

# A new tool available online: Coastal fisheries legal profiles of all Pacific Islands

## Introduction

A new tool – called Legal Profiles – is now available on the [REEFLEX](#) database<sup>1</sup>, which provides a quick overview of the legal and policy framework of coastal fisheries and aquaculture for 22 Pacific Island countries and territories (PICTs) and Timor-Leste. The profiles are intended for anyone (fisheries manager, legal officer, expert or practitioner) who wants to become acquainted with Pacific coastal fisheries and aquaculture governance. This article provides a brief comparative review of the key elements in each legal profile.



## What are the objectives of this tool?

Legal Profiles is an overview tool that provides baseline information on existing legislation regarding coastal fisheries and aquaculture management in PICTs. Each country or territory profile attempts to give a snapshot of the institutional, legislative and policy frameworks that underpin coastal fisheries and aquaculture governance at the national and subnational level.

The profiles are designed as an introductory guide to PICTs' legislation and are not meant to be exhaustive. This section of REEFLEX offers an overview tool that aims to provide a synthesis of the information you can find in the other two sections [Find laws & policies](#) (search tool) and [Compare Regulations](#) (analysis tool).

Please browse the Legal Profiles to better understand the legal backbone of coastal fisheries governance in the Pacific Islands region.

## What can you expect to find in each profile?

- The **Overview** section provides a general description for each country or territory with maritime zones and jurisdictions.
- The **Institutional framework** section identifies the main government authorities in charge of fisheries management, regulation and enforcement at national and local level and the legal basis for community-based fisheries management.

- The **Legislative framework** section identifies the main fisheries laws and describes the regulations that apply to coastal fisheries and aquaculture, including any licensing requirements for fishing, farming, processing and export.
- The **Policy framework** section highlights the main sector policies and plans promoting coastal fisheries and aquaculture, as well as some of the management plans in place for specific fisheries.

## What do we know about the legal framework of coastal fisheries and aquaculture in PICTs?

### Overview

Among the 22 members of the Pacific Community, **65%** are Pacific Island countries and **35%** are Pacific Island territories of France, New Zealand, the United Kingdom, and the United States. Timor-Leste is a Southeast Asian country that is within the territorial scope of SPC, in accordance with the 2013 amendment to the Canberra Agreement of 1947. Maritime jurisdiction within PICTs is often shared between national or central authorities and subnational authorities (states or provinces, or local authorities (island councils and villages)). The majority of countries and territories have subnational or local governments with some degree of autonomy in managing coastal fisheries (e.g. fisheries of local interest or fisheries occurring within a certain distance from shore).

<sup>1</sup> The first REEFLEX tools were launched in 2019. The three integrated tools of REEFLEX are now operational for users to search laws and policies, compare regulations, and learn more about governance. The database and apps were developed, and are being maintained, through New Zealand and Australian funding (SCoFA project).



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### *Who regulates and enforces coastal fisheries and aquaculture?*

#### *Central fisheries administration*

Coastal fisheries and aquaculture are generally managed and regulated by the ministry or department in charge of fisheries, which in about half of PICTs is a separate entity from other government divisions and/or ministries. In other cases, the fisheries division is part of another agency, such as the ministry of agriculture (e.g. Guam, Niue, Palau and Timor-Leste) or the ministry of environment (e.g. New Caledonia, Northern Mariana Islands, and Palau). Other ministries may be involved in coastal fisheries and aquaculture management, including ministries of land, tourism, maritime affairs, internal affairs (in charge of island councils and local government) and justice.

In fisheries enforcement, the authorised officers play a substantial role in ensuring compliance by fishers and communities through education and awareness. In the countries and territories reviewed, fisheries legislation provides enforcement powers to ensure the effectiveness of management measures. In the most recent fisheries legislation, authorised officers have broad powers, such as boarding any fishing boat, checking fishing licences, inspecting premises, taking samples, and seizing material.

Authorised officers are generally appointed by the minister or secretary for fisheries or justice. In some PICTs, a separate department is in charge of enforcing fish and wildlife legislation (e.g. Palau, Pohnpei). In addition, community officers may also be granted powers to locally enforce coastal fisheries regulations, bylaws or plans (e.g. Cook Islands, Fiji, Kiribati, Tonga and Vanuatu).

#### *State/Provincial fisheries administrations*

For federal countries such as the Federated States of Micronesia and Palau, coastal fisheries and aquaculture management heavily involve state governments and legislations that may regulate activities up to 12 nautical miles from shore. National legislation may apply within state jurisdictions to different degrees, depending on the country (e.g. only if local legislation is missing or less stringent on the regulated matter).

For countries and territories with provinces, such as New Caledonia, Papua New Guinea (PNG) and Solomon Islands, provincial governments may have exclusive or concurrent competence to regulate marine resources management within the limits of the territorial sea.





### Local government and communities

Local governments include island councils, towns and municipalities that work closely with fishing communities, both directly and through governmental and non-governmental projects. Traditional authorities also play an important role in local fisheries management, particularly when they are recognised by law as local government, such as the Falekaupule in Tuvalu or the Fono in Samoa.

In some PICTs, community-based fisheries management is formally established under statutory law while in others, customary practice prevails over the written rule. Overall, at least **80%** of PICTs have some legislation in place supporting community-based fisheries management, although some

could be strengthened (e.g. by improving fishers’ representation in traditional bodies). On the other hand, almost **half** of PICTs recognise customary marine tenure and traditional fishing rights in statutory legislation. (More information on these aspects can be found in O’Connor et al. 2023).

### What regulations apply to coastal fisheries and aquaculture?

#### Coastal fisheries legislation

Most countries have fisheries legislation in place, although some may be outdated or fragmented, particularly when it comes to coastal fisheries and aquaculture. Most existing fisheries acts and regulations deal with offshore industrial fisheries carried out by distant-water fishing nations in the exclusive economic zones of PICTs. In some cases, coastal fisheries and aquaculture legislation must be carved out from minimalistic provisions of the main fisheries act and developed into regulations. Most PICTs have regulations to implement the fisheries act, although there may be gaps that need to be filled or updates to be made. Depending on the country or territory, the available laws and regulations relating to coastal fisheries are more or less comprehensive and may sometimes create a substantive body of written rules (Fig. 1). Note that certain PICTs have an additional layer of government regulation at the state or provincial level, such as New Caledonia, PNG, Solomon Islands.<sup>2</sup>

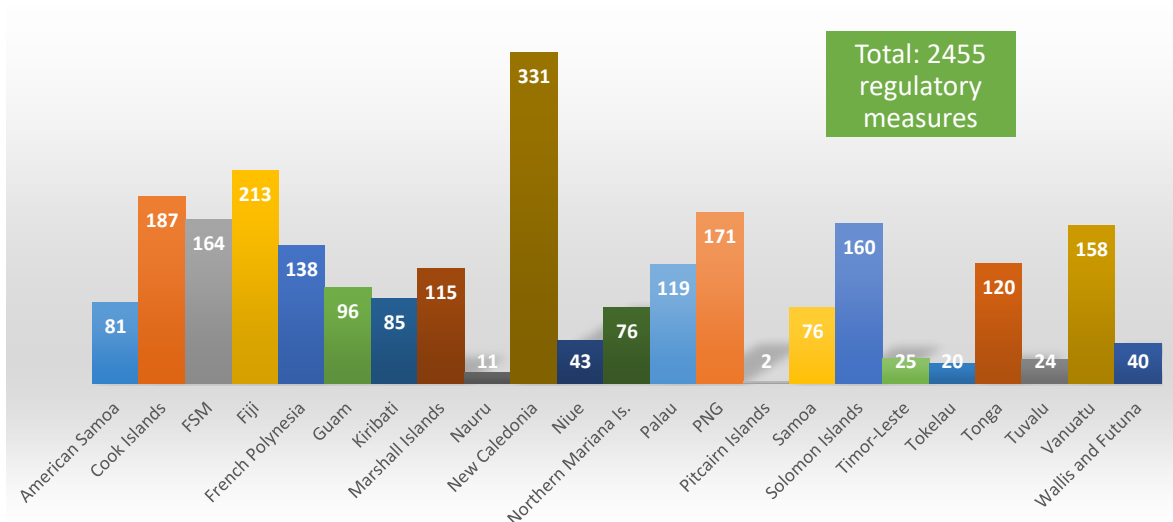


Figure 1. Number of coastal fisheries regulatory measures in 22 PICTs and Timor-Leste. Data source: REEFLEX

<sup>2</sup> Figure 1 covers national or territory-level legislation for all 22 PICTs and Timor-Leste and subnational legislation (state or province) for certain PICTs (e.g. FSM, New Caledonia, Palau, PNG, Solomon Islands), where available. Local-level legislation (such as island council bylaws and municipal ordinances) is not accounted for in Figure 1.

### Common types of regulations

Based on the regulatory measures recorded in the REEFLEX Compare Regulations (Fig. 2), the most common types of coastal fisheries management measures adopted by PICTs through laws and regulations are:

- access restrictions through licensing and registration (e.g. commercial fishing, specific fisheries, aquaculture);
- restrictions on gear and fishing methods (including nets, hooks, traps, spearguns, scuba and destructive methods, such as poison, explosives or crowbars);
- size limits for vulnerable species (e.g. clams, lobsters, crabs, sea cucumbers, certain fish); and
- total fishing bans and trade bans for certain marine species (e.g. sea cucumbers, clams, berried/gravid crustaceans).

Also popular in PICTs are spatial measures, such as the establishment of marine protected areas (including sanctuaries but also community-managed areas) and temporal measures such as closed seasons (e.g. for groupers and snappers) or the prohibition of night fishing.

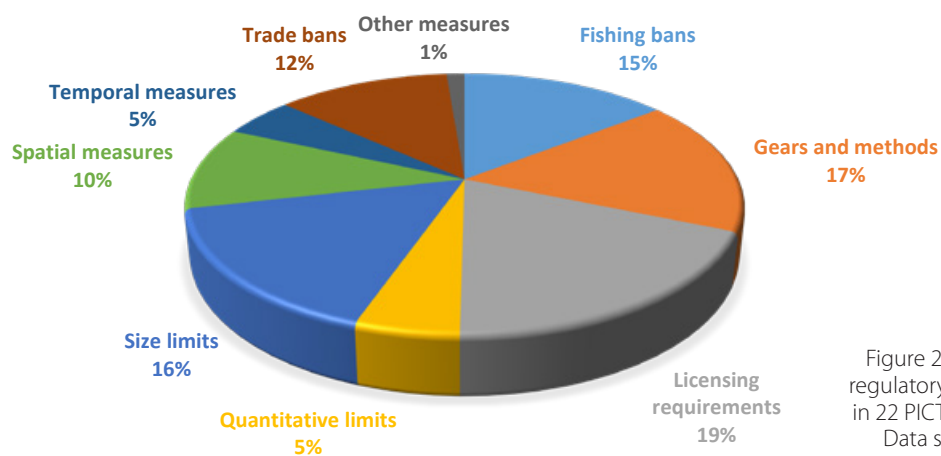


Figure 2. Coastal fisheries regulatory measures by type in 22 PICTs and Timor-Leste. Data source: REEFLEX

### Species regulations

Regulation by species, often based on fisheries management plans that detail why certain measures are needed for a designated fishery, is also common. Of all regulatory measures recorded in the database, 71% are specific to a given marine species or group of species, the remainder being general provisions applicable to all fishing activities (e.g. fishing gear restrictions, commercial licensing requirements). As shown in Figure 3, invertebrate species account for more than 38% of all measures. These species, such as sea cucumbers, lobsters, crabs, clams or shells, are extremely vulnerable to overfishing. Regulated species also include

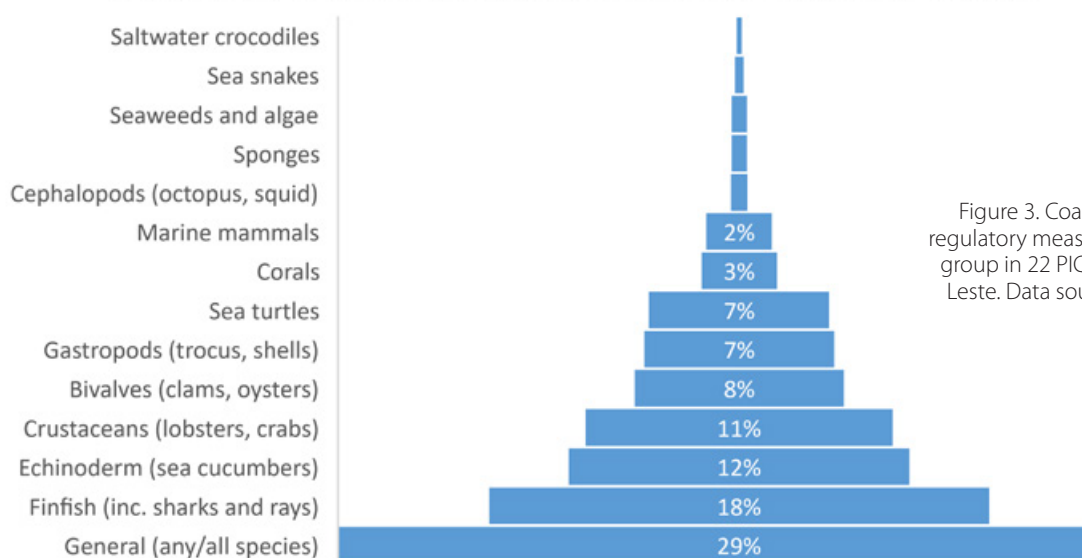


Figure 3. Coastal fisheries regulatory measures by species group in 22 PICTs and Timor-Leste. Data source: REEFLEX

finfish, covering both bony fish and cartilaginous fish, such as sharks and rays. Many species regulations are applicable to all fishing activities regardless of their purpose, be it commercial, subsistence or recreational (e.g. protected species). However, specific limitations may apply to certain types of fishing that are not subject to a licence (e.g. New Caledonia's bag limits for recreational fishing of reef fish and pelagic species).

#### *Licensing requirements*

In PICTs, coastal fisheries are generally the realm of local small-scale fishers, while foreign and industrial fishing vessels operate beyond the territorial waters of each country. Worldwide, small-scale or artisanal fisheries are regarded as a continuum of activities that resist strict categorisation (Smith and Basurto 2019). Due to the cultural and dietary importance of fish in Pacific islands, subsistence fishing often includes fishing for the purpose of local sale or barter as a side activity, although this is often not stated in legislation which makes it a grey area.

About 80% of PICTs require a licence for commercial fishing activities in their waters, whereas subsistence and traditional fishing are typically exempt from licensing or permitting requirements for food security purposes. This commercial licence may be conditioned by the size of the boat, such as in Nauru and Cook Islands where any boat of 10 metres or more in length must have a licence for fishing. When managing fisheries, a licensing system is an efficient tool to regulate access to certain designated fisheries and reduce the pressure on overexploited marine species. In addition to commercial fishing licences, special licences are generally required for certain species, fishing areas or gear. In some PICTs the deployment and use of anchored fish aggregating devices is also regulated (e.g. Samoa). In most PICTs, a permit is required for export of fish and fish products. About a third of PICTs also require a permit or registration for fish processing activities.

Aquaculture activities are subject to either licensing or registration in 40% of PICTs.

#### *Traditional practices*

Some of the PICTs recognise traditional practices through their constitution (e.g. Chuuk, Yap, and Vanuatu) or through statutory laws (e.g. Cook Islands, Fiji, Samoa, Solomon Islands, Tuvalu and PNG). Traditional fishing methods and practices can also be recognised and taken into consideration when developing a management plan (e.g. Kiribati, Marshall Islands, Nauru, Timor-Leste and Tonga) or a policy (e.g. Northern Mariana Islands). For others, such as American Samoa, Guam or Niue, some traditional fishing methods can be recognised under the fisheries act and regulations. Finally, traditional fisheries (e.g. for cultural or ceremonial purposes) can be exempted from certain prohibitions, as in New Caledonia or Solomon Islands.

#### *How can policies be implemented to achieve sustainable development? This is the policy framework.*

Policies and management plans are adopted at national level to direct government action and resources to the development of coastal fisheries and aquaculture, in accordance with the legal framework.

Currently, 70% of PICTs have adopted a national sustainable fisheries policy focusing on coastal fisheries. Half of these PICTs have also adopted specific policies and plans for the management of designated fisheries targeting vulnerable or high-valued species.

In some countries such as Cook Islands, Fiji and Solomon Islands, fisheries management plans are enforceable as regulations. Alternatively, management plans can be transposed into regulations and bylaws or become part of the terms and conditions attached to a fishing licence.



Solomon Islands. ©Zahiyd Namu



Kiribati. ©Patrick Rose, SPC

A coastal fisheries policy supporting CBFM is in place in 60% of PICTs, which indicates governments’ willingness to scale-up CBFM in line with recent regional policy directions, namely the Pacific Framework for Action on Scaling-up CBFM 2021.

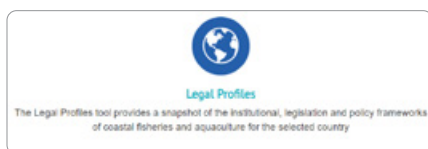
Finally, at least 50% of PICTs have adopted aquaculture sector policies, and aquaculture management and development plans, including on aquatic biosecurity.

You can find all this information and more on REEFLEX Legal Profiles to help change words into action.

### Where can I find the legal profiles?

You can access the 23 Legal Profiles on coastal fisheries and aquaculture from the [REEFLEX homepage](#) by clicking on the icon that points to the overview tool:

- “Legal Profiles”



Alternatively, you can access each legal profile from the respective PICT page in the search tool:

- “Find Laws & Policies”



Do not hesitate to contact us if you want to provide us with updates, know more about REEFLEX or get advice on how to use the different tools in your fisheries management and research activities.

### References

O’Connor S., D’Andrea A., Recio-Blanco X. and Devev S. 2023. Legal guide to enabling and strengthening coastal fisheries co-management in the Pacific. Noumea, New Caledonia: Pacific Community. 212 p. <https://purl.org/spc/digilib/doc/s5b7j>

Smith H. and Basurto X. 2019. Defining small-scale fisheries and examining the role of science in shaping perceptions of who and what counts: A systematic review. *Frontiers in Marine Science* 6:236. doi: [10.3389/fmars.2019.00236](https://doi.org/10.3389/fmars.2019.00236)

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