financing mechanism to support the future BBNJ International Agreement can be informed both by the goals and architecture that will characterize the agreement as well as by lessons that can be learned from the experiences of other international agreements.

7. Possible Modalities and Approaches for Linking Global, Regional, and National Processes and Perspectives on BBNJ

The Policy Brief examines the institutional landscape and rich tapestry of institutions undertaking capacity development in different nations and regions. What institutions are actively

engaged in ABNJ capacity development at the regional and national levels and how might collaboration be forged in each region to address the capacity development and technology transfer prescriptions of the new International Agreement? Additionally, how might cross-regional and international collaboration at the global level help individual regions and national governments better meet their obligations? Successful models of regional collaboration in capacity development are examined for potential transfer to and adaptation by other regions. Possible modalities for assessing and acting on capacity development needs regarding the ABNJ-EEZ-coastal zone continuum are also explored.

As discussed in earlier sections, capacity development needs to go beyond training courses to address the long-term needs of countries, at the individual, institutional, and societal levels, through such approaches as regional centres of excellence; networks of universities, national learning centers and regional institutions; development of curricula and courses related to ABNJ; technical networks of professionals; opportunities for continued skill-development; degrees and certificates; industry participation; and global scholarship funds.

Each region has its own unique environmental, institutional, political and capacity context, which often

includes an established institutional structure(s) for regional cooperation on managing the marine environment and its resources. In this context, many regions often have regional policies, programs, and initiatives that bring together countries to undertake area-based management, including creating marine protected areas, and to manage fisheries resources. Many of these existing institutions already engage in capacity development, particularly in training on specific topics related to their mandates.

There are many similarities among regions with regard to their capacity development needs, as expressed in the two ABNJ GEF/FAO/GOF workshops and in the ABNJ Regional Leaders training. There was general agreement among regional participants that capacity development measures should be tailored to the needs of each region and that home-grown approaches should be promoted and strengthened. Cross-sectoral capacity-development and improving coordination within ministries, among sectors and stakeholders nationally and regionally were seen as important priorities. Coordinated approaches are needed in managing ocean areas in the context of an ecosystem approach, and thus putting in place processes and structures for national and regional coordination will improve ocean governance both within and beyond national jurisdiction, by addressing both institutional mandates and capacities.

Other priorities included improving institutional capacity and finding ways to retain the best quality staff; access to information, data and technology related to ocean management; compliance and enforcement capacity; and providing for awareness raising about the importance of oceans in general and of ABNJ specifically.

With regard to capacity development modalities regionally, any efforts to build capacity should begin with identification and assessment of regional and national objectives and needs for capacity development, as well as existing opportunities on the regional and national levels. This could be the result of the enactment of comprehensive ocean policy addressing the identified needs, and aligning them to other regional and international frameworks. Strengthening regional and national institutions and universities is important, as is fostering better cross-sectoral coordination through capacity development. Improving coordination is not only based on capacity development, but requires additional enabling factors including communication, developing linkages and networking among institutions, etc. Capacity development efforts should also consider exchanging experiences between regions and creating a platform to capture experiences and draw lessons learned to be shared globally. Finally, sustainable and coordinated funding is required to consistently and reliably support capacity development.

Modalities on the national level discussed in the paper include examination of the concept of developing nationally determined goals for BBNJ (NDGs), which is an adaptation of the Nationally Determined Contributions (NDCs) under the UNFCCC Paris Agreement. Developing NDGs would allow countries to set goals and priorities and assess capacity needs in regards to a new International Agreement on ABNJ according to their own national priorities, capabilities, and responsibilities. The development of NDGs may be jointly carried out by a group of countries as a step in a regional planning process for geographically- or ecologically-defined regional waters. This would entail convening adjoining countries and member countries of relevant regional entities (RFMOs, RFBs, Regional Seas, LMEs, etc.) to develop region-wide goals for MGRs, area-based planning including MPAs, EIA, and capacity development. A regional ocean assessment and other environmental studies may have to be undertaken to provide benchmark information as a basis for the regional planning process which could take the form of marine spatial planning.

Bottom Line:

This section reviews the institutional landscape and rich tapestry of institutions undertaking capacity development in different regions and in different nations at the national level, and explores

possible modalities for linking global, national, and regional levels.

At the national level, it is important for national authorities to set goals and priorities and assess capacity needs in regards to a new International Agreement according to their own national priorities, capabilities, and responsibilities. This section suggests the possible consideration of the concept of Nationally Determined Goals for BBNJ (NDGs), which is an adaptation of the Nationally Determined Contributions (NDCs) under the UNFCCC Paris Agreement. This could involve, for example, developing national goals for area-based management, including establishing high seas MPAs, EIA, and capacity development and technology transfer, based on a national-regional process, and identification of benchmark data in line with International Agreement goals for these elements.

At the regional level, there are considerable similarities among regions with regards to expressed capacity development needs, emphasizing tailoring to the unique characteristics of each region, home-grown approaches, cross-sectoral approaches, and improving coordination among ministries, sectors and stakeholders both at national and regional levels. As at the national level, the process of specifying capacity development modalities for the region, would typically entail the convening of countries and relevant regional entities (Regional

Seas programs, RFMOs, LMEs, other) around planning for geographically- or ecologically-defined regional waters. A regional ocean assessment and other environmental studies may need to be undertaken to provide benchmark information for the regional planning process, which may include methodologies such as marine spatial planning. A regional plan for capacity development and technology transfer in BBNJ could then be systematically designed, including developing a standardized set of core competencies relative to BBNJ through a combination of national/regional capacity development institutions.

Additional Research

This brief concluding section includes a summary figure bringing together all the various elements discussed in the previous sections—linkages among global, regional, and national levels in capacity development, and interactions with a financing mechanism and a clearing-house mechanism. As well, the section lays out some suggestions for additional research/work that could be carried out to further refine and advance the discussion of various aspects of capacity development related to BBNJ presented in this Policy Brief.



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Full report available at <https://tinyurl.com/y7vpc6j7>.

