

LEGAL GUIDE TO

**ENABLING & STRENGTHENING**

**COASTAL FISHERIES**

**CO-MANAGEMENT IN THE PACIFIC**



**NEW ZEALAND**  
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# LEGAL GUIDE TO ENABLING AND STRENGTHENING COASTAL FISHERIES CO-MANAGEMENT IN THE PACIFIC

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The Coastal Fisheries and Aquaculture Programme of the Fisheries, Aquaculture and Marine Ecosystems Division provides policy and legal advice to SPC members to ensure the sustainable management of over 4000 coastal marine species by Pacific Island fisheries agencies in collaboration with engaged and empowered local communities.

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## ABOUT THIS GUIDE

The vision of Pacific Island countries and territories (PICTs) for their coastal fisheries is set out in A new song for coastal fisheries – pathways to change: The Noumea Strategy (hereafter referred to as the Noumea Strategy), as follows: “Sustainable well-managed inshore fisheries, underpinned by community-based approaches that provide food security, and long-term economic, social and ecological benefits to our communities” (SPC 2015, p. 8).<sup>5</sup> The Pacific Framework for Action on Scaling up Community-based Fisheries Management: 2021–2025 (SPC 2021)<sup>6</sup> builds on this vision by providing regional guidance for the operational implementation of coastal fisheries co-management in each Pacific Island country or territory.

Island communities in the Pacific region rely on fishing for food and livelihoods, but coastal marine resources are under threat from both natural and human pressures that are leading to their decline. It is essential that local communities, which often have traditional user rights or ownership rights over coastal areas and the marine resources in those areas, play a leading role in managing the resources on which they depend. In many cases they already do, with management being based on local and traditional practices and supported by projects and programmes of both governmental and non-governmental entities. However, not all current legislation is supportive of co-management or adapted to local circumstances. Enabling legislation is key to formalising and scaling up existing, community-based fisheries management (CBFM) systems and practices. For law and practice to converge, fisheries agencies in PICTs have the difficult task of driving change both within the government and in communities. Promoting legal reform at the government level to fully recognise CBFM, while ensuring the effective participation of local communities to reflect their needs and practices, will be crucial.

<sup>5</sup> Endorsed by SPC Heads of Fisheries in 2015.

<sup>6</sup> Endorsed by PICTs Fisheries Ministers in 2021.



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**This guide is intended to support fisheries agencies of PICTs in assessing and improving their co-management legislative frameworks to enable local fishing communities to meet their aspirations for healthy coastal ecosystems while preserving their livelihoods.**

**It is addressed to fisheries policy and planning officers, legal officers and, broadly, fisheries managers and CBFM practitioners.**

**While the guide offers examples of provisions illustrating how fisheries co-management systems work in different countries, these provisions should not be simply adopted by a country that seeks to create or revise its co-management laws. Instead, each country's existing legal framework, local context and needs should be carefully analysed before drafting co-management provisions.**

For the purpose of this guide, CBFM is defined as a co-management system by which governments and communities, including marine resource users or owners, share the power to implement an ecosystem approach to fisheries management with a view to supporting local livelihoods and building the resilience of local communities. CBFM arrangements will vary according to the degree of participation of, or delegation to, local communities. To ensure the sustainability of coastal fisheries activities, legislation enabling CBFM may need, depending on the context, to recognise the customary rights and allow for the traditional practices of local communities while defining the roles and responsibilities of both communities and government agencies.

CBFM encompasses any community-based approach or programme related to the co-management of fisheries, provided it is community-driven and involves an ecosystem approach to fisheries management that will sustain local livelihoods and build resilient communities.<sup>7</sup> PICTs and regional organisations use a variety of terms in this regard (see Box 1 for examples); for the purpose of this guide, they are included under the umbrella term CBFM.

<sup>7</sup> Although they are not dedicated to fisheries co-management, environmental conservation approaches based on area protection, such as marine protected areas in French Polynesia and New Caledonia and the protected area network (PAN) in the Federated States of Micronesia, generally include community participation and consultation on marine resource use. The areas under these approaches correspond to International Union for Conservation of Nature (IUCN) category VI protected areas, which “conserve ecosystems and habitats, together with associated cultural values and traditional natural resource management systems. They are generally large, with most of the area in natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area” (Day et al. 2019, p. 27).



**BOX 1.****EXAMPLES OF COMMUNITY-BASED FISHERIES MANAGEMENT  
TERMS USED BY PACIFIC ISLAND COUNTRIES AND TERRITORIES**

AGDR	sustainable resource management area (from the French aire de gestion durable des ressources)
CBAM	community-based adaptive management
CBFM	community-based fisheries management
CBFMP	community-based fisheries management program
CBMRM	community-based marine resource management
CBNRM	community-based natural resource management
CCA	community conservation area
CEAFM	community-based ecosystem approach to fisheries management
CBRM	community-based resource management
CFMA	community fisheries management area
CFMP	community fisheries management plan
CBSFA	community-based subsistence fisheries area
LMMA	locally managed marine area
MPA	marine protected area
PAN	protected area network
PGEM	marine spatial plan (from the French plan de gestion de l'espace maritime)
SMA	special management area
WMA	wildlife management area
ZPR	regulated fishing zone (from the French zone de pêche réglementée)

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## SCOPE

Part A of this legal guide to enabling and strengthening coastal fisheries co-management in the Pacific provides an introduction to CBFM – more generally around the world and then specifically in the Pacific region. An overview of the legal framework of each country or territory in the region is first provided, followed by details in a snapshot tabular format. Part B, which is the core of the guide, proposes a set of principles for and approaches to be taken in developing CBFM legislation. It also provides a wealth of examples of legal provisions in force in the Pacific or outside the region (in Africa, Asia, Central and North America, and Europe). The principles and approaches described may be used by PICTs as guidance or a benchmark for the review of their own CBFM legislation, bearing in mind the need for each CBFM system to be adapted to the local context. Possible instruments for funding the establishment of new CBFM areas, and to ensure the viability and continued implementation of existing CBFM arrangements, are presented in part C, which focuses on sustainable financing mechanisms for CBFM. Part D presents checklists that aim to assist governments and communities in creating and implementing co-management laws. A list of relevant CBFM legislation in PICTs is provided in Appendix I, while Appendix II contains a compilation of the legislation from which examples of provisions were taken for this guide.

A

# INTRODUCTION TO COASTAL FISHERIES CO-MANAGEMENT



## GLOBAL ASPECTS

Coastal marine ecosystems are unique and among the most diverse and vulnerable habitats in the world. Globally, coastal marine areas are under constant threat from pressures such as pollution, overfishing and climate change. Local communities that rely on marine resources for food and livelihoods often have deep traditional ties with the ocean, which are expressed in their cultural values. These communities are greatly interested and invested in ensuring the continuing prosperity of marine areas because they stand to lose the most if marine resources become depleted or damaged. CBFM allows communities to play a leading role in managing the marine resources on which they depend and to have their legal rights over these resources recognised.

CBFM is a type of fisheries co-management practised in various countries, including PICTs. Fisheries co-management has been defined as “an arrangement where responsibility for resource management is shared between the government and user groups” (Sen and Raakjaer Nielsen 1996, p. 406). In practice, co-management arrangements differ depending on the degree to which communities have the authority to lead management decision-making, and the role of the government can vary from initiating consultative management processes to supporting communities in their management operations. In CBFM, government and communities, including marine resource users or owners, share powers through devolution or delegation (see Box 2 for an exploration of what a community is).

When determining the meaning of community for Pacific Islands, it is particularly important to ascertain the appropriate scale for each context, bearing in mind existing tenure rights and social relations – what works at the village level in Samoa may work better at the district level in Fiji and the tribal level in Solomon Islands. Marine resources have often been managed by communities for generations, and local knowledge and traditional practices are crucial for ensuring the continuing sustainability of these resources. Local knowledge might include how the marine life changes over time, which locations of the managed area are better suited for which activities, and which activities should be limited or forbidden during certain periods of time or in certain parts of the managed area. Even in places where a community has not traditionally managed the marine resource, local knowledge still plays a significant role in CBFM because the primary users and beneficiaries of a resource are often in the best position to manage it effectively.

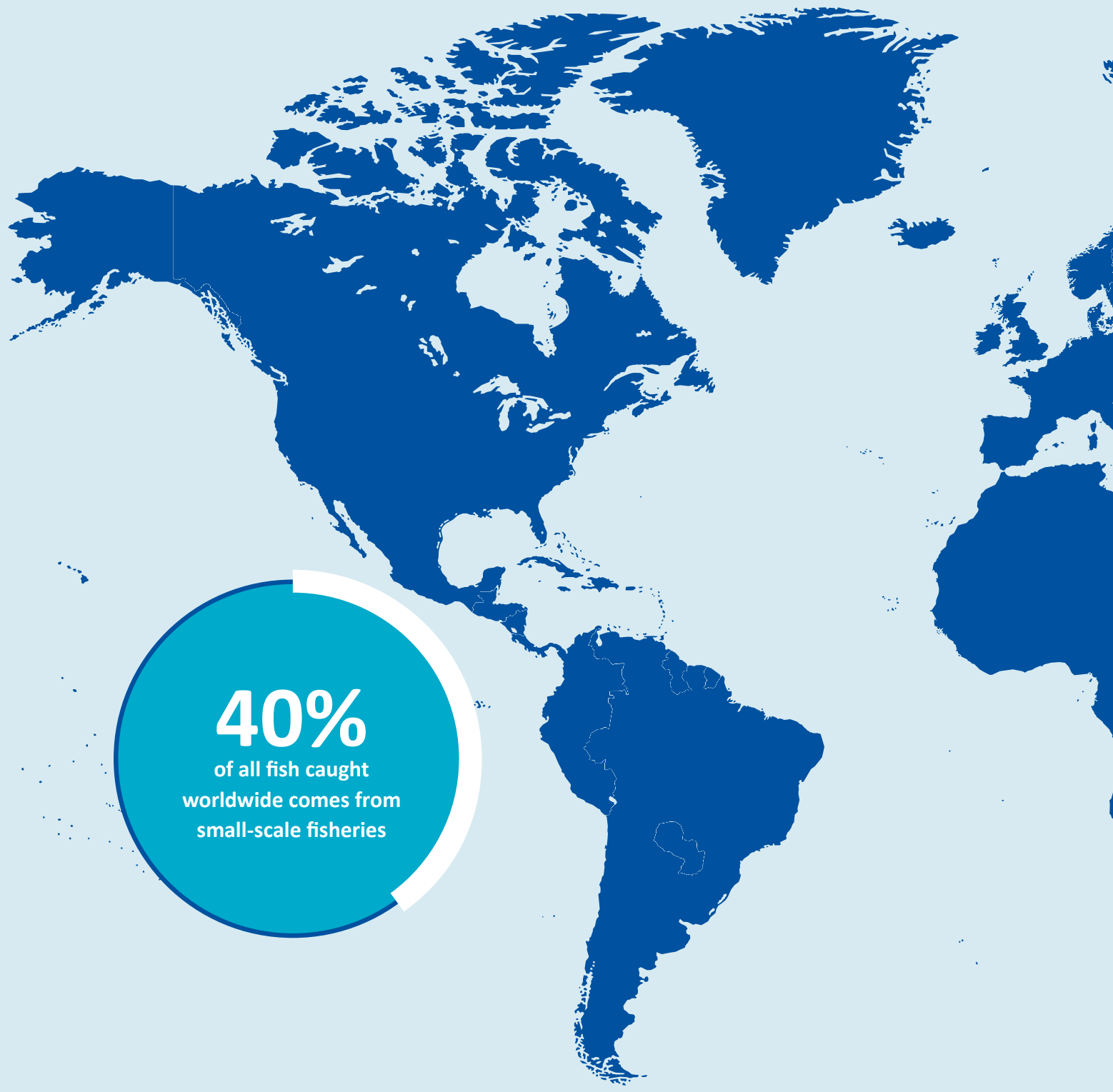
**BOX 2.****WHAT IS A COMMUNITY?**

The term “community” can have several meanings. Community can be defined geographically by political or resource boundaries or socially as a community of individuals with common interests. For example, the geographical community is usually a village political unit (the lowest governmental administrative unit); a social community may be a group of fishers using the same fishing gear or a fisher organization. A community is not necessarily a village, and a village is not necessarily a community. Care should also be taken not to assume that a community is a homogeneous unit, as there will often be different interests in a community, based on gender, class, ethnic and economic variations. Recently, the term “virtual community” or “community of interest” has been applied to non-geographically based communities of fishers. Similar to the “social community”, this is a group of fishers who, while they do not live in a single geographical community, use similar gear or target the same fish species or have a common interest in a particular fishery. (Source: Reproduced from Pomeroy and Riviera-Guieb (2006, p. 9, box 2.1)).

Legislation of the Republic of the Marshall Islands (RMI) defines “community” as “a group of RMI citizens who live in the same area (such as a village or weto)” (Protected Areas Network (PAN) Act 2015, § 502).

Anthropologists have defined community as a functional social unit, recognising that “at different times and in different cultures, the most relevant social unit in connection with local marine resource management may be a group of villages, a single village, a clan, a family, or a chief or other influential individual in the community” (Johannes 2002, p. 318).





**40%**  
of all fish caught  
worldwide comes from  
small-scale fisheries



Globally,  
**20%**  
of small-scale fisheries  
catches are likely governed  
by co-management.

In Oceania,  
**89%**  
of small-scale fisheries  
catches are governed  
by co-management, with a  
high level of engagement  
from fishers.

Source: FAO et al 2022.

Community management of marine resources offers the opportunity for increased participation by a broad range of stakeholders, as well as increased transparency and communication between users and managers of the resources. Local governance and local regulations can increase compliance with and deter violations against rules, as the more community members participate in deciding on the rules, the higher the chance these rules will be regarded as legitimate. Equally, consensus on rules may result in community members guarding the marine resources against violations or at least assisting government officials in enforcement. Communication between government officials and communities might be limited, especially when they are located far from each other; in this case, the delegation of some or most management functions to communities greatly improves their awareness of the rules that apply to the managed area as well as their understanding of how to get involved in enforcing them. Even with all the benefits of community management, government participation is still important, as the government plays an important role in supporting communities on issues that are beyond their control. For example, the government can enforce the law on offenders who are not members of the local community (particularly when the law does not provide for the appointment of community members as authorised officers with clear enforcement powers). The government can also facilitate access to funding or training for communities.

The need to use marine resources responsibly and to adopt participatory management approaches, in accordance with national law, is recognised in the *Voluntary guidelines for securing sustainable small-scale fisheries in the context of food security and poverty eradication* (FAO 2018) (hereinafter referred to as the SSF Guidelines), which were adopted in 2015 by the member States of the Food and Agriculture Organization of the United Nations (FAO).

The value of local knowledge and local practices is emphasised in the SSF Guidelines. Under the guidelines, customary tenure of marine resources is protected, as are all other forms of legitimate tenure rights of small-scale fishing communities. Those tenure rights are balanced by the duty to use the resources concerned sustainably and to maintain the ecological foundation for food production. The SSF Guidelines stipulate that “small-scale fisheries should utilize fishing practices that minimize harm to the aquatic environment and associated species and support the sustainability of the resource” (FAO 2018, para. 5.14). And according to the SSF Hub working definition, co-management “involves small-scale fishers and other actors coming together to negotiate, establish, and agree to an equitable sharing of the management, tenure, and responsibilities of a territory or resource” (SSF n.d.).





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The SSF Guidelines call on States to:

- recognise, respect and protect, including through legislation, all forms of legitimate tenure rights, taking into account customary rights to aquatic resources and land and small-scale fishing areas enjoyed by small-scale fishing communities (e.g. by taking appropriate measures to identify, record and respect legitimate tenure right holders and their rights);
- cooperate to accommodate changes in customary tenure systems, where constitutional or legal reforms have strengthened the rights of women, placing them in conflict with custom;
- recognise the role of small-scale fishing communities and indigenous peoples to restore, conserve, protect and co-manage local aquatic and coastal ecosystems;

- recognise and safeguard publicly owned resources that are collectively used and managed, in particular by small-scale fishing communities, where states own or control fishery resources;
- grant preferential access of small-scale fisheries to fish in waters under national jurisdiction, including through creating and enforcing exclusive zones for small-scale fisheries;
- consider, when developing formal marine spatial planning systems, methods of planning and territorial development used by small-scale fishing and other communities with customary tenure systems, as well as decision-making processes within those communities;
- ensure that roles and responsibilities in the context of co-management arrangements are clarified and agreed on through a participatory and legally supported process, and that small-scale fisheries are represented and actively take part in relevant processes;
- facilitate, train and support small-scale fishing communities to participate in and take responsibility for managing the resources on which they depend for their well-being and that are traditionally used for their livelihoods;
- ensure the establishment of monitoring, control and surveillance (MCS) systems, promote the application of existing systems applicable to and suitable for small-scale fisheries, and encourage participatory arrangements within the context of co-management; and
- improve registration of fishing activities and encourage small-scale fishers to support monitoring, control and surveillance systems by providing authorities with the information required for fisheries management.

Small-scale fisheries are included under Sustainable Development Goal (SDG) 14, which is about Life below water and focuses on the need to conserve and sustainably use the oceans, sea and marine resources for sustainable development. SDG 14 includes a specific target relating to access by small-scale artisanal fishers to marine resources and markets (Target 14.b). Countries have committed to reporting progress at the national level against this target on the basis of Indicator 14.b.1: “Degree of application of a legal/regulatory/policy/institutional framework which recognizes and protects access rights for small-scale fisheries”.



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Co-management of small-scale fisheries is adopted by many countries around the world as a cost-effective initiative to boost compliance with measures in the diverse area of coastal fisheries management. Interesting examples of co-management can be found in Africa (e.g. Gambia, Kenya and United Republic of Tanzania); Asia (e.g. Cambodia, Japan [see Box 3], the Philippines and Sri Lanka); Europe (e.g. France and Spain); and Latin America and the Caribbean (e.g. Belize, Chile, Costa Rica [see Box 4] and Honduras). Examples from the Pacific region are provided in the section on regional aspects below.

The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES, ARTICLE XII, § 2

### BOX 3.

## LEGISLATIVE SETTING OF FISHERIES CO-MANAGEMENT IN JAPAN

Coastal capture fisheries in Japan have long been co-managed (Tokunaga et al. 2019). Decentralisation laws are in place to devolve decision-making power to local authorities and recognise co-management (Macfadyen et al. 2005). The sector is governed by the recently amended<sup>a</sup> Fishery Act of 1949 (Act No. 267 of 15 December 1949) – the Shouwa Law, which repealed the Meiji Fishery Act of 1910. Enabling policies and legislation offer a range of co-management tools, including fishery cooperative associations (FCAs) and fishery management organisations (FMOs) that are granted territorial user rights (Macfadyen et al. 2005). FCAs were established under the Fisheries Cooperative Association Law (Law No. 242 of 15 December 1948). Another important text is the Basic Act on Fisheries (Act No. 89 of 29 June 2001), which provides for the adoption of policies and management plans for the sound development of the fishing industry.

Established in 1990 under the Marine Fisheries Resource Development Promotion Law of 1971, the Resource Management Agreement System provides official support for autonomous resource management by fishers. “When an agreement prevails at a certain level within the area, the government can affirm the agreement, and it becomes an official rule” (Makino and Matsuda 2005, p. 447). The system encourages autonomous agreements among fishers for the purpose of managing resources under stricter rules than those previously adopted under prefectural fishery coordinating regulations, FCA regulations and FMO rules (Macfadyen et al. 2005).

According to the 2018 census of fisheries, resource management activities and fishing ground improvement activities were carried out with marine fishery communities in 1821 of 2066 fishery zones nationwide over one year from 1 November 2017 to 31 October 2018 (Government of Japan 2018). The Fishery Act was amended in 2018 to strengthen total allowable catch limits but also to remove the preferential treatment that members of fishery cooperatives had in accessing fishing rights for *gyogyo-ken gyogyo* (rights-based fishery) (Yoshihisa 2020a, 2020b). The need to encourage outsiders to participate equally in that fishery is justified by an ageing population, with young generations being reluctant to take on manual work, including fishing (Yoshihisa 2020a).

a A new law, scheduled to take effect at the end of 2022, introduced the European Union catch certification scheme in Japan to help prevent illegal catches from entering domestic supply chains (Act on Ensuring the Proper Domestic Distribution and Importation of Specified Aquatic Animals and Plants (Act No. 79 of 11 December 2020)).

**BOX 4.****MARINE AREAS FOR RESPONSIBLE FISHING IN COSTA RICA**

Costa Rica has established a network of marine areas for responsible fishing, where small-scale fishers participate in co-management in a way that allows them to maintain their cultural identity (FAO 2020a). In 2018, INCOPECSA, the Costa Rican national Institute of fisheries and aquaculture, engaged with small-scale fishers, non-governmental organisations, academia and legislators in an effort to propose a new law on small-scale fisheries. The 2018 bill on small-scale fisheries, which is still under discussion in the Costa Rican Parliament,<sup>a</sup> states that INCOPECSA, together with local coastal communities, may establish marine areas for responsible fishing, giving priority to areas proposed by fishing organisations (Article 26). In the bill, fishing organisations are defined as properly registered entities composed of natural and legal persons dedicated to small-scale artisanal fishing that aim to improve their members' quality of life (Article 2). The bill sets forth the creation of local governance committees in which fishing organisations and state institutions will share responsibilities, and membership will be split equally between men and women (Article 31). One way in which local governance committees participate in managing fisheries is through surveillance and control of fishing practices (Article 32). In 2020, another bill<sup>b</sup> was introduced to amend the Fisheries and Aquaculture Act of 2005, namely to allow INCOPECSA to carry out participatory research and monitoring programmes in association with legally established artisanal or small-scale fishers' organizations (OECD 2021).

- a Costa Rica. Bill No. 20.750 of 2018 for an Act on small-scale fisheries 2018 (Proyecto de ley – Expediente N.º 20.750 de 2018. Ley general para la sostenibilidad del sector de pesca artesanal de pequeña escala, en el contexto de la seguridad alimentaria, la erradicación de la pobreza y la gobernanza compartida).
- b Costa Rica. Bill No. 22.092 of 2020 for an Act to amend the Fisheries and Aquaculture Act 2005 Proyecto de ley – Expediente N.º 22.092 de 2020. Modificación a los artículos n.º 2, incisos 26 y 27, el artículo n.º 18 y el artículo n.º 43 en los puntos a), b), c), de la Ley n.º 8436, Ley de pesca y acuicultura del 1 de marzo del 2005.

## REGIONAL ASPECTS

Several countries in the Pacific region already have CBFM arrangements in place – these may or may not be fully reflected in legislation (see Appendix I for a list of relevant laws). Such arrangements stem from the long history of traditional community management of fisheries and coastal areas in the region. Some commentators have noted that “[t]he Pacific Island Region probably contains the world’s greatest concentration of still-functioning traditional community-based systems for managing coastal-marine fisheries and other resources” (Ruddle 1998, p. 105).<sup>8</sup>

CBFM systems are developed in response to the need to ensure the sustainability of marine resources management in order to protect vulnerable ecosystems and species from overfishing and other threats. The crucial role of local Pacific Island communities in managing coastal fisheries is clearly reflected in the highly informal nature of the fisheries sector and its focus on subsistence and livelihood activities, which are related to the human rights to food and to an adequate standard of living. Approximately 70 per cent of overall production from fisheries in coastal areas of the Pacific Islands is produced by subsistence fishing, the rest being generated by small-scale commercial activities (Gillet and Tauati 2018).

Since the early 2000s, the heads of fisheries of Pacific Community (SPC) members have agreed to take steps to achieve healthy ecosystems and sustainable stocks of fish by endorsing the *Strategic Plan for Fisheries Management and Sustainable Coastal Fisheries in Pacific Islands* (King et al. 2003) and the *Pacific Islands Regional Coastal Fisheries Management Policy and Strategic Actions (Apia Policy)* (2008–2013) (SPC 2008). Ideally, the endorsement of these regional policies would be accompanied by the revision of national legislation to formalise co-management arrangements between communities and government agencies (SPC 2010). In 2015, two relevant regional policies were adopted: A new song for coastal fisheries – pathways to change: The Noumea Strategy (SPC 2015) and *the Future of Fisheries: A Regional Roadmap for Sustainable Pacific Fisheries* (FFA and SPC 2015).

<sup>8</sup> It has been stated that “some Pacific Island fishing cultures have long recognized the relationship between fishing pressure and the state of their fish stocks and have regulated their fishing accordingly. Their traditional management systems not only predated Western ones by centuries ... but also today provide an invaluable, adaptive foundation for the renaissance in CBMRM in Oceania” (Johannes 2002, p. 337).



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Building on the strengths of the Apia Policy, which it replaces, the Noumea Strategy addresses the decline in coastal marine resources and related ecosystems. It calls for a regional focus on the scaling up of coastal fisheries management, underpinned by CBFM, and sets forth the pathways to change framework. The framework envisages pathways leading to the following outcomes (SPC 2015, pp. 12–14):

- informed, empowered coastal communities with clearly defined user rights,
- adequate and relevant information to inform management and policy,
- political commitment and support for coastal fisheries management at the national and subnational level,
- re-focused fisheries agencies that are more transparent, accountable and adequately resourced supporting coastal fisheries management and CBFM,
- strong and up-to-date policies and legislation,
- effective collaboration among stakeholders,
- equitable access to benefits and inclusive decision-making within communities,
- diverse livelihoods reducing pressure on fisheries resources, enhancing community incomes and improving fisheries management.

To facilitate the implementation of the Noumea Strategy from a CBFM perspective, a regional policy, the Pacific Framework for Action on Scaling up Community-based Fisheries Management: 2021–2025 (SPC 2021) was endorsed by regional fisheries ministers at the Second Regional Fisheries Ministers Meeting in August 2021. The framework was developed through a participatory approach that facilitated the engagement at the subregional level of more than 200 stakeholders from across the Pacific, including 18 PICTs. Under the endorsed framework, “CBFM is taken to mean fisheries management approaches that are community-driven and encompass an ecosystem approach that will sustain livelihoods and ensure resilient island communities” (SPC 2021, p. 15). The main objectives and outcomes for enabling actions that support CBFM are presented in Table 1.

*Table 1.*  
*Objectives and outcomes for enabling actions under the Pacific Framework for Action on Scaling up Community-based Fisheries Management: 2021–2025*

OBJECTIVES	OUTCOMES
<p><b>OBJECTIVE 3:</b> Strong and up-to-date management policy, legislation, planning and operational guidance – CBFM scaling-up is adequately supported in policy and legislation</p>	<p><b>3.1.</b> User rights and CBFM mandate and framework are clear and supported, both directly and indirectly, in legislation, policies and plans at national, subnational and local level</p> <p><b>3.2.</b> Monitoring, control, surveillance and enforcement is adequately regulated and implemented across all levels, including community and other authorised officers in their respective coastal area, as appropriate</p>
<p><b>OBJECTIVE 4:</b> Organisational and individual capacity – Fisheries agencies develop the organisational and individual capacity to adequately support CBFM at both national and subnational level as appropriate</p>	<p><b>4.1.</b> Adequate resources are secured, including staff, operational budget and infrastructure to support scaling up of CBFM at national and subnational level</p> <p><b>4.2.</b> Adequate technical capacity is available to support scaling up of CBFM at national and subnational level</p> <p><b>4.3.</b> Adequate coordination mechanisms support scaling up of CBFM</p>



OBJECTIVES	OUTCOMES
<p><b>OBJECTIVE 5:</b> Ecosystem and inclusive approaches – Cross-agency and multi-stakeholder collaboration helps reduce threats to the environment, enhance adaptation to climate change, improve human wellbeing, strengthen disaster risk management, and ensure equitable access to benefits</p>	<p><b>5.1.</b> Effective mechanisms are in place for the identification and resolution or mitigation of external or non-fisheries threats (ecosystem approaches)</p> <p><b>5.2.</b> All community members (men, women, youth and marginalised groups) are involved in transparent decision-making and equitably access benefits</p>

Source: Reproduced from SPC (2021, p. 5).

Existing CBFM arrangements vary in different PICTs to best suit the local context. Despite the diversity of approaches, there is a backbone of legal arrangements for CBFM areas that recur, as illustrated in chapters 3 and 4 of this guide. These include the declaration of community-managed marine areas and the designation of communities to manage those areas, the adoption of CBFM plans, the adoption of local by-laws, the establishment of management committees and consultative bodies, the appointment of authorised officers from the community and the creation of dedicated funds.

The rights of the customary owners of fisheries resources and fishing rights shall be fully recognised and respected in all transactions affecting the resource or the area in which the right operates.

PAPUA NEW GUINEA, FISHERIES MANAGEMENT ACT 1998, § 26



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These arrangements are often based on local communities' user or ownership rights within a customary or traditional area or they follow an existing structure and roles that fit the purpose. Some PICTs formally recognise custom<sup>9</sup> as a source of law and customary land rights. In some, for example Palau, Papua New Guinea and Vanuatu,

9 Custom is generally defined as a long-standing and widely accepted practice that is specific to a particular society, place or time. In Papua New Guinea, "custom means the customs and usages of indigenous inhabitants of the country existing in relation to the matter in question at the time when and the place in relation to which the matter arises, regardless of whether or not the custom or usage has existed from time immemorial" (Constitution of Papua New Guinea, Schedule 1.2(1)). In the Choiseul Province of Solomon Islands, customary rights are the "rights enjoyed by any person or persons under the traditional rules and laws of the people of Choiseul" (Choiseul Province Fisheries and Marine Environment Ordinance 2011, § 2).

land ownership may extend to the reef area, including its marine resources. In other PICTs, even if customary rights are recognised on land, the State retains ownership of the reef, the foreshore and all marine waters. In such cases, local communities only have recognised access and user rights to the reef and coastal waters, and those rights of access to and use of marine resources may be allocated to local communities either preferentially (e.g. Kiribati and American Samoa) or exclusively (e.g. Fiji and Solomon Islands). Exclusive rights are often based on customary marine tenure arrangements, but they may also be granted by statutory law at the request of the local community either through existing traditional processes (e.g. Samoa) or through statutory approaches to co-management (e.g. Tonga). Box 5 illustrates tenure rights and their implementation in fisheries and Box 6 discusses CBFM initiatives in different legal contexts.

In the Pacific region, customary marine tenure, traditional bodies and local knowledge are key assets in sustainably enhancing and scaling up coastal fisheries management, particularly when resource owners and users are genuinely involved in decision-making and fully understand the rationale behind resource conservation. Stakeholder consultation and participatory decision-making are critical for encouraging local people to identify their priority actions more firmly (Townsend et al. 1997). Over the past decades, donors and partners have supported the development of CBFM in the region (see Johannes 2002 and Govan et al. 2009, among others). During this time, some PICTs have updated their laws<sup>10</sup>, including updates to provide communities with options for incorporating traditional and local practices into fisheries management and to allow for adaptive management of coastal marine resources.

**‘Community’ means a social group of any size whose members reside in a specific locality, share government, and often have a common cultural and historical heritage including but not limited to a group of individuals, family group, tribe or village.**

VANUATU, ENVIRONMENTAL MANAGEMENT AND CONSERVATION ACT 2002, § 2

<sup>10</sup> As at September 2022, at least 10 PICTs (Fiji, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, New Caledonia, Palau, Samoa, Solomon Islands and Vanuatu) had implemented major legislative reforms in the fisheries sector since the endorsement of the Apia Policy in 2008.

**BOX 5.**

## TENURE RIGHTS IN FISHERIES

Tenure in fisheries – as in other natural resource sectors – refers to the manner in which the relationships between people are defined and negotiated in the context of the utilization of fishery and related resources. Tenure defines who is a user and, therefore, who has a legitimate right to a resource and who does not. Governance of tenure then deals with how tenure rights are allocated, changed (legalized, transferred, etc.) and administered.

While formal tenure rights are generally still a developing concept in fisheries, there is a long history of customary and traditional tenure systems in fishing communities (Cordell 1989). These have tended to be in the form of rights (to fish) in certain areas (i.e. spatial access or use rights) and have often been found in conjunction with land tenure. In many places, for example in small island states in Oceania, natural resources and the space they occupy have traditionally not been divided into two different components of land and water (Aswani 2005).

Instead, nature – including humans and society – has been seen holistically, with communities having a multifunctional resource space as the basis for their livelihoods (Ruddle 1988).

Hence, fisheries tenure cannot be viewed in isolation but needs to be considered in connection with a broader land and livelihoods context (FAO 2011).

The VGGT [Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security] provides guidance on tenure rights, and Chapter 5 of the SSF Guidelines is largely based on its provisions.

**Source:** Reproduced from FAO 2020b (p. 52, box 17).

**BOX 6.**

**ENABLING CONDITIONS FOR FISHERIES CO-MANAGEMENT  
IN DIFFERENT LEGAL CONTEXTS: AMERICAN SAMOA AND HAWAII**

Co-management in fisheries may take different shapes depending on the constitution and the national legal system, but also based on pre-existing traditional practices. A comparison between American Samoa and Hawaii effectively illustrates how fisheries co-management can play out in the Pacific region, under jurisdictions of the United States of America (US).

The Community-based Fisheries Management Program (CFMP) was established by the American Samoa Regulations (Title 24, Chapter 10), whereas Hawaii allows for the creation of Community-Based Subsistence Fishing Areas (CBSFAs) under the 2020 Hawaii Revised Statutes (Title 12, Chapter 188). However, co-management implementation may be more challenging in Hawaii, as a US state defined by a wide cultural and ethnic diversity, than in American Samoa, an incorporated territory of the US characterised by a high cultural and ethnic homogeneity.

The US Constitution does not allow preferential access for local communities to harvest marine resources in their CBSFA. Although the CBSFA legislation in Hawaii was specifically dedicated to native Hawaiian communities to protect subsistence fishing practices, CBSFA implementation includes all members of the community. Some local communities have implemented a de facto limitation on outsiders to the managed area by allowing fishing with traditional gear only.

While in line with the US Constitution, the Constitution of American Samoa recognises traditional Samoan structure and practices, particularly through village councils, which manage access to nearshore marine resources by local communities. The communities involved in the CFMP have closed their reef areas to outsiders (by requiring permission to fish in village waters) and have established local rules to limit fishing activities inside the communities. Even if these village rules are enforceable, the exclusion of outsiders can be challenged for denying public access to coastal areas.

A clear process for co-management implementation is needed, together with political will. Other factors contributing to the successful fisheries co-management are the adaptative capacity of fisheries agencies, the cooperation of community leaders and institutions, and the active involvement of local communities in marine resource management.

**Source:** Levine and Richmond (2014).

Fisheries co-management arrangements in the Pacific largely involve the decentralisation of certain functions, including fisheries of local interest, from national to subnational and local government entities such as states, provinces, islands and villages. In some PICTs, these local government bodies coincide with traditional authorities (e.g. Marshall Islands, Samoa, Tokelau and Tuvalu), whereas in others, traditional authorities are only partly supported in legislation (e.g. Fiji). National CBFM approaches may differ depending on whether (1) the government retains management authority at the local level (and resource users are consulted before the adoption of local fisheries by-laws), (2) fisheries management authority is delegated or transferred to resource users or (3) resource owners exercise management authority with technical advice from or the assistance of the government (Kuemlangan 2004).<sup>11</sup>

Some of the legal features relevant to CBFM in PICTs are summarised in the remainder of this part, presented by Pacific subregion: Melanesia, Micronesia and Polynesia. A brief overview of CBFM legislation is given for PICTs within the subregion. To present a snapshot of existing co-management arrangements backed by legislation,<sup>12</sup> details for each subregion are provided in Tables 2 (Melanesia), 4 (Micronesia)<sup>13</sup> and 6 (Polynesia). Many PICTs have partly decentralised fisheries management to subnational or local authorities (typically for fisheries of local interest or within a certain distance from shore), in line with the principle of subsidiarity or lowest appropriate level of government.<sup>14</sup>

#### Right to a System of Local Government

(1) The people of every populated atoll or island that is not part of an atoll shall have the right to a system of local government which shall operate in accordance with any applicable law.

(2) The system of local government shall in each case extend to the sea and the seabed of the internal waters of the atoll or island and to the surrounding sea and seabed to a distance of 5 miles from the baselines from which the territorial sea of that atoll or island is measured.

CONSTITUTION OF THE REPUBLIC OF THE MARSHALL ISLANDS, ARTICLE IX(1)

11 For example, approach (1) is taken in Nauru, (2) in Kiribati and Tonga, and (3) in Vanuatu.

12 The terms used to describe the co-management or CBFM approach adopted in each country are those used in legislation, which may differ from specific co-management projects implemented on the ground with the support of donors and agencies. Relevant CBFM legislation applies to those projects regardless of terminology.

13 For some Micronesian countries and territories, reference is made to the protected area networks established to meet the Micronesia Challenge, which aims at protecting 50 per cent of all marine resources by 2030.

14 The principle of subsidiarity “calls for social problems to be addressed from the bottom up, rather than from the top down” at the most adequate level of governance, such as local or regional (Vischer 2001, p. 103).

The type of engagement with local communities (via consultation, delegation of authority, or agreements) may differ depending on whether those communities are recognised by law to have resource user rights or ownership rights on certain fishing grounds. The marine tenure and fishing rights of local communities are presented by subregion in Tables 3 (Melanesia), 5 (Micronesia) and 7 (Polynesia). These three tables include the area of authority of subnational or local government bodies in fisheries matters (e.g. 3, 6 or 12 nautical miles), which is directly relevant to implementing CBFM arrangements. The marine tenure and fishing rights of local communities generally extend seaward of the reef, although legislation is often silent on the maximum extent and outer limits of community managed areas.

In all Tables 3, 5 and 7, resource owners refers to individuals or communities that have legally recognised ownership on the reef, foreshore and nearshore waters based on customary marine tenure arrangements. The term resource users indicates fishers in countries or territories where marine resources belong to the State, and where stakeholders (individuals or communities) can either be consulted by government or be given preferential access to coastal fishing grounds, including with the power to exclude non-members of the community from accessing or fishing in those grounds. In this sense, exclusive use rights may be held by both resource users and resource owners, depending on each legal system and customary context.

# MELANESIA

- In **Papua New Guinea**, in West New Britain Province, the local-level government may, at the request of a clan and the recommendation of an advisory committee, declare an area of high marine value as a locally managed marine area. After that, the local government would enter into an agreement with the clan resource owners to protect and manage the area (see the three Environment Management Laws 2004, for Bialla, Hoskins and Talasea Marine, although the enactment and implementation status of these local-level government laws is unclear according to Booth 2021).





● ● ● ● ● In **Fiji**, customary rights are protected by law, including by the registration of exclusive fishing rights of local clans and tribes in qoliqoli (traditional fishing grounds) (Fisheries Act 1941, § 13). Permits to fish commercially in such areas have to be obtained with the agreement of the Fijian people whose customary rights may be affected. Community members in Fiji can serve as fish wardens, assisting in the prevention and detection of offences (Fisheries Act 1941, § 3). Wardens' powers include the ability to require seeing a fishing licence and catch, board vessels, perform searches, and take alleged offenders, vessels and catches to a police station (Fisheries Act 1941, § 7).

● ● ● ● ● In **Solomon Islands**, community fisheries management plans can be drafted by or on behalf of customary rights holders, and the management measures, fines, penalties and sanctions, as well as the licensing and enforcement authorities, described in the plans are “deemed to have legal effect of a bye-law” on adoption and publication (Fisheries Management Act 2015, § 18(7)).

● ● ● ● ● In **Vanuatu**, marine reserves and closed inshore coastal areas may be established in consultation with customary landowners (Fisheries Act 2014 and Fisheries Regulations 2009). Community authorised officers can be appointed under the Fisheries Act 2014, as amended in 2019. In addition, with the agreement of customary landowners, an area can be registered as a community conservation area (Environmental Management and Conservation Act 2002, § 37). On registration of the community conservation area, both the landowners and the management committee formed by the landowners participate in developing and implementing a management plan for the area (Environmental Management and Conservation Act 2002, § 39). The director of the government department responsible for the environment may provide support to the landowners and management committee for the management plan. A landowner may at any time apply to cancel the registration of the area, modify the area or amend the management plan for the area (Environmental Management and Conservation Act 2002, § 38).

● ● ● ● ● In **New Caledonia**, management powers of the reef and foreshore are retained by the provincial administration in consultation with local communities. However, provincial environmental legislation, which covers fisheries matters up to 12 nautical miles, includes references to customary practices, traditional co-management and meaningful consultation processes. The Environment Code of the Loyalty Islands Province 2016 has recently been amended to include the possibility to grant legal personality to elements of Nature in order to reflect the Kanak worldview. New provisions have also been introduced to allow for co-management of customary marine and terrestrial areas.

Table 2.  
Legal basis for coastal fisheries co-management approaches in Melanesia

COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
Fiji	Locally managed marine area (LMMA) ( <i>qoliqoli</i> ) <sup>a</sup>	<p>Fisheries Act 1941:</p> <ul style="list-style-type: none"> <li>• <i>iTaukei</i> Fisheries Commission (§ 14)</li> <li>• Setting of boundaries of <i>iTaukei</i> fishing grounds (§ 15)</li> <li>• Permit by local clan required to fish in registered area (§ 13(2))</li> <li>• Honorary fish wardens (§§ 3 and 7)</li> </ul>
New Caledonia	<p>North Province: Marine protected area (MPA) – Sustainable resource management area (AGDR)</p> <p>Loyalty Islands Province: Natural protected area Rights of nature</p>	<p>An AGDR is an IUCN type VI MPA in consultation with customary groups (Environment Code of the North Province 2008, § 211-8) Kan-Gunu sea cucumber management committee (Deliberation No. 2014-316/APN (Kan-Gunu), § 6)</p> <p>Provincial protected areas (marine, terrestrial or mixed) can be established at the request of customary or provincial authorities, including by formalising existing customary protected areas (Environment Code of the Loyalty Islands Province, § 212-1) Legal personhood of elements of nature and social organisation of customary authorities (Environment Code of the Loyalty Islands Province 2016, § 101-3)</p>
Papua New Guinea	Wildlife management area LMMA	<p>Wildlife management areas, committees, and licensing agents and rangers (Fauna (Protection and Control) Act 1966, as amended to reflect the role of the Conservation and Environment Protection Authority, §§ 15–22)</p> <p>Local governments may enter into agreements to manage high marine value areas (Organic Law on Provincial Governments and Local-level Governments, § 44(p); e.g. Talasea Marine Environment Management Law 2004, § 8)<sup>b</sup></p>

COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
Solomon Islands	Community fisheries management plan	<p>Gazetted community fisheries management plans (Fisheries Management Act 2015, § 18)</p> <p>Sea cucumber management by communities must be consistent with the national sea cucumber plan (Fisheries (Sea Cucumber) (Amendment) Regulations 2014, schedule I, § 10)</p> <p>Local government councils may regulate fishing (Local Government Act 1964, Schedule)</p> <p>Provinces may appoint honorary fisheries officers (e.g. Choiseul Province Fisheries and Marine Environment Ordinance 2011, § 44)</p>
Vanuatu	<p>Community-based fisheries management (CBFM)<sup>c</sup></p> <p>Community conservation area</p>	<p>Marine reserves in consultation with traditional owners (Fisheries Act 2014, § 102)</p> <p>Closed inshore coastal areas (Fisheries Regulations 2009, regulations 68–72 and 88(2))</p> <p>Community conservation areas (Environmental Management and Conservation Act 2002, § 37)</p> <p>Community-based authorised officers (Fisheries Act 2014, §§ 115B and 115C)</p>

- a Both terms are employed in the National Biodiversity Strategy and Action Plan for Fiji 2017–2024, which calls for expanding “marine managed areas beyond the *iQoliqoli* areas into Fiji’s offshore waters” to meet the commitment to protect 30 per cent of its marine environment made at the International Meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, held in Mauritius in 2005 (Government of Fiji 2017, p. 25).
- b The Pere Environment and Conservation Area Management Plan 2009, which was adopted by the Nali Sopot Penabu Local Level Government (LLG) in Manus Province for the Pere Community, reports that “the Nali Sopot Penabu LLG assembly enormously passed the bill on ‘Nali Sopot Penabu LLG Environment and Conservation Law 2007’ at Pere village. It is the first LLG Environment and Conservation Law for the Province” (Nali Sopot Penabu 2009, p. 6).
- c The term CBFM is used in Vanuatu’s National Roadmap for Coastal Fisheries: 2019–2030, under which a number of community-based coastal fisheries development plans have been adopted.



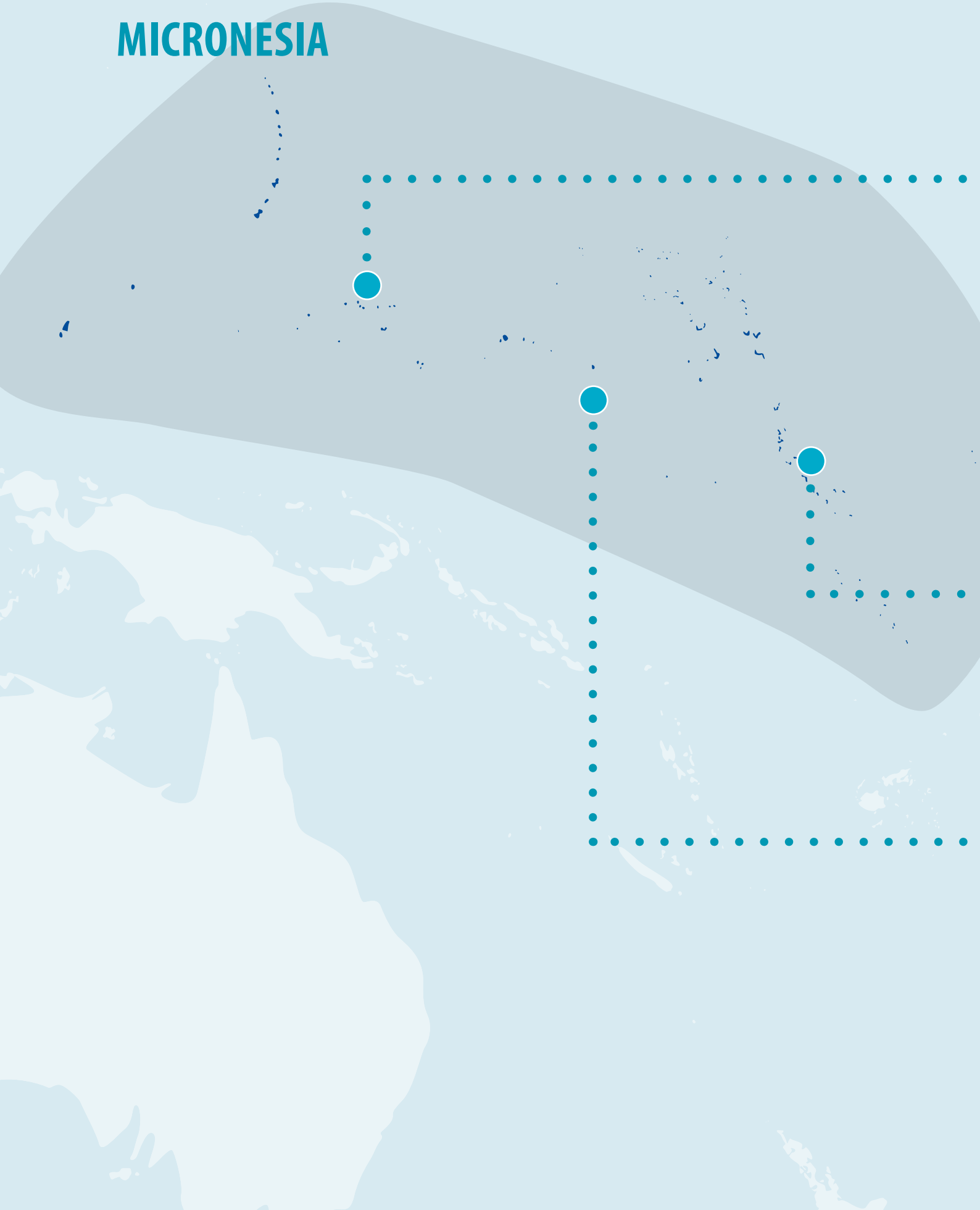
© SPC, Zahiyyd Namo, Solomon Islands

*Table 3.*  
*Marine tenure and fishing rights of local communities in Melanesia*

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
Fiji	National 200 nautical miles (nm)	Resource users and owners	Fisheries Act 1941: Registration of mataqali's (clan's) exclusive fishing rights by the iTaukei Fisheries Commission in each qoliqoli (traditional fishing ground) (§ 13(1))
New Caledonia	North Province 12 nm	Resource users	Organic Law No. 99-209 of 19 March 1999 concerning New Caledonia (§ 43–46): <ul style="list-style-type: none"> <li>• Customary ownership of land</li> <li>• Provincial ownership of the foreshore and waters up to 12 nm (maritime public domain of each province)</li> <li>• Customary marine areas (Environment Code of the Loyalty Islands Province 2016)</li> </ul>
	Loyalty Islands Province 12 nm	Resource users	

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
Papua New Guinea	Provinces 3 nm or more, up to 8 nm, depending on province	Resource owners	Customary ownership of fisheries resources (Fisheries Management Act 1998, § 26)
Solomon Islands	Provinces 3 nm	Resource users and owners	Customary rights over certain areas in the fisheries waters (Fisheries Management Act 2015, § 21) “Marine tenure ownership remains with individual communities” (Fisheries (Beche-de-mer) (Amendment) Regulations 2014, schedule I, § 10)
Vanuatu	Local government councils 6 nm	Resource owners	Customary ownership of land extends to the foreshore (Constitution, § 73; Foreshore Development Act 1975, Schedule) The term “land” includes “land under water including land extending to the seaside of any offshore reef but no further” (Land Reform Act, CAP. 123, § 1)

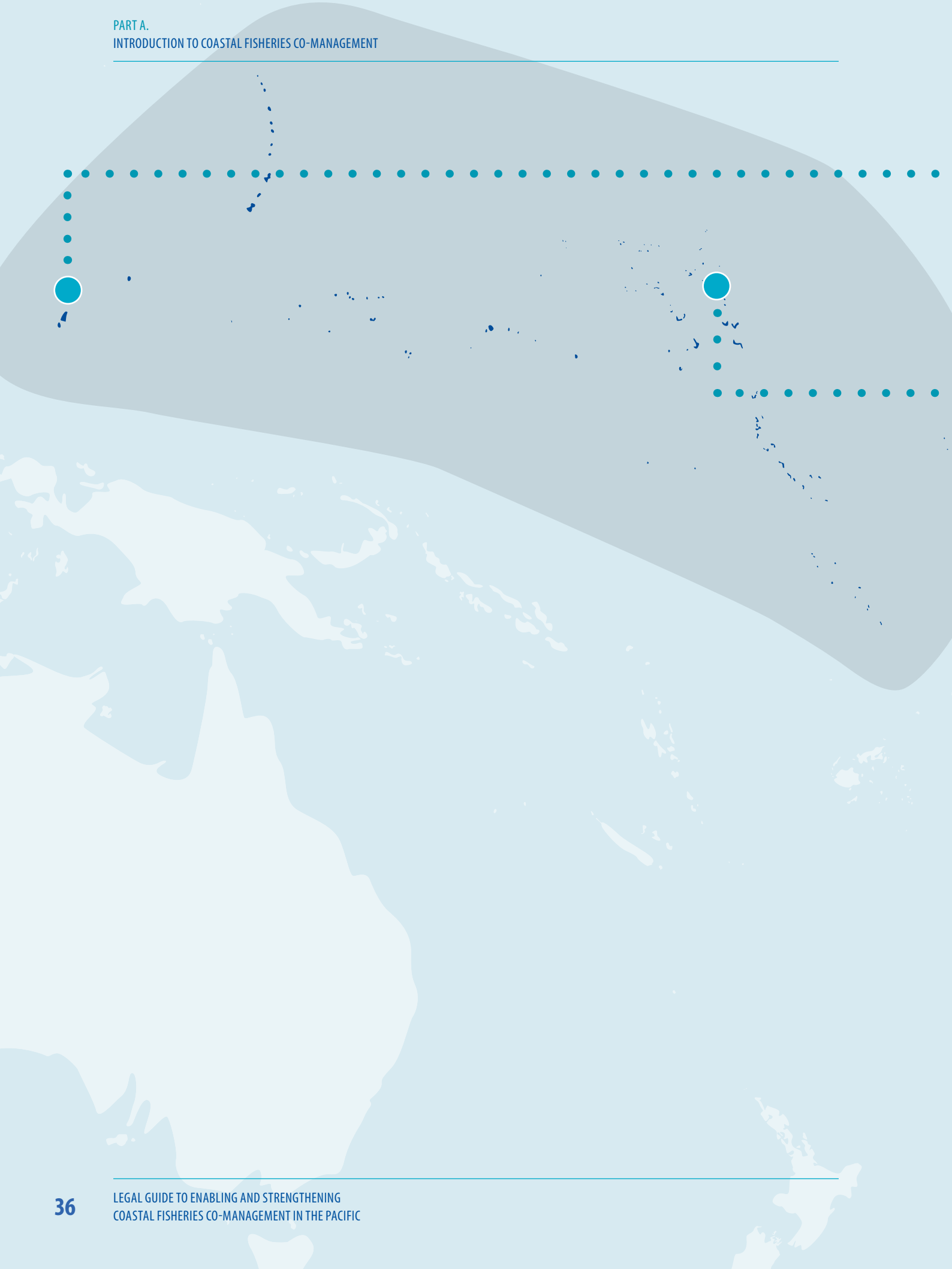
# MICRONESIA



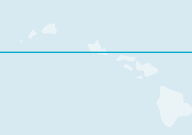

In the **Federated States of Micronesia**, the management of marine resources is shared between the federal and state governments. While not all communities manage marine resources under management plans, some form of community resource management exists in the country, including under the protected area network (PAN) initiative for the Micronesia Challenge. PAN plans are developed with local communities and customary owners, where recognised, and may include the regulation of fishing activities. In Chuuk State, “[t]raditional rights over all reefs, tidelands, and other submerged lands, including their water columns” are recognised (Chuuk State Constitution, Article IV, § 4). Community organisations are consulted in the preparation of a management plan (Chuuk State Coastal Fisheries Protection Act 2016, § 10). Yap State recognises “traditional rights and ownership of natural resources and areas within the marine space of the State from the high water mark up to and beyond 12 miles from island baseline” and provides that “[n]o action may be taken to impair these traditional rights and ownership” other than by the State to “provide for the conservation and sustainable development of natural resources” (Yap State Constitution, Article XIII, § 5).

In **Kiribati**, island councils may adopt fisheries by-laws within three nautical miles and, under the fisheries legislation, CBFM plans can be created for the management of coastal marine resources, with the support of the government (Ministry of Fisheries and Marine Resource Development). Registered coastal communities may take the leading role in managing the resources in collaboration with local authorities. Specifically, communities participate in the preparation of the CBFM plan, endorse the plan, and raise public awareness of the plan and area to which it applies, and they must approve any amendments to the plan (Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019, §§ 4 and 5).

In **Nauru**, district communities can apply for the delineation of an area under which to manage coastal fisheries resources and for the registration of a community fisheries management committee (Coastal Fisheries and Aquaculture Act 2020, §§ 25 and 26). The government can assist the community fisheries management committee in preparing, adopting and reviewing the community fisheries management area plan (Coastal Fisheries and Aquaculture Act 2020, § 27). Prior to submitting the plan for approval by the government, the committee presents the draft plan to the Community Fisheries Stakeholder Forum and consults neighbouring district communities. The Forum, composed of “one representative from each district community fisheries management committee” and a senior government staff member, works “directly with key stakeholders to ensure that their concerns and needs are considered”, develops a “mechanism to resolve disputes between members” and provides feedback on plans and measures (Coastal Fisheries and Aquaculture Act 2020, §§ 16 and 17).





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- In **Palau**, states own marine resources up to 12 nautical miles but this state ownership of resources may not impair or affect “traditional fishing rights and practices” (Constitution, Article 1(2)). In addition, “traditionally recognized fishing rights in submerged reef areas wherever located within the fishery zones of the Republic shall be preserved and respected in accordance with the regulations of the Bureau and the Division of Marine Law Enforcement of the Ministry of Justice” (Palau National Code, Title 27 (Fishing), § 146). The PAN mechanism in Palau involves customary owners and may include the regulation of fishing activities.
  - In the **Marshall Islands**, people have the right to a system of local government extending to the sea and the seabed surrounding an atoll or island to a distance of five nautical miles (Constitution, Article IX, § 1(1)(2)). Local government councils have the power to make ordinances, including to appropriate funds for local purposes (Constitution, Article IX, § 2) and to be consulted by the fisheries administration (Marshall Islands Marine Resources Authority) for the protection and promotion of artisanal fisheries (Fisheries Act 1997, § 210). The PAN mechanism, which relies on local resource committees and traditional owners, may include the regulation of fishing activities. Reimaanlok – a national conservation programme established in 2008 to promote community-based management – is the primary mechanism to attain PAN support in the Marshall Islands. A fund was created under the Protected Areas Network (PAN) Act 2015 to promote the establishment of protected areas. A community-based development fund is mentioned under the Marine Resources Act 1997 (§ 124(7)).

*Table 4.*  
*Legal basis for coastal fisheries co-management approaches in Micronesia*

COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
Federated States of Micronesia <sup>a</sup>	<p>Pohnpei State: Locally managed marine area (LMMA)<sup>b</sup> Protected area network (PAN) management unit</p> <p>Kosrae State: PAN management unit</p> <p>Chuuk State: PAN local management unit</p> <p>Yap State: PAN management unit with local community endorsement</p>	<p>Marine Sanctuary Act 1999:</p> <ul style="list-style-type: none"> <li>Establishment of areas in consultation with traditional leaders (§ 5-106(2))</li> <li>Community conservation officers (§ 5-130)</li> </ul> <p>Protected areas in consultation with traditional leaders and the local government (Protected Area Act 2010, § 19.811(2))</p> <p>Royalties on the use of living and non-living natural resources, including marine resources (Resource Royalty Act 2016, §§ 11.901 and 11.903(3))</p> <p>Establishment of protected areas (Chuuk State PAN Act 2017, §§ 5 and 6)</p> <p>Protection of traditional fishing methods (Yap State Code, Title 18, § 1008)</p> <p>Establishment of trochus sanctuaries (Yap State Code, Title 18, § 1009)</p> <p>Temporary moratorium for protection of species, including in specific areas (Yap State Code, Title 18, § 1011).</p> <p>Consent of traditional owners for sea cucumber farming (Yap State Code, Title 18, § 1012(g))</p>
Kiribati	Community-based fisheries management	CBFM plan with coastal communities (Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019, §§ 4 and 5)



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COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
Marshall Islands	Reimaanlok conservation areas <sup>c</sup> PAN local resource committee	Reimaanlok conservation areas are established as marine protected areas – parks or reserves (Fisheries Act 1997, § 208) PAN Local Resource Committee members to be approved by the community (Protected Areas Network (PAN) Act 2015, §§ 504, 505 and 510)
Nauru	Community fisheries management area	Community fisheries management plan (Coastal Fisheries and Aquaculture Act 2020, § 27)
Palau	PAN with state and traditional leaders	Protected areas (Palau National Code, Title 24 (Environmental Protection), § 3402) Traditionally recognised fishing rights in submerged reef areas (Palau National Code, Title 27 (Fishing), § 146)

- a Implementation of the National PAN Policy Framework 2015 must be done at the state level, through existing or new legislation. According to the framework, “[a]s there are a variety of resource tenure systems in the FSM, this Policy acknowledges and supports the Application of all sites, regardless of ownership status, to join the Protected Areas Network. Therefore, the configuration of each Management Unit, the group of people responsible for implementing the Management Plan of a particular protected area, is site specific and may or may not necessarily include state or municipal government representatives” (Government of Federated States of Micronesia 2015, p. 9).
- b The term LMMA is used in the Pohnpei Biodiversity Strategy and Action Plan 2018–2023, which provides policy directions for the establishment of a Pohnpei Lagoon Conservation Area Plan, including the development of a marine PAN.
- c The *Reimaanlok* National Conservation Area Plan for 2007–2012 provides guidance for the “design, establishment and management of conservation areas that are fully owned, led and endorsed by local communities based on their needs, values and cultural heritage” (*Reimaan* National Planning Team 2008, p. 7). The plan was adopted under section 208 of the Fisheries Act 1997 regulating the establishment of protected areas.

*Table 5.*  
*Marine tenure and fishing rights of local communities in Micronesia*

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
Federated States of Micronesia <sup>a</sup>	Pohnpei State 12 nautical miles (nm)	Resource users	Customs and traditions are protected (Pohnpei State Constitution, Article IV(2)) Subsistence fishing rights in submerged reefs are recognised (Fisheries Protection Act 1995, § 1-105))
	Kosrae State 12 nm	Resource users	The state has sovereign rights to manage resources within fishery waters (Kosrae State Code 19 (Environmental Protection and Management), § 19.301)
	Chuuk State 12 nm	Resource owners	Traditional rights over reefs and marine resources (Chuuk State Constitution, Article IV(4))
	Yap State 12 nm	Resource owners	Traditional rights and ownership of natural resources and areas are recognised within the marine space of the state and beyond (Yap State Constitution, Article XIII(5)) Foreign fishing, research and exploration of natural resources in state waters are subject to permission by the legitimate traditional owners (Yap State Constitution, Article XIII(6))
Kiribati	Island councils 3 nm	Resource users	Customary fishing rights of kainga and utu (clans) (Fisheries Act 2010, § 18)

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
Marshall Islands	Local government councils 5 nm	Resource users and owners	State ownership of marine resources (Fisheries Act 1997, § 202) Customary fishing rights recognised for owners of land abutting marine areas (Public Land Act 1966, § 103(1)(b)) Traditional and customary rights recognised for landowner, clan, family or municipality to control the use of marine areas and resources below the high water mark, subject only to government ownership (Public Land Act 1966, § 103(1)(e))
Nauru	National 200 nm	Resource users	State ownership of marine resources but recognition of traditional knowledge and customary practices (Coastal Fisheries and Aquaculture Act 2020, § 7)
Palau	States 12 nm	Resource users	State ownership of marine resources up to 12 nm but protection of traditional fishing rights (Constitution, Article I, § 2)


a “The fact that control over marine areas within twelve-mile zone is not mentioned in Constitution is strong indication that framers intended states to control ownership and use of marine resources within that area” (FSM v. Oliver, 3 FSM Intrm. 469, 473 (Pon. 1988)). “A power not expressly delegated to the national government or prohibited to the states is a state power” (Constitution of Federated States of Micronesia, Article VIII, § 2). The Constitution also states that traditional rights can be recognised by law.

# POLYNESIA

In **American Samoa**, each village can implement by-laws for the conservation and management of a village marine protected area, in consultation with the Department of Marine and Wildlife Resources. A village can create a monitoring and enforcement committee to enforce the fisheries management plan for the area (American Samoa, Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program), § 24.1004).

In **Samoa**, village fisheries management areas, established by the government (Fisheries Division of the Ministry of Agriculture and Fisheries) in consultation with village *fono* (councils), are managed by village communities (Fisheries Management Act 2016). Village *fono* can also make village fishery by-laws (Village Fono Act 1990).

In **Niue**, village councils can regulate access to the sea and fishing grounds and can adopt plans for compliance with safety-at-sea measures as well as for “the sustainable use of coastal, reef, and sea foods” (Village Councils Act 2016, §§ 18(a) and 20(1)). With the approval of Cabinet, a village council may establish by-laws to perform its functions (Village Councils Act 2016, § 23).




In **French Polynesia**, certain fishing gear may be restricted in areas declared to be regulated fishing zones (ZPRs), which are established by the fisheries administration (Directorate of Marine Resources) and managed in consultation with the local government and community (Deliberation No. 88-183 AT of 1988 on fisheries regulations, Article 17 bis). In each ZPR, a management committee is created to monitor the marine area and propose how to manage it (Regulation No. 1204 CM of 2018 on fisheries in the maritime public domain of the associated municipality of Tautira, municipality of Taiarapu East, Article 5). In addition, fisheries co-management measures, such as *rahui* (closure/ban) on marine resources in certain areas, can be implemented within marine protected areas (MPAs) (e.g. in biosphere reserves) and in areas that are subject to marine spatial plans (PGEMs) under environmental legislation.

In the **Cook Islands**, island councils may regulate local fisheries through by-laws, in consultation with the fisheries administration (Ministry of Marine Resources) and in line with the Marine Resources Act 2005 and regulations. Local *ra'ui* area management plans are implemented by traditional communities. These communities also appoint tiaki ra'ui to serve as guardians of the managed marine areas (Environment (Atiu and Takutea) Regulations 2008, § 21).

In **Tokelau**, there are three incorporated villages, which are managed by a *taupulega* (council of elders) created “in accordance with the custom and usage of that village” (Tokelau Village Incorporation Regulations 1986, § 2). Each village can make rules, impose charges and prescribe criminal offences for non-compliance (Tokelau Village Incorporation Regulations 1986, § 18). The Atafu Village Rules, while not setting forth a fisheries management plan, describe a variety of rules related to fishing, including spear fishing, acceptable fishing methods and times to fish (Atafu Village Rules 2009).

In **Tonga**, the government (Ministry of Fisheries) can declare any area a special management area for the purpose of coastal community management, and the coastal community designated for the management “shall organise itself and its operations or administration in a manner that is conducive to the effective conservation and management of fisheries resources” (Fisheries Management Act 2002, § 14(5)). A coastal community management committee helps the coastal community manage the area, including by drafting and enforcing its management plan (Fisheries (Coastal Communities) Regulations 2009).





In **Tuvalu**, the *falekaupule* (traditional assembly) of an island or atoll is responsible for the overall management of marine resources in the internal waters, lagoons and territorial sea of that island or atoll. It may prohibit, restrict or regulate the hunting, capture, killing or sale of fish and improve and control fishing and related industries in accordance with specific national legislation (Falekaupule Act 1997, § 4, and Schedule 3, § 1(n) and (o)). The *kaupule* (island council) appoints a special committee, comprising representatives of government departments and local communities, to prepare a conservation area management plan (Conservation Areas Act 1999, § 6(1)).

Table 6.  
Legal basis for coastal fisheries co-management approaches in Polynesia

COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
American Samoa	Village marine protected area and community-based fisheries management program	Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program): <ul style="list-style-type: none"> <li>Village Marine Protected Area plan and by-laws (§ 24.1004-6)</li> <li>Village Monitoring and Enforcement Committee (§ 24.1004(f)(i))</li> </ul>
Cook Islands	Community conserved area <i>Ra'ui</i> area	Environment (Atiu and Takutea) Regulations 2008: <ul style="list-style-type: none"> <li>Community conserved area management plans (§§ 4 and 5)</li> <li>Ra'ui area management plans (§§ 18 and 20)</li> <li>Enforcement powers of the tiaki ra'ui (guardians) (§ 22)</li> </ul>
French Polynesia	Regulated fishing zone <i>Rahui</i> area	Regulated fishing zones managed in consultation with municipalities and fishers (Deliberation No. 88-183 AT of 1988 on fisheries regulations, Article 17 bis) Rahui areas and biosphere reserves (Environment Code, § LP.2122-1) Marine spatial plan (PGEM) may regulate fishing (Land Management Code, Article D. 133-1); for example, Moorea PGEM (Regulation No. 410 CM of 2004)
Niue	Marine reserve <i>Fono</i> for fishing	Declaration of marine reserve or fono for fishing (Domestic Fishing Act 1995, § 8) Village council regulates access to the sea and fishing grounds (Village Council Act 2016, § 18)

COUNTRY OR TERRITORY	APPROACH	SUPPORTING LEGISLATION
Samoa	Village fisheries management area and community-based fisheries management program	Village fisheries by-laws and village fisheries management committees (Fisheries Management Act 2016, §§ 19, 41 and 86–89; Village Fono Act 1990)
Tokelau	Marine reserve	Village rules may regulate fishing (Tokelau Village Incorporation Regulations 1986 (e.g. Atafu Village Rules 2009, rules 10, 22 and 23))
Tonga	Special management area (SMA)	SMA in coastal communities (Fisheries Management Act 2002, §§ 13–16) Enforcement powers of SMA committee members (Fisheries (Coastal Communities) Regulations 2009, regulations 5, 6 and 12)
Tuvalu	Locally managed marine area (LMMA) <sup>a</sup> Conservation area	The <i>kaupule</i> (island councils) may enter into marine conservation agreements (Conservation Areas Act 1999, § 9) <i>Kaupule</i> by-laws may regulate fishing in the <i>falekaupule</i> area (Falekaupule Act 1997, §§ 53 and 40, Schedule 3(1)(n))

<sup>a</sup> The term LMMA is used in the Tuvalu Fisheries Department Annual Work Plan 2020, while the National Strategy for Sustainable Development 2016–2020 emphasises the role of managed areas in improving fishery health.

Table 7.  
Marine tenure and fishing rights of local communities in Polynesia

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
American Samoa	Territory 3 nautical miles (nm)	Resource users	<p>Territory government administers in trust all lands permanently or periodically covered by tidal waters up to 3 nm (48 U.S. Code, § 1705(a))</p> <p>Proprietary rights of ownership are protected, as well as the rights of management, administration, leasing, use and development of the lands and natural resources (48 U.S. Code, § 1706)</p> <p>Persons of Samoan ancestry are protected against alienation of their lands and the destruction of the Samoan way of life (Constitution of American Samoa, Article 1, § 3)</p>
Cook Islands	Island councils and <i>ui ariki</i> (paramount chiefs) Reef/nearshore	Resource users	<p>Internal waters and territorial sea vested in Crown (Maritime Zones Act 2018, § 9)</p> <p>Island councils manage fisheries of local interest in their areas of authority (Marine Resources Act 2005, § 8)</p> <p>Landowner consulted before declaring a <i>ra'ui</i> and fishing restrictions defined in accordance with traditional custom (Environment (Atiu and Takutea) Regulations 2008, regulation 18)</p>

COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
French Polynesia	Territory 200 nm	Resource users	Organic Law No. 2004-192 of 2004 on French Polynesia, Article 47: <ul style="list-style-type: none"> <li>Public maritime domain of French Polynesia extends to the territorial waters</li> <li>The territory regulates and exercises the right to explore and exploit marine resources up to 200 nm</li> </ul>
Niue	National 200 nm	Resource users	State ownership of marine resources in fishery waters (Domestic Fishing Act 1995, § 2)
Samoa	Village <i>fono</i> (council) Reef/nearshore	Resource users	Land below the high water mark is public land (Constitution, § 104) Customary ownership of land recognised (Constitution, § 101) Village fono consulted and customary land ownership, traditional access rights and fisheries practices taken into account (Fisheries Management Act 2016, §§ 19 and 22)
Tokelau	Village <i>taupulega</i> (council of elders) Reef/nearshore	Resource users	The foreshore of Tokelau, and the seabed and subsoil of the submarine areas of its waters, are vested in the Crown (Tokelau Act, § 10) Foreign fishing is prohibited in the territorial sea (Tokelau Act, § 6(1))



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COUNTRY OR TERRITORY	COASTAL JURISDICTION (GOVERNMENT)	MARINE TENURE & FISHING RIGHTS (COMMUNITY)	SUPPORTING LEGISLATION
Tonga	National 200 nm	Resource users	<p>The beach frontage and marine resources belong to the Crown (Constitution, Article 109; Maritime Zones Act, § 8)</p> <p>Fishing rights of coastal communities are recognised in special management areas (SMAs) (Fisheries (Coastal Communities) Regulations 2009, regulation 18)</p> <p>Coastal community consulted before any fishing licence is issued by the fisheries minister in an SMA (Fisheries Management Act 2002, § 15(2))</p>
Tuvalu	<i>Kaupule</i> (island councils) 12 nm	Resource owners	<p>Customary ownership rights in and over the waters, seabed, foreshore and fisheries up to 12 nm (Laws of Tuvalu Act 1987, Schedule 1(4))</p>

**B**

# LEGISLATION FOR COASTAL FISHERIES CO-MANAGEMENT



## PRINCIPLES OF EFFECTIVE LEGISLATION

A number of principles of effective co-management legislation are useful for PICTs to consider applying under their own legal framework for coastal fisheries co-management, as follows.

- **Delegation.** If the government has exclusive authority over marine resources, it should consider delegating powers to manage fisheries in coastal areas, and assigning related stewardship duties, to local communities identified as guardians of those resources.
- **Vision.** A common ambition should be shared by all stakeholders to sustainably manage marine resources in the public interest, with an ecosystem approach, to ensure the food security, livelihoods and resilience of local communities.
- **Tradition.** Traditional and customary rights of local communities to marine resources, including the right to use and manage those resources, should be recognised in legislation.
- **Commitment.** Local communities should play a leading role in the management of marine resources, with the government providing support to ensure that the management is successful.
- **Participation.** Communities managing a designated area should be inclusive when consulting with relevant stakeholders, such as fishers' representatives, to avoid conflict and increase compliance with fisheries management measures and managed area rules.
- **Feedback.** Stakeholder participation should be meaningful and feedback should be properly assessed and incorporated into a CBFM plan.
- **Publicity.** A CBFM plan should be widely publicised and available to all stakeholders and users of the managed area, which should be clearly marked.
- **Compliance.** While the primary responsibility of law enforcement lies with the government, any participatory monitoring, control and surveillance of community-managed areas should be based on traditional social structures and voluntary work.





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- **Communication.** The government should fully support communities that are managing resources, and communication and information exchange between community members and the government should be ongoing.
- **Capacity.** Political will and sufficient capacity, including the provision of dedicated staff, training, educational resources and operational budgets by the government, is needed to establish and sustain CBFM activities.



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CBFM arrangements already exist in most countries and territories in the Pacific region. There may be a need to establish or develop them in some places and strengthen or support them in others, including through cautious codification of customary arrangements to avoid them being frozen in time.. The law helps articulate the rights of local communities, facilitates increased transparency and the participation of stakeholders, and provides mechanisms to avoid and resolve conflicts. It is important to learn from CBFM experience, where it exists, in order to widen or nationalise the basis for CBFM in legislation. Laws should provide an enabling environment for the recognition of tenure rights of local communities and their role in managing coastal marine resources. To scale up existing successful CBFM arrangements, laws may also provide ways for community members to effectively engage in monitoring and enforcement, while clarifying that the primary law enforcement powers and responsibilities rest with the government. Legislation should promote government support of communities that manage areas, including training of community members who participate in monitoring and enforcement activities. Each country is unique, but the general principles of effective co-management legislation can help PICTs in considering the options for CBFM suitable to them.

While fisheries co-management has many advantages, potential disadvantages also exist. Boxes 7 and 8 illustrate some of the pros and cons involved in fisheries co-management.

**BOX 7.**

**POTENTIAL ADVANTAGES OF FISHERIES CO-MANAGEMENT**

1. A more transparent, accountable, democratic and participatory management system providing a better understanding of the resource.
2. A more autonomous system that is more economical than centralised management systems, in the long run.
3. Improved stewardship of aquatic and coastal resources and management, as fishers take responsibility for a number of managerial functions.
4. Makes maximum use of indigenous knowledge and expertise to provide information on the resource base and to complement scientific information for management.
5. Management is accountable to local areas as fishing communities are able to devise and administer rules that implement localised solutions to local problems.
6. By giving fishers a sense of ownership over the resource, co-management provides a powerful incentive to view the resource as a long-term asset rather than to discount its future returns.
7. A higher degree of acceptability, legitimacy and compliance with plans and regulations can be expected, since the community is involved in formulating and implementing co-management measures.
8. Increased communication and understanding among all concerned can minimise social conflict and maintain or improve social cohesion in the community.
9. Communities can expand management to other issues such as land-based threats or climate change adaptation.

**Source:** Adapted from Pomeroy and Rivera-Guieb (2006, pp. 19–20).

**BOX 8.**

**POSSIBLE LIMITATIONS OF FISHERIES CO-MANAGEMENT**

1. For many individuals and communities, the economic, social and/or political incentives to engage in co-management may not be present.
2. In the short run, there may be high initial investments of time, financial resources and human resources to establish co-management.
3. The risks involved in changing fisheries management strategies may be too high for some communities and fishers.
4. The costs for individuals to participate in co-management strategies (time, money) may outweigh the expected benefits.
5. Sufficient political will may not exist to support co-management.
6. The community may not have the capacity to be an effective and equitable governing institution.
7. Particular local resource characteristics, such as fish migratory patterns, may make it difficult or impossible for the community to manage the resource.
8. The need to develop a consensus from a wide range of interests may lengthen the decision-making process and result in weaker, compromised measures.
9. There is always a possibility of unbalanced and inequitable sharing of power between government and communities and the use of co-management by some political leaders in their own interest.

**Source:** Adapted from Pomeroy and Rivera-Guieb (2006, pp. 20–21).



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## ROLE OF LEGISLATION

Legal provisions related to CBFM processes can be included in national laws, such as fisheries or marine resources acts and related regulations. Provisions can also be included in local laws, such as island council acts, by-laws and ordinances. Furthermore, some laws do not directly address CBFM arrangements but relate to ownership, management and conservation of marine resources, and community rights more generally, including laws that protect cultural heritage and rights.

There are many advantages to including CBFM provisions in legally binding documents. Specifically, the inclusion of provisions related to CBFM processes under a legal framework can ensure that the following objectives are met or issues are considered.

- 1 Area designation and boundaries.** The fisheries administration has the authority to designate certain marine areas for the purpose of sustainable management by or with the participation of local communities, and the boundaries of those areas are clearly established and marked, in consultation with the community and in line with local and customary arrangements pertaining to traditional fishing grounds.
- 2 Community rights and powers.** The legal authority and responsibility of local communities to manage coastal marine resources is clearly articulated and recorded in the law, including through the recognition of customary rights and traditional practices; such authority can be recognised by law and then delegated to specific communities, associations or other groups via registration or contractual agreements. The government's authority to enter co-management arrangements with community groups and the responsibilities of the government and other entities in co-management arrangements are also clearly defined in legislation, and community members have legal backing to their management decisions.

- 3 Community rules and plans.** The expectations of fishing communities are clearly identified and agreed rules are made public, inside and outside each community. Expectations and rules can be set out in CBFM plans, thus increasing transparency and community participation in decision-making, as well as compliance of the community and the general public with those rules. A CBFM plan can be a simple document detailing, for example, who can fish, which species can be fished, where and when fishing is allowed and with what means, which vessels need to be registered, and how individuals can get involved in the development of a plan. Potential conflicts are avoided or resolved through clearly described consultation and decision-making processes, including consultation with stakeholders during the preparation of a CBFM plan.
- 4 Co-management committees.** A committee or an appropriate existing community institution facilitates the participation of community members and other stakeholders in the drafting, development and implementation of a co-management plan, as well as in assisting with a plan's enforcement and the operationalisation of other functions related to co-management, thus avoiding or resolving conflicts. Once recorded in the law, the responsibilities, membership, voting procedure and other details of CBFM committees are clearly defined, as is what can be done when a committee or a committee member fails to act or commits misconduct.
- 5 Monitoring and enforcement.** A participatory approach to monitoring and enforcement, including surveillance activities, is implemented by appointing qualified community members as guardians or fish wardens and by training community members in the promotion of compliance with fisheries management measures. Yet, the primary responsibility for monitoring and enforcement lies with the government.
- 6 Local by-laws and legal processes.** Where necessary to ensure compliance, local by-laws and regulations are in place reflecting the expectations of fishing communities in terms of sustainable use, conservation and management of coastal marine resources. Conflict resolution should rely on existing traditional structures, where they exist, and legal processes should be adapted to the local context.





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Sometimes, management processes are not included in legislative or regulatory documents. It may be that some arrangements and processes are customary and have not been codified. While the details of customary practices may not all need to be codified, it is important to recognise the potential benefits of having CBFM arrangements be part of enforceable legal documents. The codification of customary practices protects the rights of communities to manage their resources in accordance with those practices. By recording their customary arrangements in the law, communities place clear mandates on everyone involved in the management of their resources and place the authority to enforce such arrangements on both community members and outsiders. Doing so improves the implementation of co-management arrangements, compliance with set rules for the managed area and the sustainability of marine resources. However, the codification of customary rights, in particular, needs to be approached with care because traditional tenure may be based on flexible or interpretable systems that may not work if excessively constrained.

Sustainable financing to support the implementation of CBFM legislation is crucial and can be ensured through a range of funding sources and mechanisms; these are discussed in chapter 4.



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## EXAMPLES OF LEGAL PROVISIONS THAT ENABLE COASTAL FISHERIES CO-MANAGEMENT

Laws and policies can provide recognition for communities and empower them in managing coastal fisheries. In several countries, the process of developing CBFM is based on bottom-up approaches – these achieve success because they are largely driven by communities and their particular concerns. Bottom-up approaches are used where government capacity to reach remote communities or many communities is stretched thin or where community rights are particularly strong.<sup>15</sup> The sense of ownership by a community over plans or rules is expected to increase that community’s compliance with them.

As shown in many of the example provisions presented in sections 1 to 6 below, traditional arrangements can be recorded in the law, protecting customary rights, promoting traditional management techniques, and giving legal authority to local communities with traditional and ownership ties to marine areas to ensure that both members and non-members of the community follow rules designed to ensure the sustainable management of resources. CBFM provisions should be based on the recognition of traditional management practices, acknowledging any resource tenure or ownership rights of local communities on adjacent marine areas. When initiating the creation of a management plan for a marine area, it is crucial that the government proceeds with the full consent and participation of the local communities with traditional ties and ownership rights to that area. These communities should not only agree to the development of a management plan, but also be fully engaged in its preparation and implementation and, to the extent feasible, be the primary managers of the area. Any community feedback received should be incorporated into the plan, and governments should report back to communities on how their feedback has been used.

<sup>15</sup> Such approaches are described in many practical guides on promoting CBFM in Melanesia have been published, such as *Community-based marine resource management in Solomon Islands: A facilitator’s guide* (WorldFish 2013) and *Locally-managed marine areas: A guide to supporting community-based adaptive management* (Govan et al. 2008).

While CBFM arrangements generally fall under fisheries laws, which are implemented by fisheries agencies, in some PICTs, fisheries are covered by broader co-management arrangements. These arrangements are established under other laws, such as environmental or local government acts, which fall under the mandate of environmental agencies or ministries for internal affairs, respectively. For example, in the Cook Islands, Papua New Guinea and Vanuatu, local communities can use environmental legislation to establish areas under CBFM. Regardless of the law in which CBFM provisions reside, those provisions – including the useful information about what they cover and how they are structured – can help others create their own CBFM laws.

When co-management arrangements are not part of fisheries laws or when they are addressed by several laws within a country or territory, proper coordination mechanisms should be in place to facilitate communication among ministries and thus avoid roadblocks in management or enforcement processes. Effective coordination also helps avoid the duplication of effort – as the different co-management arrangements are all serving the same communities – and promote the sharing of resources and capacity. Another positive aspect of effective coordination is that it may lead to a greater number of communities in need being assisted than would otherwise be possible.

CBFM arrangements include the designation of a community to manage an area (including through the recognition of customary rights), the designation of a marine managed area and the creation of a management plan. Some PICTs (in all three subregions of the Pacific), and indeed countries around the world, already have such plans. In some cases, particularly where the State retains ownership of marine resources, CBFM plans allow the identification of management areas or designation of communities that will manage or participate in the management of marine resources. Legislation can set forth requirements for the preparation, adoption, implementation and enforcement of a plan, as well as any obligations of the government to provide training and other support to communities that participate in management. Where marine resource owners are recognised, an agreement sometimes formalises the relationship between the community and the government. In some countries, local by-laws and regulations are adopted in consultation with fishing communities. A committee is also often formed to assist with various management duties. The committee members or other members

of the community may be appointed as local wardens or community authorised officers to assist government authorised officers with enforcement of the CBFM plan. Legislation may also require the creation of dedicated funds and other financial instruments to sustainably support CBFM.

These various approaches to co-management have different benefits. Some approaches (or combination of approaches) are better suited for a particular location than others, and it is useful to compare approaches to understand what will work in each specific context. For example, CBFM plans exist across the three subregions of the Pacific, however some PICTs only provide for co-management committees or rely on traditional authorities and others use co-management agreements with marine resource owners. While a co-management agreement alone might define the rights and duties of a local community to manage marine resources, an associated management plan, which need only be simple, can provide the additional benefit of setting forth how management arrangements will be implemented, monitored and enforced. There are different ways of developing a management plan too: the government might lead the process, or the community might hold the balance of power with regard to development of the plan.<sup>16</sup>

Another example of an approach with a particular benefit is the establishment of a community management committee, which can bring together relevant stakeholders, thus facilitating the drafting of a management plan and agreement on rules to be set. An advisory committee, whose members might be appointed by the government, provides advice to the government, while a community management committee, its members elected by the community, holds more decision-making authority.

The examples of legal provisions contained in sections 1 to 6 below are taken from national and subnational legislation relating to fisheries and the environment from around the world, including the Pacific region. A list of sources can be found in Appendix II. To further illustrate legislative or regulatory provisions relating to specific issues, such as CBFM plans or dispute resolution, the authors have provided sample language in draft provisions at the end of the relevant sections.<sup>17</sup>

<sup>16</sup> In some cases, communities are supported in this by non-governmental organisations or civil society organisations, although such support is not generally reflected in legislation.

<sup>17</sup> Sample language should never be simply copied, but rather carefully considered in view of the country's existing laws and policies, and any draft legal provision should aim to reflect local needs and context.



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## 1. AREA DESIGNATION AND BOUNDARIES

### 1.1 Designating an area

The legal provisions for a managed area should address the purpose of designating it as an area under co-management (e.g. conservation and sustainable use of marine resources, protection of traditional fisheries management, improvement of local fishers' livelihoods) and the procedures for identifying and approving it as such. The identification of a managed area may be done in collaboration with the local village or other government unit. The legal provisions might give a name to the area that will be managed by a coastal community, such as a locally managed marine area or a special management area (when the area would be an exception to other areas generally managed by the government).

#### American Samoa.



Regulations, Title 24,  
Chapter 10 (Community-Based Fisheries Management Program). § 24.1005.

##### 24. 1005 Designation and Marking of a Village Marine Protected Area

- (a) A participating Village must designate the Village Marine Protected Area that will be governed by the management methods of these regulations.
- (b) A participating Village must provide the Department with a description of the area designated as the Village Marine Protected Area.

#### Vanuatu.



Environmental Management and Conservation Act 2002. §§ 35 and 36.

##### 35. Identification of sites having national biodiversity significance

The Director may negotiate with custom landowners for the protection and registration of any site as a Community Conservation Area where he or she is satisfied that the site:

- (a) possesses unique genetic, cultural, geological or biological resources; or
- (b) constitutes the habitat of species of wild fauna or flora of unique national or international importance; or
- (c) merits protection under the Convention Concerning the Protection of World Cultural and Natural Heritage.

## Vanuatu cont.



### 36. Director may provide assistance

If custom landowners agree to establish a Community Conservation Area, the Director may consult with and provide assistance to the landowners, chiefs and other interested parties to do all or any of the following:

- (a) review and evaluate the nature of any proposed Community Conservation Area;
- (b) accurately identify the area to be included in any proposed Community Conservation Area;
- (c) verify rights and interests in land that is to be included in the proposed Community Conservation Area;

## Tonga.



### Fisheries Management Act 2002. § 13 (excerpt).

#### 13. Special Management Areas

- (1) The Minister may by Order published in the Gazette, declare any area of the fisheries waters and corresponding subjacent area to be a Special Management Area for purposes of coastal community management, application of certain conservation and management measures, subsistence fishing operations or other specified purpose.

## Gambia.



### Fisheries Act 2007. § 14 (excerpt).

#### 14. Special Management Areas

- (1) The Secretary of State may, in the interest of conservation, management and sustainable utilization of fisheries resources, by Notice published in the Gazette, declare any area of the fisheries waters and corresponding subjacent areas, including marine protected areas or reserves established under any other laws, to be a Special Management Area for-
  - (a) purposes of-
    - (i) community-based fisheries management, and
    - (ii) application of certain conservation and management measures and artisanal or subsistence fishing operations; or
  - (b) any combination of the foregoing purposes or other specified purpose.



## Kenya.



### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 7(1)–(3).

#### 7. Co-management areas

- (1) The authorised fisheries officer shall, following a consultative process, designate at respect of each beach management unit a co-management area which shall be an area in which the beach management unit shall undertake fisheries management activities jointly with the Director.

[Note: Under the Regulations, a “beach management unit’ means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders who traditionally depend on fisheries activities for their livelihoods” (§ 2). ]

- (2) In the case of fisheries or areas in which fishing is undertaken by the members of more than one beach management unit, the authorised fisheries officer shall, following a consultative process, designate a joint co-management area in which more than one beach management unit shall share responsibilities for fisheries management with the Director.
- (3) The Director shall in the circumstances specified in paragraph (2) designate areas in which each individual participating beach management unit shall have specific responsibilities particularly as regards the undertaking of patrols.

## 1.2 Establishing an obligation to consult

An obligation for the government to consult with local communities and traditional authorities before declaring a co-management area may be articulated in the law. In Samoa, for example, the village *fono* (council) must be consulted and customary landowners and traditional fishing practices must be taken into account in the process of formulating legislation. Consultation processes should be clearly defined to encourage meaningful participation, and government decisions on coastal fisheries management should be justified. Stakeholder input should be recorded and feedback provided to communities to avoid conflicts and increase the chances of compliance with the law.

## Samoa.



### Fisheries Management Act 2016. § 19.

#### 19. Village fisheries management areas

- (1) The Chief Executive Officer may, by Order [in the Savali Newspaper], declare and mark an area as a village fisheries management area.
- (2) Before declaring an area under subsection (1), the Chief Executive Officer must consult the Village Fono of the area and of any neighbouring village taking into account any or more of the following:
  - (a) the size of the district;
  - (b) the population of the district;
  - (c) the ownership of customary land;
  - (d) any traditional fisheries practices;
  - (e) any other factors that may be necessary to facilitate the process.
- (3) A dispute arising from a declaration or marking of an area under subsection (1) is to be referred to the Minister to hear and determine the dispute.

## Papua New Guinea.



### Fauna (Protection and Control) Act 1966. § 15.

#### 15. Declaration of Wildlife Management Areas

- (1) Subject to Subsection (2), the Minister may, by notice in the National Gazette, declare an area to be a Wildlife Management Area for the purposes of this Act.
- (2) Where the Minister intends to declare an area to be a Wildlife Management Area, he shall—
  - (a) consult, as far as is practicable, with the owners of the land within the area to be declared; and
  - (b) where the area that he intends to declare is wholly or partly within the area of a Local-level Government, consult with that Local-level Government.
- (3) Failure by the Minister to consult with a Local-level Government as required by Subsection (2) does not invalidate a declaration in made under this section.

## Cook Islands.



**Environment (Atiu and Takutea) Regulations 2008. §§ 3 and 18 (excerpts).**

### 3. Interpretation

“Ra’ui” means the traditional custom of imposing restrictions on the use of the land, reef and lagoon with regards to their resources;

18. Ra’ui

- (1) A Ra’ui may be declared and under the control of the Ui Ariki, Mataiapo Tutara and Mataiapo and they may, in consultation with the Island Council, the Island Environment Authority and Landowners concerned, impose such restrictions in accordance with traditional custom.

## 1.3 Filing a request

A marine area can be designated for co-management at the request of a community, for example an identified community, such as a district, as set out by Nauru in its legislation, or a clan, as provided for in the legislation of PNG.

## Nauru.



**Coastal Fisheries and Aquaculture Act 2020. § 25 (excerpts).**

### 25. Community fisheries management areas

- (1) A district community may apply to the Minister for the delineation of an area in such district’s coastal fisheries waters for the purposes of managing coastal fisheries resources.
- (2) The Minister, in consultation with the Cabinet and the Chief Executive Officer may approve a request under subsection (1) and delineate a community fisheries management area.

## Papua New Guinea.



### Talasea Marine Environment Management Law 2004. § 7 (excerpts).

#### 7. Determining and Setting Aside Areas of High Marine Value

- (1) A clan or clans in a Ward or Wards may request the Local-level Government to consider their marine area or areas for protection and management under this Act.
- (2) As soon as a request is received by the Local-level Government, the Local-level Government shall immediately refer the matter to the Advisory Committee to investigate and make appropriate recommendations to the Local-level Government.

## Sri Lanka.



### Fisheries and Aquatic Resource Act 1996 (Act No. 2). § 31.

#### 31. Fisheries Management Area

- (1) The fishers of any area may request the Director-General, in writing, to designate a specified area of Sri Lanka waters or both such waters and the land adjacent thereto, as a Fisheries Management Area for the purposes of this Act.
- (2) The Director-General may-
  - (a) of his own motion, or
  - (b) on a request made to him in writing under subsection (1),

recommend to the Minister that a specified area of Sri Lanka waters or both such waters and the land adjacent thereto, be designated as a Fisheries Management Area:

Provided that, the Director-General shall make such a recommendation only upon satisfying himself after such inquiries and investigations as are reasonable in the circumstances, that there are threats to the sustainability of fish and other aquatic resources in any area.

- (3) Upon receipt of the recommendation under subsection (2), the Minister may, by Order published in the Gazette, designate the area referred to in the recommendation as a Fisheries Management Area for the purposes of this Act.

## 1.4 Setting, registering, marking and revising area boundaries

With regard to setting the boundaries of a designated co-management area, a provision might mention any specific requirements that must be maintained, including those relating to customary use of the area by other communities.

### American Samoa.



Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program). § 24.1005 (excerpts).

#### 24. 1005. Designation and Marking of a Village Marine Protected Area

- (d) Limitations on Designating a Village Marine Protected Area:
- (i) A Village may not designate as its Village Marine Protected Area a section, portion, or part of a Reef or reef flat that belongs to or has been traditionally controlled by another Village.
  - (ii) A Village may only designate as its Village Marine Protected Area a section, portion, part or all of a Reef that extends no more than one hundred (100) yards seaward beyond the end of the Reef at the Mean Low Water Mark.

### Nauru.



Coastal Fisheries and Aquaculture Act 2020. § 25 (excerpts).

#### 25. Community fisheries management areas

- (3) In delineating a community fisheries management area, the Minister shall:
- (a) consult with the Authority, the Coastal Fisheries Advisory Council, the Community Fisheries Stakeholder Forum and any other relevant stakeholders;
  - (b) take into account:
    - (i) the purpose and justification for the need to establish the fisheries management area;
    - (ii) the geographical location and size of the proposed fisheries management area in relation to the district involved;
    - (iii) the community management plan for the proposed fisheries management area;
    - (iv) the population of each district;
    - (v) the customary marine tenure in each district; and
    - (vi) any traditional fisheries practices and usages.



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With regard to registering a designated co-management area, legal provisions may establish where the area is to be recorded and by whom, as well as describe the registration process, as needed.

## Vanuatu.



### Environmental Management and Conservation Act 2002. § 37.

#### 37. Registration of Community Conservation Areas

- (1) If custom landowners agree to the formal protection of areas of biodiversity significance, these areas may be registered by the Director as Community Conservation Areas.
- (2) Before registering a Community Conservation Area, the Director must ensure that:
  - (a) the objectives of the proposed Community Conservation Area are identified, and are in accordance with sound conservation practices; and
  - (b) the boundaries of any proposed Community Conservation Area are accurately identified; and
  - (c) consent and approval are obtained from all persons having rights and interests in any land that is to be included in the proposed Community Conservation Area; and
  - (d) an appropriate conservation, protection or management plan is developed for the area to ensure the achievement of identified conservation objectives.
- (3) If the Director is satisfied that the requirements of subsection (2) have been met, he or she may register the proposed Community Conservation Area as a Community Conservation Area in the Environmental Registry, and issue a certificate of registration to the landowners.

## Fiji.



### Fisheries Act 1941. § 15.

#### 15. Inquiry by [*iTaukei* Fisheries] Commission

- (1) The Commission shall institute inquiries into the title of all customary fishing rights claimed by mataqali or other subdivisions of the people, and shall record in writing the boundaries and situation of such rights together with the names of the respective communities claiming to be owners thereof.
- (2) The Commission shall with the approval of the Minister responsible for Fijian affairs make rules for regulating the procedure to be followed and prescribe forms to be adopted in any such inquiry.

The law may also require that the boundaries of a newly designated co-management area be marked to clearly alert community members and other stakeholders, including outsiders, to those boundaries.

## American Samoa.



### Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program). § 24.1005 (excerpts).

#### 24. 1005 Designation and Marking of a Village Marine Protected Area

- (c) A designated Village Marine Protected Area's boundaries must be marked in a manner reasonably obvious to inform the public that access to the area has been restricted. Marking can be accomplished by any obvious means, including, but not limited to:
  - (i) Signs;
  - (ii) Posted Notices;
  - (iii) Published Notices;
  - (iv) Anchored or secured Floats that indicate the area is a Village Marine Protected Area.



## Cambodia.



### Law on Fisheries 2006. § 61.

- 61.** The Cantonment of the Fisheries Administration according to consultation with other concerned authorities is responsible for studying and preparing the fishery domain for forming community fisheries by making clear boundaries and suitable area depending on the fishery resources and the need for using as a tradition of a community.

Regarding revising the boundaries of a designated area, the law should give the authority for such a revision to the appropriate body, state the process for such a revision and set out the responsibilities of the various parties involved.

## Vanuatu.



### Environmental Management and Conservation Act 2002. § 38 (excerpts).

#### **38. Amendment to registered areas**

- (1) An applicant may, at any time, apply in writing to the Director for a determination to do all or any of the following:
  - (a) cancel the registration of a Community Conservation Area, or any part of such area;
  - (c) modify any area of the registered Community Conservation Area.
- (2) Upon receiving an application from a landowner, the Director must consult with the landowner and other interested parties before determining the application.
- (5) Before modifying any Community Conservation Area, the Director must ensure that:
  - (a) the boundaries of any area to be added to or removed from a registered Community Conservation Area are accurately identified; and
  - (b) agreement is obtained from all persons having rights and interests in any land to be added to the registered Community Conservation Area.

## Draft provision: Designation of a co-management area

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- (1) A [government official/governmental body] may, by [Order/Notice] published in the Gazette, designate any [marine area/area of the fisheries waters] as a [co-management area] for any of the following purposes:
  - (a) community-based fisheries management;
  - (b) conservation and management;
  - (c) protection of coastal marine resources;
  - (d) sustainable use of fisheries resources;
  - (e) artisanal or subsistence fishing operations; or
  - (f) any combination of the purposes listed in paragraph 1(a) to (e) above or other specified purpose.
- (2) Such designation shall occur at the request of a [local community/clan/village/fishing cooperative] or on the [government official/governmental body]'s own initiative after consultations with:
  - (a) any [community/clan/village] located adjacent to the designated area;
  - (b) any communities with traditional user rights to the area;
  - (c) landowners of the area, including customary landowners;
  - (d) any neighbouring [community/village] that relies on the designated area for its livelihoods; and
  - (e) [a committee/other advisory body/governmental body, if applicable].
- (3) When designating an area as a [co-management area], the following criteria shall be taken into consideration:
  - (a) the size of the area;
  - (b) the population of the area;
  - (c) land ownership;
  - (d) traditional and customary rights;
  - (e) traditional fisheries practices; and
  - (f) any other factors that may be necessary to set the boundary of the area or operate the area.

- (4) The [Order/Notice] made pursuant to paragraph (1) above shall provide:
  - (a) a clear description of the area designated as a [co-management area];
  - (b) the purpose of the designated area; and
  - (c) any other facts known about the area that are relevant to the designation, as appropriate.
- (5) The [co-management area] designated pursuant to paragraph (1) above be recorded by [governmental official/governmental body] in the [appropriate registry].
- (6) Boundaries of the [co-management area] designated pursuant to paragraph (1) above shall be marked in a reasonable manner to inform the public that the area has been designated as a [co-management area] and, if applicable, that access to the area has been restricted, by means including, but not limited to:
  - (a) signs;
  - (b) posted notices;
  - (c) published notices; and
  - (d) anchored or secured floats.
- (7) Boundaries of the [co-management area] designated pursuant to paragraph (1) above may be modified at the request of [local community/clan/village/customary rights holders/fishing cooperative] or on the [government official/governmental body]'s own initiative, upon consultations with:
  - (a) any [community/clan/village] located adjacent to the designated area;
  - (b) any communities implementing traditional practices or holding customary user rights to the area;
  - (c) landowners of the area, including customary landowners;
  - (d) any neighbouring [community/village] that relies on the designated area for its livelihoods; and
  - (e) [a committee/other advisory body/governmental body, if applicable].



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## 2. COMMUNITY RIGHTS AND POWERS

When a government ministry or department has managing authority and responsibility over the marine resources of a state or province, in order for communities to participate in the management of those resources, managing powers need to be granted to them by the law. In some cases, the local community's rights and duties are detailed in a co-management agreement. Special attention is often given to communities with traditional and ownership ties to the marine area. Clearly identifying such communities and their authority to manage marine resources helps ensure that their rights are enforceable.

### 2.1 Designating a community

Any local community can be assigned the power to manage marine resources, but it is important to carefully consider the concerns of communities living adjacent to the managed area to prevent conflicts over use of the resources.

#### Tonga.



##### Fisheries Management Act 2002. § 14.

##### 14. Designation of coastal communities

- (1) The Minister may, in consultation with the Special Management Area Committee, designate any local community in Tonga to be a coastal community for the purposes of community based fisheries management and may —
  - (a) allocate any Special Management Areas or parts thereof for which such coastal community shall be responsible under this Act;
  - (b) prescribe the rights and responsibilities of such coastal community in respect of the Special Management Areas or part thereof.
- (2) The Minister shall, in designating a community to be a coastal community pursuant to subsection (1), take into account —
  - (a) concerns of communities living adjacent to the Special Management Area;
  - (b) organisation of communities, towns, districts or other institutions;
  - (c) any other matter that the Minister deems appropriate for effective conservation and management of fisheries resources.

## Tonga cont.



[Note: These other matters can include other economic activities that may be affected, such as coastal tourism, recreational activities and sports fishing.]

- (5) A coastal community shall organise itself and its operations or administration in a manner that is conducive to the effective conservation and management of fisheries resources in the Special Management Area.

## Cambodia.



### Law on Fisheries 2006. § 59.

59. All Cambodian citizens have the rights to form Community Fisheries in their own areas on a voluntary basis to take part in the sustainable management, conservation, development and use of fishery resources.

## Gambia.



### Fisheries Act 2007. § 15.

#### 15.

- (1) The Secretary of State may, in consultation with the Local Authorities and where applicable, in accordance with the Local Government Act and any other laws of The Gambia, establish Community Fisheries Centres for the purposes of community-based fisheries management and may-
  - (a) allocate the Management Areas or parts of them for which a Community Fisheries Centre shall be responsible under this Act;
  - (b) describe the rights and responsibilities of a Community Fisheries Centre in respect of the Special Management Areas or part of them.
- (2) The Secretary of State shall, in establishing a Community Fisheries Centre pursuant to subsection (1), take into account-
  - (a) concerns of communities living within the immediate of the area to be declared as a Special Management Area;
  - (b) the prevailing system of grouping or organization of communities, zones or other institutions of Government; and
  - (c) any other matter that the Secretary of State deems appropriate and which is in the interest of effective conservation and management of fisheries resources.

## Draft provision: Designation of coastal communities

- (1) A [government official/governmental body] may, on request or on [government official/governmental body]’s own initiative, designate any [local community/clan/village] to be a coastal community for the purposes of community-based fisheries management and allocate any marine area or parts thereof, which the designated coastal community shall co-manage.
- (2) Prior to designating a coastal community pursuant to paragraph (1) above, the [government official/governmental body] shall consult with [relevant stakeholders/committee/governmental body] and take into account:
  - (a) any connections, including traditional management and customary rights, that exist between the coastal community and the [co-management area];
  - (b) the organisation of communities, local areas, districts or other institutions;
  - (c) the size of the [co-management area];
  - (d) the population of the [co-management area];
  - (e) ownership of customary land and customary fishing rights;
  - (f) any traditional fisheries practices;
  - (g) any concerns of communities living adjacent to the [co-management area]; and
  - (h) any other factors that may be necessary to facilitate the process for an effective conservation and management of fisheries resources.

## 2.2 Recognising traditional authorities

Areas traditionally managed by certain communities can be assigned a special status and be managed under management plans by those communities. Areas managed by Tuvalu’s *falekaupule* (assemblies) and Samoa’s village *fono* (councils) are good examples.



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## Tuvalu.



### Falekaupule Act 1997. §§ 4 and 40, Schedule 3(1) (excerpts).

#### 4. Establishment of Falekaupule

- (1) The Falekaupule listed in Schedule 1 are established and shall have the areas of authority specified in that Schedule in respect of each Falekaupule.

[Note: Under the Act, “‘Falekaupule’ means – (a) the traditional assembly in each island of Tuvalu ... composed in accordance with the Aganu of each island” and “‘Aganu’ means the traditional local customs and usages of an island” (§ 2).]

- (2) Subject to the provisions of any other Act relating to ownership or rights over land, foreshore, marine life or mineral deposits, the area of authority of every Falekaupule for the purposes of this Act and any bye-laws made under it shall include the internal waters, lagoons and lakes of every island or atoll comprised within that area, and the territorial waters, being the first 12 miles of the territorial sea, adjacent to every such island or atoll.

#### 40. Functions

- (1) The general functions of a Falekaupule shall be those set out in Schedule 3.
- (3) In relation to development the functions of a Falekaupule shall be, amongst other things,
  - (a) to prepare and implement development plans and programs in consultation with the community, government agencies, nongovernment organisations and other development partners:

#### Schedule 3. Functions of Falekaupule

- (1) Agriculture, Livestock and Fisheries
  - (n) to provide for the improvement and control of fishing and related industries in accordance with the Fisheries Act;
  - (o) to prohibit, restrict or regulate the hunting, capture, killing or sale of animals, reptiles, birds or fish in accordance with the Wildlife Conservation Act.

## Samoa.



### Village Fono Act 1990. § 3.

#### 3. Village Fono continued

- (1) The Registrar shall compile and keep up to date a register of Village Fono in which is recorded the name of every village in which a Village Fono is functioning.
- (2) A Village Fono in the exercise of any power or authority shall exercise the same in accordance with the custom and usage of that village.
- (3) The past and future exercise of power and authority by a Village Fono with respect to the affairs of its village in accordance with the custom and usage of that village is hereby validated and empowered.
- (4) In addition to the power and authority preserved or granted under this Act, every Village Fono shall have such other powers, authorities and functions as may be provided in any other Act.
- (5) A certificate under the hand of the Registrar to the effect that a Fono is entered on this register under this Act is prima facie evidence of the existence of such Fono.

## 2.3 Creating a co-management agreement

A co-management agreement can be created between the government and a coastal community or a community group (e.g. fishing cooperative, customary owners) to set forth details about specific co-management arrangements. A co-management agreement can describe the functions of management that will be carried out by the community, the role of the government, the decision-making process and other aspects of the co-management arrangements.

Before a co-management agreement can be created, the government must have the authority to enter into such an agreement, which a legal provision can provide. The law can also explain how co-management agreements can be created and for what purpose, and what other requirements exist, including with regard to the communities or other entities that can enter into a co-management agreement with the government (such as their type, size and membership).

In the Loyalty Islands Province of New Caledonia, co-management agreements can be adopted under the Environment Code to manage marine protected areas. In Belize, the fisheries authority can enter into co-management agreements with a broad range of entities to secure shared responsibilities in the management of marine resources.



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## New Caledonia.

### Environment Code of the Loyalty Islands Province 2016. § 212-4, 213-2, 213-3 and 213-4.<sup>18</sup>

212-4. The natural protected area may be terrestrial, marine or mixed. It may be permanent or temporary.

213-2. Natural protected areas are managed by customary management, by the community or by co-management.

The method of management shall be chosen according to the objectives of protection of the protected area concerned. It shall be the subject of a common agreement between the parties and shall be determined by the deliberation creating the customary area.

213-3. Where the management method chosen is co-management or management by the community, an agreement shall be signed specifying the mutual obligations of the parties.

The costs incurred by the management arrangements for a protected area shall be supported by the community when it is responsible of the area. They may be shared between the community and the persons in charge of customary management. The agreement must specify how these costs are to be shared between the parties.

In any case, the cost of signposting in the natural protected area is supported by the local authority.

<sup>18</sup> Translated by the authors from the original legal text, in French, which is available at: <https://purl.org/spc/fame/cfp/legaltext/z84y4>.

## Belize.



### Fisheries Resources Act 2020 (Act No. 7). § 13.

#### 13.

(1) The Minister may, after consultation with the Council, enter into a co-management agreement and delegate in the manner provided in subsection (2), co-management responsibility in whole or in part, with a locally registered non-governmental organization, fishing cooperative, fishing organization, or another organization, local community or other [party] for any area to which this Act applies; however, the co-manager shall:

- (a) have the capacity to co-manage any fishery or area;
- (b) implement the management plan that exists for the fishery or area;
- (c) prepare or periodically update, under the guidance of the Fisheries Administrator, and in accordance with section 10, the management plan for the respective fishery or area; and

## Belize cont.



- (d) comply with any other requirements consistent with the purposes for which the fishery or area is declared as subject to co-management.
- (2) The Minister may delegate co-management responsibility under sub-section (1), by the execution of a legally binding agreement that details the duration, terms and conditions for the co-management of the fishery or area between the Government and the body to whom delegation of management responsibility is intended.

## Cambodia.



### Law on Fisheries 2006. § 61 (excerpt).<sup>19</sup>

- 61.** ... The chief of Cantonment of the Fisheries Administration is entitled to decide or cancel the agreements of community fishing area with the local community living in or around the fishery domain. This agreement is valid not more than 3 years but can be renewed depending on the monitoring report and reevaluation by the Fisheries Administration Division.

<sup>19</sup> Unofficial translation of 20 March 2007 distributed by the Cambodian fisheries administration (Ministry of Agriculture Forestry and Fisheries), which was prepared under the technical assistance project "Improving the Regulatory and Management Framework for Inland Fisheries" supported by the Asian Development Bank, the FAO, the World Wide Fund for Nature and the United Nations Development Programme.

## United Republic of Tanzania.



### Fisheries Act 2003. § 18.

**18.**

- (1) The Director may enter into a management agreement with beach management units of the whole or part of or some specific fishery matter or activity within any water body or with any one or more local authorities having jurisdiction within the vicinity of any water body and deriving the whole or a part of their livelihood from that water body.

[Note: Under the Act, a "beach management unit" means a group of devoted stakeholders in a fishing community whose main function is management, conservation and protection of fish in their locality in collaboration with the government" (§ 2).]

## United Republic of Tanzania cont.



- (2) A management agreement shall include the following-
- (a) statement of objectives of the agreement;
  - (b) description of the area covered by the agreement;
  - (c) description of the management activities to be undertaken;
  - (d) rules governing the use of and access to other fishers;
  - (e) duration of the agreement;
  - (f) provision for revision of the agreement; and
  - (g) provision for settlement of disagreement.

In Honduras, the fisheries authority can designate responsible fisheries and aquaculture areas (APARs, from the Spanish *Áreas de Pesca y Acuicultura Responsable*). APARs are based on a previous agreement between the local fishing community and the fisheries authority, and are subject to a fisheries management plan. The main purpose of the APAR is to facilitate artisanal fisheries co-management in a specific area; other types of development in the area are permitted. APARs create local surveillance committees, which conduct monitoring and evaluation together with the co-manager (i.e. duly registered organisations of artisanal fisherfolks) under the supervision of the fisheries authority.

## Honduras.



**General Law on Fisheries and Aquaculture 2017. § 23.**<sup>20</sup>

### **23. Declaration of Responsible Fisheries and Aquaculture Area (APAR)**

The Secretary of Agriculture and Livestock (SAG) can declare by means of Agreement a Responsible Fisheries and Aquaculture Area (APAR) subject to a specific Fishing Management Plan for the use of fish species in a certain municipality, to facilitate the co-management of these areas, through an agreement with duly registered organisations of artisanal fisherfolks. The establishment of the APAR does not prevent free access to the beaches, nor the development of other social and economic activities permitted by law, in the areas where they operate.

<sup>20</sup> Translated by the authors from the original legal text, in Spanish, which is available at: <https://faolex.fao.org/docs/pdf/hon170043.pdf>.

## Honduras cont.



In all APARs, a Monitoring and Evaluation Committee must be established with the participation of the co-manager and supervision of the General Directorate of Fisheries and Aquaculture (DIGEPESCA), which shall also provide technical assistance to guarantee the success of the Management Plans in the APAR. Failure to comply with the Management Plan results in the suspension of the declaration of Responsible Fisheries and Aquaculture Areas (APAR).

## Draft provision: Authority to enter into a co-management agreement

The [government official/governmental body], in consultation with [fisheries consulting body, such as a committee, if appropriate], for the purposes of promoting sustainability of community-based fisheries management may:

- (a) enter into agreements with [coastal communities/registered community associations/fishing cooperatives] for the management of marine resource areas;
- (b) set out the basic requirements that a [coastal community/registered community association/fishing cooperative] with which an agreement is created must follow with regard to the management of marine resource areas, such as the minimum number of meetings it must have each year, who can become a member, how members can join, inclusion of marginalised groups, and division of duties between the government and the [coastal community/registered community association/fishing cooperative]; and
- (c) withdraw from the agreements referred to in paragraph (a).

A co-management agreement can be a greatly useful mechanism for ensuring customary marine resource owners have legally enforceable rights in managing their traditional marine areas. Co-management agreements already exist in some PICTs, for example in Papua New Guinea, which has the Talasea Marine Environment Management Law 2004.<sup>21</sup> This law defines a “Marine Environment Management Agreement” as “the agreement entered into between the Talasea Rural Local-level Government and the marine resources owners relating to the protection, conservation and management of their traditional marine areas[,] which the clan has agreed upon to be protected and managed as locally managed marine areas” (§ 5). Marine resources owners are “the clans or groups of people recognized by the local custom within the Local-level Government area who have customary rights to the use of land or marine resources (§ 5)”.

<sup>21</sup> This law relates to overall environmental matters, not just fisheries. Accordingly, these agreements are instruments that address more than just fisheries arrangements between communities and the government.

Provisions on how co-management agreements are to be created should also be included in the legislation. The creation of an agreement can be tied to the designation of a management area and development of a management plan. In Papua New Guinea, for example, an agreement is created between the government and the clan that will be managing the marine area on the recommendation of an advisory committee to declare a new locally managed marine area.

## Papua New Guinea.



### Talasea Marine Environment Management Law 2004. § 8.

#### 8. Declaration of Locally Managed Marine Areas

- (1) Subject to Subsection (2), the Local-level Government shall declare an area or areas of high marine value as locally managed marine areas after receiving a recommendation from the Advisory Committee [under Section 7(3)].
- (2) Where the Local-level Government receives a recommendation from the Advisory Committee [to declare an area], the Local-level Government shall immediately execute an agreement with the clan or clans to protect and manage their marine areas containing high marine value.
- (3) A declared area of high marine value is deemed to be a locally managed marine area.
- (4) Subject to Subsection (5), the declaration of locally managed marine areas under Subsection (1) may be made in the Local-level Government Gazette.

[Note: It is useful to publicise the designation of a locally managed marine area in a source that will be available to both community members and other stakeholders, including any outsiders who might use the area.]

- (5) In the absence of a Local-level Government Gazette, the resolution of the Local-level Government is deemed to be sufficient declaration for the purposes of this Act.
- (6) In the event of a lack of response from the Local-level Government within three months from the date of submission of the recommendation to the Local-level Government a recommendation made to the Local-level Government by the Advisory Committee will be deemed to have been approved.
- (7) Where two or more marine conservation areas are declared under this Act these areas will be collectively called the Talasea Locally Managed Marine Area.
- (8) Where an area or areas have been declared as locally managed marine areas, the Local-level Government shall notify the national government agencies responsible for environment and conservation and fisheries matters about the declared marine protection and managed areas.



## Solomon Islands.



### Fisheries Management Act 2015. § 20.

#### 20. Agreement with Provincial Governments or Communities

For the purposes of this Act, the Director may, with the approval of the Minister, enter into agreements with any Provincial Executive or customary rights holders for the coordination of and cooperation in fisheries conservation, management and development.

## 2.4 Creating a fishers' organisation

In some countries, fishers' organisations – such as beach management units or fishing associations, corporations or cooperatives – can participate in co-management arrangements with the government. In Chile, for example, special co-management areas are assigned exclusively to associations of artisanal fishers.

## Chile.



### Law 18.892 of 1989 – General Law on Fisheries and Aquaculture. §§ 55A, 55C and 55G (excerpts).<sup>22</sup>

#### 55 A.

...a ministerial decree may establish ... a Benthic Resources Management and Exploitation Area, for which will only qualify fishers' associations that are duly registered in the Artisanal Fisheries Registry. ...

#### 55 C

...Artisanal fishers belonging to the organisation managing the area may extract the marine resources included in the management plan regardless of their registration in the Artisanal Registry, within the managed area ...

#### 55 G

Artisanal fishers' organisations that manage a co-management area may renounce it in favour of other organisations of artisanal fishers, provided they are duly registered in accordance with section 55 A. ...

<sup>22</sup> Translated by the authors from the original legal text, in Spanish, which is available at:  
[https://www.subpesca.cl/portal/615/articles-88020\\_documento.pdf](https://www.subpesca.cl/portal/615/articles-88020_documento.pdf)

In Kenya, beach management units allow communities who traditionally depend on fisheries for their livelihoods to participate in marine resources management.

## Kenya.

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### Fisheries Management and Development Act 2016. § 37.

#### 37. Establishment of Beach Management Units

[Note: Under the Act, “beach management unit’ means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders who traditionally depend on fisheries activities for their livelihoods” (§ 2).]

- (1) The Cabinet Secretary may for purposes of ensuring structured community participation in fisheries management, make regulations setting out standards for the management of beach management units established by the county governments.
- (2) Regulations made under subsection (1) may provide, inter alia, in respect of the beach management units, for—
  - (a) objectives, structure, areas of jurisdiction and mandate in co-management;
  - (b) minimum standards in the general administration of the beach management units;
  - (c) standards to be adhered to by beach management units in imposing levies and charges and the management and utilization of such funds;
  - (d) such other standards which the Cabinet Secretary may consider necessary for the effective administration and management of the beach management unit;
  - (e) the protection of vulnerable groups, especially youth and women; and
  - (f) processes necessary to ensure that not more than two thirds of Beach Management Units are of the same gender and to ensure the inclusion of youth and persons with disability in leadership.

In Spain, fishermen's guilds (*cofradías de pesca* in Spanish), registered as corporations, participate in the management of fisheries. Fishermen's guilds have a "deep historical tradition in Galicia, to the point that the first known antecedents date back to the 13th century".<sup>23</sup> Over time, these entities have evolved to adapt to both economic and labour needs emerging in the country, first becoming labour and mutual assistance organisations, then fishers' *pósitos* (mutual assistance associations), and in more recent times public law corporations, although keeping their old name.<sup>24</sup>

<sup>23</sup> Law 9/1993 of 8 July on Fishermen's Guilds of Galicia, preamble.

<sup>24</sup> Law 9/1993 of 8 July on Fishermen's Guilds of Galicia, preamble. At the turn of the twentieth century, the so-called fishers' "pósitos" were a type of cooperative association protected by the State, dealing with social security and education but also trade in fish or collective fishing boats (Ansola Fernández 2021).

## Spain.



### Law 9/1993 of 8 July on Fishermen's Guilds of Galicia. §§ 1 and 3 (excerpts).<sup>25</sup>

#### 1. Definition

- (1) Fishermen's guilds are public law corporations, endowed with legal personality and capacity to act for the fulfilment of the purposes and the exercise of the functions entrusted to them, which act as consultation and collaboration bodies with the Administration in the promotion of the fishing sector and represent economic and corporate interests of the professionals of the sector, without prejudice to the representation that the employers' and fishing workers' organisations have.

#### 3. Functions

- (1) Generally, the guilds will be responsible for consulting and collaborating with the Public Administration and defending the interests of the professionals who compose them.
- (2) As bodies of consultation and collaboration, the following functions correspond to the fishermen's guilds: ...
  - (d) Serve as entities of consultation to the Administration in all matters concerning the sector and especially in the elaboration of the general dispositions that are submitted to them.
  - (e) Submit to the Administration proposals on matters of fishing interest and, in particular, on those actions aimed at improving the technical, economic and social conditions of the fishing activity.

<sup>25</sup> Translated by the authors from the original legal text, in Spanish, which is available at: <https://www.boe.es/eli/es-ga/l/1993/07/08/9/dof/spa/pdf>.

## Spain cont.



- (3) Likewise, they are responsible for the functions of: ...
- (b) Management of the areas of the maritime and maritime-terrestrial zone that have been entrusted to them through the corresponding enabling administrative title, issued by the competent Administration.
  - c) Management and administration of those patrimonial assets that are assigned to them by any of the public Administrations for the fulfillment of their purposes.

In New Caledonia, a participatory management committee (in French *Comité de gestion participative de la Zone Côtière Ouest*), which is legally established as an association under French legislation on association agreements, was created to manage World Heritage sites (listed on the World Heritage List of the United Nations Educational, Scientific and Cultural Organization) on the west coast of the country. This committee benefits from the participation of civil society members, including traditional leaders and local fishers.

## New Caledonia.



### Association Statutes “Participatory Management Committee of the West Coastal Zone” 2016. § 1.<sup>26</sup>

#### 1. Purpose

The purposes of the association known as the “Participatory Management Committee of the West Coastal Zone” are:

- to contribute to the implementation and monitoring of a participatory management plan for preserving New Caledonia’s West Coastal Zone, listed as a UNESCO World Heritage Site;
- to participate in the necessary consultation with all the competent public authorities for developing a policy to preserve the West Coastal Zone of New Caledonia;
- to lead a discussion with all the local actors (professionals and people from civil society) on the actions to preserve this zone;

<sup>26</sup> Translated by the authors from the original legal text, in French, which is available at: [https://www.zco-nc.com/wa\\_files/2016-06\\_20ZCO\\_20Statuts.pdf](https://www.zco-nc.com/wa_files/2016-06_20ZCO_20Statuts.pdf).

## New Caledonia cont.



- to submit proposals for the definition and implementation of a management plan to ensure integrity of the West Coastal Zone of New Caledonia;
- to promote communication and awareness of all stakeholders, particularly socio-professionals who have activities with a direct or indirect impact on the West Coastal Zone of New Caledonia;
- to promote all communication and awareness actions for the public at large for the environmental protection;
- to promote actions and experiences in the development of a sustainable local policy;
- to participate in discussions with the various associated partners on the concerted management of the West Coastal Zone of New Caledonia;
- to a large extent and in a general way, the active protection of the fauna and flora on its competent management area in collaboration with authorised protection organisations;
- the grouping of members' interests, dialogue with the public authorities, services, persons or associations concerned in New Caledonia, Metropolitan France and Oceania.

Its duration is unlimited.

## France.



### Law of 1 July 1901 on the contract of association. § 6.<sup>27</sup>

6. Any registered association may, without any special authorisation, institute legal proceedings, receive manual donations as well as donations from establishments of public utility, acquire for valuable consideration, own and administer, apart from subsidies from the State, regions, departments, communes and their public establishments:
- (1) The contributions of its members;
  - (2) The premises used for the administration of the association and for meeting of its members;
  - (3) The buildings strictly necessary for the achievement of its purpose.

<sup>27</sup> Translated by the authors from the original legal text, in French, which is available at: <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000006069570/>.

Legal provisions often set forth the requirements and processes that allow for fisheries organisations, such as fisheries cooperatives, guilds or other types of associations or corporations, to be created. Legal provisions can explain, for example, for what purpose an organisation can be created, who can become a member of an organisation and whether there are any limitations on the functions or operations of an organisation.

## Japan.



### **Fisheries Cooperative Associations Act 1957. §§ 1, 2, 4, 11 and 18.**

#### **1. Purpose of Law**

This law has for its purpose advancement of the national economy by increasing fisheries productivity and improving the economic and social status of fishermen and marine products processors through the development of fisheries cooperative association.

#### **2. Types**

Fisheries Cooperative Associations (hereinafter referred to as “Association” in this Chapter) shall be Fishermen’s Cooperative Association, Fishermen’s Production Association, Federation of Fishermen’s Cooperative Associations, Aquatic Products Processing Cooperative Association and Federation of Aquatic Products Processing Cooperative Associations.

#### **4. Objective of Association**

The objective of each Association shall be to furnish the direct service for the benefit of its membership consistent with the functions which it is authorized to perform.

#### **11. Kinds of Business**

A Fishermen’s Cooperative Association (hereinafter referred to as “Association” in this Chapter and in Chapter IV) may engage in part or whole of the following functions:

- (1) Making loans through advancement of funds necessary for reasonable business or personal requirements of its members;
- (2) Making available banking facilities for the receiving of deposits and fixed savings of its members;
- (3) Supplying necessary goods for the business and family use of its members;

## Japan cont.



- (4) Activities making available common facilities necessary for reasonable business or personal requirements of its members;
- (5) Transport, processing, storage or sale of fish catches and other things produced by its members;
- (6) Activities contributing to propagation and conservation of aquatic animals and plants and exploitation of fishing grounds;
- (7) Establishment of such equipment necessary for the fisheries of its members as moorage, shiplandings, fish shoals, and others;
- (8) Activities of prevention of sea disaster, disaster relief, and intercession of fishing boat insurance for its members;
- (9) Promotion of the benefit and welfare of its members;
- (10) Activities concerning the elevation of fisheries techniques of its members, the education for infusion of knowledge of the business of the Association and the dissemination of general information for its members;
- (11) Accomplishment, on behalf of and for the benefit of its members, of such collective bargaining contract that will improve the economic conditions of its members;
- (12) Collateral activities required for the accomplishment of any of the preceding items.

### 18. Qualifications for Membership

- (1) Any person qualified for membership in an Association shall be a fisherman who has his residence within the area of the Association and operates or engages in fisheries for over the period in a year from thirty days to ninety days which will be determined by the articles of incorporation. However, in the case of an Association whose principal membership consists of fishermen carrying on gathering, taking or culturing of aquatic animals and plants in rivers, those who have their residence within the jurisdictional area of the Association, and gather, take or culture aquatic animals and plants (excluding sport fishermen) for over the period in a year thirty days to ninety days which will be determined by the articles of incorporation, shall also be qualified for membership.
- (2) In the case of any Association whose area is larger than the sphere of a city, town or village, special ward or administrative ward, the fishermen qualified for membership as prescribed in the preceding paragraph may be limited to those operating or engaging in fisheries of specific types which will be determined by the articles of incorporation.

## Japan cont.



- (3) In addition to those prescribed in the preceding two paragraphs, any Association may, in accordance with the articles of incorporation, admit the following persons as qualified for the membership:-
- (1) Aquatic products processors who are not members of an Aquatic Products Processing Cooperative Association, but who have their residence or place of business within the jurisdictional area of the Association;
  - (2) Fishermen's Production Association;
  - (3) Fishermen other than those as prescribed in Par. 1 or the preceding paragraph;
  - (4) Juridical persons (excluding Fishermen's Cooperative Associations and Fishermen's Production Associations) who have their residence or their place of business within the jurisdictional area of the Association and operate fisheries by employing less than 100 regular fisheries employees and with fishing boats whose total tonnage does not exceed 300 tons.

## Spain.



### Law 9/1993 of 8 July on Fishermen's Guilds of Galicia. §§ 2, 5, 6 and 15 (excerpts).<sup>28</sup>

#### 2. Rules of application and statutes

- (2) The guilds will prepare and approve within their respective assemblies the statutes by which they will govern their actions, which will later be submitted for ratification by the Department of Fisheries, Shellfish and Aquaculture. Subsequent registration in the Registry provided for this purpose in article 14 of this Law will determine its legal effectiveness.

The same procedure described will be followed for statutory modifications.

- (3) The statutes must contain, at least, the regulation of the following aspects:
- (a) The name of the guild, which will correspond to the one that usually identifies the territory it comprises.
  - (b) The territorial scope.

<sup>28</sup> Translated by the authors from the original legal text, in Spanish, which is available at:  
<https://www.boe.es/eli/es-ga/l/1993/07/08/9/dof/spa/pdf>.



## Spain cont.



- (c) The address.
- (d) The governing bodies.
- (e) The organizational structure with the sections that, where appropriate, are established.
- (f) The rules for the election of representative bodies.
- (g) The rights and obligations of the members.
- (h) The economic and accounting regime.
- (i) The assets and resources provided.
- (j) The causes of dissolution and destination of its patrimony.

### 5. Members of the guilds

- (1) Membership in fishermen's guilds is free.
- (2) Shipowners based in ports within their territorial scope and those who have the corresponding administrative authorization that empowers them to exercise the extraction of living marine resources can be members of the guilds.
- (3) Membership status can be maintained as long as the professional activity is carried out, without the inactivity or occasional unemployment being an impediment to this.
- (4) Loss of membership will occur due to voluntary withdrawal, not meeting the required requirements or for any other cause provided for in the statutes of the respective guild.
- (5) No professional in the sector may simultaneously belong to two or more guilds.

### 6. Territorial scope

- (1) The territorial scope of the guilds will be determined by the respective statutes, which will have to specify their limits with reference to specific points on the coastline.

In no case may several guilds coincide in the same territorial area, or extend outside the territory of Galicia.

- (3) The modification of the territorial scope will require the majority agreement of the representative bodies of all the affected guilds and the subsequent approval by the Department of Fisheries, Shellfish and Aquaculture.

## Spain cont.



### 15. Creation, merger and dissolution of guilds

- (1) The creation of new guilds will require the majority agreement of, at least, three-quarters of the professionals legally authorized in the territorial area to be established, whether or not they are members of other guilds. Once the agreement is formalized, the Council of the Xunta will approve, by means of a Decree, its creation.
- (2) The merger and dissolution of guilds will require the agreement of the respective assemblies by a majority of three-quarters of their members and the approval by the Department of Fisheries, Shellfish and Aquaculture.
- (3) Regulations will determine the consequences that produce the merger or dissolution of guilds, which, in any case, will entail the loss of concessions and administrative authorizations for the exercise of shellfish and marine farming activities that they possess, without prejudice to what the Statutes of the affected guild provide for the destination of its patrimony.

## Kenya.



### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 9.

#### 9. Membership

- (1) Membership of a beach management unit shall be open to those persons who—
  - (a) depend directly or indirectly for their income or livelihoods on fisheries activities undertaken at the beach within the jurisdiction of that beach management unit;
  - (b) fall within one of the membership categories specified in regulation to; and
  - (c) would be directly adversely affected by the temporary or permanent closure of fisheries activities at that Beach.
- (2) A beach management unit may provide in its by-laws that specified activities at the fish landing station over which it has jurisdiction may only be undertaken by its members.
- (3) A person shall not be simultaneously a member of more than one beach management unit.

## United States of America.



### Fisherman's Collective Marketing Act 1934. 15 U.S.C. § 521.

#### 521. Fishing industry; associations authorized; "aquatic products" defined; marketing agencies; requirements

Persons engaged in the fishery industry, as fishermen, catching, collecting, or cultivating aquatic products, or as planters of aquatic products on public or private beds, may act together in associations, corporate or otherwise, with or without capital stock, in collectively catching, producing, preparing for market, processing, handling, and marketing in interstate and foreign commerce, such products of said persons so engaged.

The term "aquatic products" includes all commercial products of aquatic life in both fresh and salt water, as carried on in the several States, the District of Columbia, the several Territories of the United States, the insular possessions, or other places under the jurisdiction of the United States.

Such associations may have marketing agencies in common, and such associations and their members may make the necessary contracts and agreements to effect such purposes: Provided, however, That such associations are operated for the mutual benefit of the members thereof, and conform to one or both of the following requirements:

**First.** That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

**Second.** That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

and in any case to the following:

**Third.** That the association shall not deal in the products of non-members to an amount greater in value than such as are handled by it for members.



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### 3. COMMUNITY RULES AND PLANS

CBFM plans can identify threats to marine resources and measures to sustainably manage them at the community level, within the framework of national and subnational laws, policies and plans. CBFM plans are often created for areas traditionally managed by community groups, areas of high marine value and isolated areas, such as the outer islands of a country or territory, where it makes sense to delegate management (including monitoring and enforcement) of marine resources to communities. Before a CBFM plan can be considered legally valid, both the marine area and the community group that will manage the area should be identified in accordance with the law (as discussed in sections 1 and 2 above).

#### 3.1 Preparing a management plan

Provisions relating to CBFM plans should explain who is responsible for drafting, approving and adopting the plan; what needs to be considered in the plan; what information about the resources and the community will be gathered as part of developing the plan; and how the plan should be prepared, including who should be consulted during its preparation.

While national fisheries management plans are drafted by the government, CBFM plans are often drafted by community members, including customary rights holders, with the assistance of an implementing agency such as a fisheries authority or non-governmental organisation. This might be a particularly useful approach when community members have already been managing the marine area in question because it will help codify traditional knowledge about that area. In this case, however, the requirements for the CBFM plan should be as simple and community-friendly as possible. Communities are able to identify threats, responses and rules, but overcomplicating the requirements may make it impossible for them to develop a plan with little support. Complicated requirements may also add administrative burden to public officials' workloads, especially in countries that have scarce financial and human resources with which to implement CBFM in all communities.

## Solomon Islands.



### Fisheries Management Act 2015. § 18 (excerpts).

#### 18. Community Fisheries Management Plan

(1) ... a community fisheries management plan may be drawn up for communities by or on behalf of customary rights holders for a customary rights area or areas in consultation with the Director and Provincial Executive, and may without limitation provide for matters set out in the Second Schedule.

[Note: Under the Act, “customary rights area’ means the rights that communities of indigenous Solomon Islanders establish over customary areas in the fisheries waters by virtue of historical use and association with such areas through acknowledgement of such rights by traditional leaders” (§ 2).]

(2) Each Community Fisheries Management Plan shall apply to an area no greater than the extent of the customary rights of the relevant community and in any case shall not extend beyond the outer edge of the reef or fringing reef and the provincial waters in which such rights are exercised, and such area shall be clearly demarcated in the Plan.

[Note: Under the Act, “customary rights’ means the rights that communities of indigenous Solomon Islanders establish over customary areas in the fisheries waters by virtue of historical use and association with such areas through acknowledgement of such rights by traditional leaders” (§ 2). ]

(3) Each Community Fisheries Management Plan shall meet the relevant requirements for fisheries management plans ...

(4) Each Community Fisheries Management Plan shall be consistent with applicable Provincial Ordinances, by-laws and fisheries management plans applicable to provincial waters.

The plan can be jointly prepared by the government and coastal communities recognised and incorporated under the law, as shown in the example from Kiribati opposite.

## Kiribati.



### Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019. § 4.

#### 4. Preparation and Approval Conditions

- (3) Approval [by the Minister in charge of fisheries] of a community-based fisheries management plan is subject to the following conditions:
- (a) that the community adjacent to the waters that are likely to be affected by the plan participated in preparing the plan;
  - (b) that the community involved is established and recognised under the Incorporated Societies Act 2002 as a coastal community;

[Note: Under the Regulations, the coastal community is defined as “a community that is established and recognised under the Incorporated Societies Act 2002 as an incorporated society for purposes which include participation in the conservation, management and protection of coastal marine resources in adjacent coastal areas”; “community-based fisheries management” means “a co-management system under which community takes a leading role in managing fisheries in adjacent coastal areas in partnership with or with support from a promoting agency”; and “community-based fisheries management plan” means “an arrangement between the Minister and a coastal community for the adoption of conservation and management measures regarding certain fisheries in which the community takes a leading role” (§ 3).]

- (c) that the relevant island council has been notified [of] the establishment of the coastal community and the intention to prepare a community-based fisheries management plan; and
- (d) that the coastal community and the island council have endorsed the plan.

### Incorporated Societies Act 2002. § 3.

#### 3. Incorporated societies

- (1) Any society consisting of not less than 15 persons associated for any lawful purpose but not for pecuniary gain may, on application being made to the Registrar in accordance with this Act, become incorporated as a society under this Act.
- (2) No such application shall be made except with the consent of a majority of the members of the society.

A CBFM plan can be prepared by a community in consultation with, or with the assistance of, the government, as for example in Tuvalu and Cambodia.

## Tuvalu.



### Conservation Areas Act 1999. § 6 (excerpt).

#### 6. Management of the conservation areas

- (2) The Kaupule, with the assistance of the Government shall prepare or cause to be prepared a management plan for the conservation area based on the report of the survey made under section 5 of this Act. The plan shall be prepared in full consultation with representatives of the community.

## Cambodia.



### Law on Fisheries 2006. § 62.

62. The community fishing areas have to be continuously managed by the fishing communities in accordance with their community fishery management plan, procedure and guideline of community fishery. The Fisheries Administration shall provide the technical support at the request of local community and monitor the implementation of community fishery management plan. The community fishing area management plan shall be prepared by the local community and approved by the head of central Fisheries Administration and shall be re-examined every 3 years or before the deadline if necessary.

In some cases, government entities lead the drafting process with the participation of communities and landowners (e.g. Cook Islands and Kenya). The question of who should lead the drafting of a CBFM plan relates to the capacity to draft the plan and the ability to engage stakeholders in consultations. To the extent possible, communities (especially communities that have traditionally managed the area) should fully engage in and take ownership of the drafting process.



## Cook Islands.



### Environment (Atiu and Takutea) Regulations 2008. § 5 (excerpts).

#### 5. Management Plan

- (1) The Takutea Trustees, in consultation with the native landowners of Atiu, shall from time to time, and in any event no later than 12 months after the coming into force of these Regulations, prepare a draft management plan for the community conserved area designated pursuant to Regulation 4 (1) ...
- (3) Upon receipt of any written request from the Takutea Trustees, the National Environment Service shall provide technical assistance and resources to assist in the preparation of any management plan pursuant to the clauses of subclause (1).

## Kenya.



### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 7 (excerpts).

#### 7. Co-management areas

- (4) Following the designation of a co-management area the authorised fisheries officer shall, in consultation with relevant beach management units, develop a draft co-management plan for that co-management area ...

### 3.2 Developing objectives and measures

It is important to state in the law what the CBFM plan may or must include, such as its objectives, the conservation and management measures applicable to fishing activities in the managed area, and any other relevant information.



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## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 27 (excerpts).

#### 27. Community fisheries management area plans

- (2) A community fisheries management area plan shall:
- (a) comply with any written laws and national plans relating to coastal fisheries;
  - (b) identify the fishery to be managed under the plan;
  - (c) describe the status of the fishery;
  - (d) provide the management and development objectives of the fishery or area;
  - (e) identify any development strategies;
  - (f) specify conservation and management measures to be applied to the fishery;
  - (g) specify the process for the allocation of any fishing rights or additional catch quotas by species that has not been defined in this Act and the National Coastal Fisheries Management Plan;
  - (h) identify requirements for monitoring, reporting, and assessment; and
  - (i) make provision in relation to any other matter necessary for sustainable use of fisheries resources including sustainable finance activities.

## French Polynesia.



### Order No. 410 CM of 21 October 2004 adopting the management plan of the maritime space of Moorea island. Preamble and § 4.<sup>29</sup>

#### Preamble

The general objective of the maritime spatial management plan is to ensure the management of maritime space in terms of both the exploitation of resources and the use of space. It defines the desirable balance between the exercise of human activities and the conservation of the natural heritage through: the sustainable use and development of resources; the rational use of space; the management of conflicts of use; the control of pollution and degradation of the

<sup>29</sup> Translated by the authors from the original legal text, in French, which is available at: <https://purl.org/spc/fame/cfp/legaltext/nfz8z>.

## French Polynesia cont.



marine environment; the protection of marine ecosystems and endangered species; and the planning and management choices for this community space. The management plan for the maritime area is based on information and participation of the population in order to arrive at a collective project accepted by all and for which everyone feels responsible. It is consistent with the policy of the territory but specific to the island concerned. It is intended as a model of integrated management, a necessary tool for sustainable development.

### 4. Definition of the special fishing zones

These areas are regulated by the local population. The aim of this approach is to increase the lagoon's resources without totally suspending fishing activity. An evaluation of the impact of this resource management method is carried out as for the marine protected areas.

## Kiribati.



### Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019. § 5 (excerpts).

#### 5. Content

- (1) A community-based fisheries management plan must at least:
  - (a) identify the community taking a leadership role in developing the plan;
  - (b) identify the area to which the plan applies;
  - (c) indicate the general and specific objectives of the plan;
  - (d) specify the conservation and management measures to achieve those objectives;
  - (e) prepare a programme for the implementation, monitoring and evaluation of the plan;
  - (f) identify arrangements for surveillance and enforcement purposes.

## Kenya.



### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 7 (excerpts).

#### 7. Co-management areas

- (4) Following the designation of a co-management area the authorised fisheries officer shall, in consultation with relevant beach management units, develop a draft co-management plan for that co-management area, specifying fisheries management measures that are to be taken to ensure the sustainable utilization of fisheries in that area, including, but not limited to—
- (a) the designation of closed areas in which all fishing activities or specified fishing activities are prohibited;
  - (b) the designation of closed seasons either throughout the Co-management area or in respect of specified areas;
  - (c) the marking of fishing vessels;
  - (d) restrictions on the type of nets or other fishing gears that may be used; and
  - (e) restrictions on the number of fishing vessel licences or fishing licences that may be issued.

## Belize.



### Fisheries Resources Act 2020 (Act No. 7). § 10 (excerpts).

#### 10. Fishery management plans

- (3) A fisheries management plan shall-
- (a) identify and address trends in the biological, economic and social characteristics of the fishery, including issues requiring special attention;
  - (b) identify the target and other fish stocks, and management objectives for each fishery;
  - (c) address the proposed conservation, management and development measures to be applied to the fishery with due regard to the performance of historical measures;
  - (d) determine the fishery or amount of the fishery resources to be made available to licence holders managed under a managed access fishing rights system or to which comanagement under section 14 may apply;
  - (e) specify the research, information and other data required to be given or reported for the enhanced, effective management and development of the fisheries;

## Belize cont.



- (f) take into account any users of fishing areas, fishing methods and principles;
- (g) describe the processes and indicators for management and measuring management performance;
- (h) make provision in relation to any other matter necessary for sustainable use of fishery resources; and
- (i) the Fisheries Administrator may make provision for further contents to be included in a fisheries management plan required under this section.

**[Note: This section refers to fisheries management plans that can be prepared and implemented by a local community, fishing organisation, cooperative or other organisation through a co-management agreement under section 13(1)(c) of the Act.]**

## Draft provision: Content of a co-management plan

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- (1) [Following the designation of a co-management area and the designation of a community] OR [Following the creation of a co-management agreement], the [local community] shall develop a draft co-management plan for the designated [co-management area], specifying fisheries management measures that shall be taken in the [co-management area] to ensure the sustainable use of fisheries, including, as appropriate:
  - (a) restrictions on the type and size of vessels allowed in the [co-management area];
  - (b) restrictions on the type of fishing gear that may be used in the [co-management area];
  - (c) the designation of zones in which all fishing activities or specified fishing activities are prohibited;
  - (d) the designation of closed seasons either in the entire co-management area or in specified areas;
  - (e) the marking of fishing vessels;
  - (f) registration of fishers and fishing vessels authorized to fish in the [co-management area];
  - (g) restrictions on the number of fishing vessel licences or fishing licences that may be issued; and
  - (h) any associated penalties and fines for violation of the management measures.

- (2) Each co-management plan shall be agreed between the [government official/governmental body] and the [local community], through consultations and other means as determine in accordance with [section [X] below], and shall:
  - (a) give effect to applicable national and regional policies and plans;
  - (b) comply with existing fisheries legislation; and
  - (c) specify the roles and responsibilities of the relevant [local community] and the [government official/governmental body] with regard to the co-management plan's implementation, monitoring and enforcement.

### 3.3 Consulting stakeholders

Stakeholder consultation is a crucial part of preparing a CBFM plan. The format of consultation, which might be in-person meetings or other effective means of obtaining feedback, will depend on the needs and expectations of a particular community. Regardless of the format, the goal of consultations is that they are conducted in such a way that all relevant stakeholders fully understand all relevant information. Stakeholders need sufficient time to consider the information they are given and provide meaningful feedback, which should then be adequately captured.

Relevant stakeholders include members of the affected communities (including the community that will be participating in the management and nearby communities that will be using the managed area or are otherwise affected by the plan), customary rights holders, resource owners, marginalised groups and relevant governmental bodies. Consultations ensure that the points of view of everyone affected by the plan are considered, avoiding potential conflicts and ultimately increasing the effectiveness of the plan.

## Papua New Guinea.



### Talasea Marine Environment Management Law 2004. §§ 5 and 7 (excerpts).

#### 5. Interpretation

“prepare the area” means-

- (a) consultation with landowners for the protection and management of their traditional marine areas containing high conservation value; and
- (b) negotiation with the landowners on the terms and conditions relating to the protection and management of traditional marine boundaries; and
- (c) promoting and engaging the participation of landowners in the development of management plans for locally managed marine areas.

#### 7. Determining and Setting Aside Areas of High Marine Value

- (3) Subject to Subsection (4), where an area or areas are deemed to contain high marine value, the Advisory Committee shall after consultation with the clan or clans, recommend to the Local-level Government to immediately declare the area or areas for protection and management under this Act.
- (4) Where an area or areas are identified as containing high marine value, the Local-level Government shall collaborate with the marine resource owners and the Advisory Committee to prepare the area for protection and management under this Act.
- (5) An area or areas declared as an area or areas of high marine value must have a management plan of the area in place within six months after the declaration and be approved by the Local-level Government.

## Vanuatu.



### Environmental Management and Conservation Act 2002. § 36 (excerpt).

#### 36. Director may provide assistance

If the applicant agrees to establish a Community Conservation Area, the Director may consult with and provide assistance to the landowners, chiefs and other interested parties to do all or any of the following:

- (d) identify and evaluate the conservation, protection and management options proposed.



## Solomon Islands.



### Fisheries Management Act 2015. Second Schedule. §§ 1 (excerpts) and 13.

#### 1. Consultation

- (1) The Director in the preparation of ... community fisheries management plans shall ensure consultation with relevant stakeholders in the development of each Plan.
- (2) Where the Plan applies to provincial waters, to include the relevant Provincial Executive in the consultation.
- (3) Where the Plan applies to waters subject to customary rights, to include the relevant customary rights holders in the consultation.

#### 13. Consent

Each Community Fisheries Management Plan shall be accompanied by a written consent of the relevant customary rights holders to the proposed Plan.

Local communities (especially fishers) and customary right holders should not only agree to the development of a plan, but also be fully engaged in its development. Their feedback, as well as the feedback of all other relevant stakeholders, should be incorporated into the draft management plan, and the government should report back to them on how their feedback has been used. To ensure the consultation process is highly effective, it is important to establish a procedure for how feedback from stakeholders will be sought, reviewed and incorporated into the plan, as well as to establish how information about the draft plan will be made available to stakeholders.

## Tonga.



### Fisheries (Coastal Communities) Regulations 2009. § 17 (excerpts).

#### 17. Responsibilities of the Ministry

- (2) Following receipt of a proposed plan, the Ministry shall conduct consultations through, but not limited to, the following:
  - (a) radio announcements inviting comments from any persons or entities who have an interest in the proposed plan or may be affected by such plan;

## Tonga cont.



- (b) preparation and publication of a notice in a national newspaper, which includes a summary of the proposed plan, a map of the special management area, and an invitation for comments to be submitted, in writing, to the CEO within 28 days of such publication;
  - (c) letter from the CEO to the District Officer and the Town Officers of the adjacent communities, which invites comments on such plan;
  - (d) in coordination with the relevant District Officer and Town Officers, conduct individual meetings with adjacent communities at which written comments on the proposed plan are invited for submission to the CEO within 28 days of publication of the national newspaper referred to in sub-regulation (2) (b).
- (3) The CEO shall:
- (a) acknowledge receipt of any comment submitted under sub-regulation (2), within 14 days of receipt of such comment; and
  - (b) consider such comments submitted under sub-regulation (2) in accordance with the guidelines established by the Ministry.
- (4) Any person aggrieved by a decision made by the CEO under sub-regulation (3) may within 14 days of receipt of such decision submit to the CEO a written appeal to the Minister.
- (5) The CEO shall submit such written appeal under sub-regulation (4) to the Minister within 7 days.
- (6) Where a written appeal is submitted under sub-regulation (5), the decision of the Minister shall be binding and final.

While in the example from Tonga, stakeholder consultations are conducted by a ministry, communities can establish their own procedures to publicise a draft CBFM plan through outreach avenues and information delivery channels accessible to community members, potential users of the management area and any other stakeholders who might potentially be affected by the plan. Communities should also develop procedures for collecting and reviewing the comments they receive and for incorporating them into the draft plan.

## Belize.



### Fisheries Resources Act 2020 (Act No. 7). § 10 (excerpts).

#### 10. Fishery management plans

- (4) In preparing a fisheries management plan, the Fisheries Administrator shall-
- (a) submit the proposed management plan to the Fisheries Council for its review and recommendations;
  - (b) ensure consultation or participation of stakeholders in the preparation and review of a fisheries management plan;
  - (c) publish the following information by Notice in the Gazette and in two national newspapers with wide circulation in Belize-
    - (i) the public offices where copies of the proposed fisheries management plan are to be made available for consultation by the public;
    - (ii) an invitation to stakeholders to submit written or oral comments on the proposed fisheries management plan within a specified period of time, not less than two months nor more than four months from the date the notice is published;
    - (iii) the dates and places where public meetings are to be held within the period of time specified under subparagraph (ii) to allow the public to submit comments.

[Note: This section refers to fisheries management plans that can be prepared and implemented by a local community, fishing organisation, cooperative or other organisation through a co-management agreement under section 13(1)(c) of the Act.]

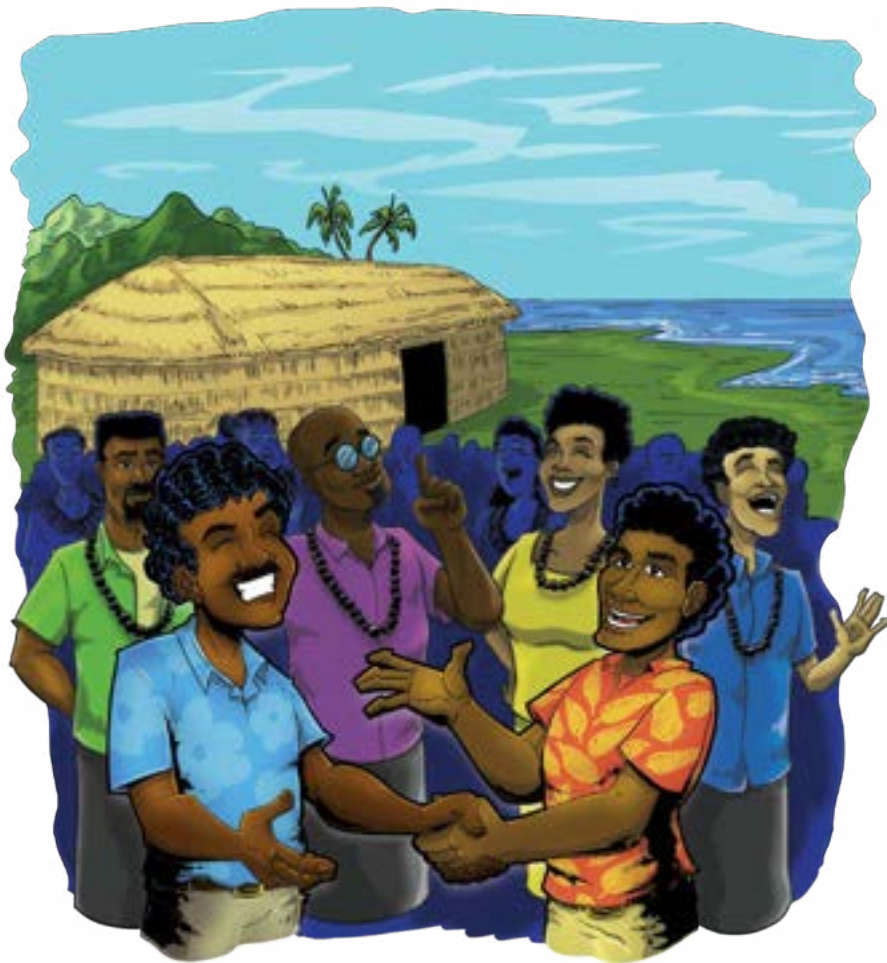
## Draft provision: Consultation with community members

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- (1) Each co-management plan shall be drafted in consultation with the following groups, as appropriate:
  - (a) members of the community;
  - (b) customary rights holders;
  - (c) traditional users of the [co-management area]; and
  - (d) any other stakeholders who might be affected by the co-management plan.
- (2) The [competent Director/Committee/entity] responsible for the preparation of the management plan shall ensure that community members are informed about how they can participate in the preparation of a fisheries management plan and in co-management activities, including through public outreach events used to deliver relevant information to the community, forums where community members can express their opinions, and other ways community members can provide feedback.
- (3) Appropriate methods of public outreach include [insert appropriate methods, such as scheduled meetings, radio broadcasts, a local newspaper, government website], and community members are able to submit their feedback through [insert appropriate methods, such as government website, scheduled meetings], which is reviewed by [include who reviews the feedback that is submitted] and incorporated into the management plan, as appropriate.
- (3) The [Director] shall establish adequate procedures for responding to stakeholders' concerns, suggestions and grievances and ensure that community feedback is incorporated into the draft management plan, as appropriate. The [Director] shall ensure that a report is prepared and made available to stakeholders on how their feedback has been used.

### 3.4 Resolving disputes

Conflicts may arise among or within community groups and other stakeholders with regard to the management plan and other issues related to the management of a marine area. While many disputes can be avoided by engaging community members and other stakeholders in participatory processes, including consulting them during preparation of the management plan and enabling them to join committees, it might nonetheless be useful to establish dispute resolution mechanisms for cases when conflicts do arise.



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## Solomon Islands.



### Choiseul Province Fisheries and Marine Environment Ordinance 2011. § 89.

#### 89. Traditional dispute resolution

Where there is any dispute relating to matters under this Ordinance, the Minister or the Division may, if all parties agree to it, allow the matter to be dealt with through a traditional method of dispute resolution, or any other form of alternative dispute resolution.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 16.

#### 16. Objectives of the Forum

The Forum may:

- (b) work directly with key stakeholders to ensure that their concerns and needs are considered;
- (c) with the assistance of the Chief Executive Officer, develop a dispute resolution mechanism to resolve disputes between members;

## Cook Islands.



### Environment (Atiu and Takutea) Regulations 2008. § 51.

#### 51. Alternative Dispute Resolution

- (1) The Island Council may establish an alternative dispute resolution process to:-
  - (a) resolve any dispute concerning these Regulations that may arise;
  - (b) [serve] as a forum for dealing with any violation of these Regulations.
- (2) Any alternative dispute resolution process established pursuant to sub-clause (1) may include:-
  - (a) arbitration;
  - (b) mediation;
  - (c) facilitation; or
  - (d) a combination of these processes.

## Cook Islands cont.



- (3) Should any person refuse to participate in any alternative dispute resolution process established pursuant to sub-clause (1), the matter shall be referred to a Justice of the Peace or to the High Court.
- (4) Any alternative dispute resolution process established pursuant to sub-clause (1) shall:-
  - (a) be undertaken in such a manner so as to ensure that all parties to the dispute have an opportunity to be heard;
  - (b) shall be recorded in writing; and
  - (c) result in an award of compensation, restitution, clean-up, and remediation but not result in the imposition of a fine or a term of imprisonment.
- (5) Any award of compensation or restitution pursuant to subclause (4) will be paid to the Environment Fund established pursuant to subclause (49) by the Island Council for this purpose.

## Draft provision: Dispute resolution

(1) Should any disputes arise between members of the community [designated to manage a co-management area] and other stakeholders or among members of the same community with regard to the [co-management plan], including, but not limited to, the plan's development, adoption, amendment, implementation, and enforcement, such disputes shall be resolved through the local community's traditional methods of dispute resolution.

(2) Should there be disagreement as to which traditional method of dispute resolution to use, the matter shall be referred to the [community committee/traditional leaders/local government official/local government office] for consultation and final decision.

## Draft provision: Dispute resolution<sup>30</sup>

- (1) The [co-management entity] shall have the authority to resolve disputes arising between its members on the management and use of fishing resources.
- (2) The [co-management entity] shall agree on a dispute resolution process consistent with its applicable [regulations/ordinances/ association by-laws/ local custom].

<sup>30</sup> Adapted from Spain, Law 11/2019 of 20 December on Cooperatives of Euskadi, § 56.

### 3.5 Adopting a plan

The law should specify who will adopt (or approve or endorse) a management plan and the process for its adoption, as well as how it becomes binding, if applicable. For example, a plan might become binding, and therefore directly enforceable, once it is adopted and published in a widely available publication such as a national Gazette. In some cases, regulations need to be adopted in order to give the provisions of the plan the force of the law.

#### Nauru.



##### **Coastal Fisheries and Aquaculture Act 2020. § 27 (excerpts).**

##### **27. Community fisheries management area plans**

- (1) The Authority may assist a community fisheries management committee to prepare, adopt and keep under review where necessary, a community fisheries management area plan.
- (3) Before submitting the plan for approval by the Minister, a community fisheries management committee shall:
  - (a) present the proposed plan to a meeting of the Forum; and
  - (b) consult with neighbouring district communities.
- (4) The Minister on receipt of a plan under subsection (3) may:
  - (a) approve the community fisheries management area plan;
  - (b) approve the community fisheries management area plan with modifications; or
  - (c) return the community fisheries management area plan to the community fisheries management committee for further consideration.
- (5) Any plan approved by the Minister under this Section shall be published in the Gazette within 7 days of such approval by the Minister.



## Tonga.



### Fisheries Management Act 2002. § 15.

#### 15. Regulation of fisheries in Special Management Areas

- (1) The Minister may, in consultation with the Fisheries Management Advisory Committee and the coastal community responsible for a Special Management Area, make regulations in respect of that Special Management Area, relating to or for the implementation of a fishery plan for the conservation, management, sustainable utilization and development of fisheries resources in such Special Management Area.

## Kiribati.



### Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019. § 4 (excerpts).

#### 4. Preparation and Approval Conditions

- (2) A community-based fisheries management plan is to be submitted to the Minister and shall come into operation on approval by the Minister in writing.
- (3) Approval of a community-based fisheries management plan is subject to the following conditions:
  - (a) that the community adjacent to the waters that are likely to be affected by the plan participated in preparing the plan;
  - (b) that the community involved is established and recognised under the Incorporated Societies Act 2002 as a coastal community;
  - (c) that the relevant island council has been notified the establishment of the coastal community and the intention to prepare a community-based fisheries management plan; and
  - (d) that the coastal community and the island council have endorsed the plan.

## Solomon Islands.



### Fisheries Management Act 2015. § 18 (excerpts).

#### 18. Community Fisheries Management Plan

- (7) The management measures and fines, penalties and sanctions, as well as the licensing and enforcement powers and authorities in each Community Fisheries Management Plan shall be deemed to have legal effect of a by-law upon adoption by Provincial Assembly and publication in the Gazette.

## Draft provision: Adoption of a co-management plan

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- (1) After the consultations described in [section [X] above] and any needed revisions, the [local community] shall forward the agreed co-management plan to the [government official/governmental body] for adoption.
- (2) The co-management plan shall enter into force on the date of publication in the official Gazette. The management measures contained in the plan shall have the full force and effect of regulations promulgated under [the Fisheries Act].
- (3) The [government officer/governmental body] shall provide its assistance to the [local community], at the [local community's] request, with regard to the co-management plan, including assistance with drafting the plan, conducting consultations with stakeholders and publicising the plan; financial support to ensure effective implementation of the plan; and training, education and financial support to assist with monitoring and enforcement of the plan, as needed.
- (4) The [local community] and [governmental body/government official] shall supervise the implementation of the co-management plan and shall periodically ([every three years]) review its contents and revise it, as necessary.

### 3.6 Raising public awareness and promoting voluntary compliance

Increasing public awareness about the adopted management plan, including management measures and related fines, will, in turn, promote voluntary compliance with the arrangements and rules set out in the plan. The adopted management plan should be easily accessible to everyone who will likely be affected by it; for example, it can be published in a national Gazette or national newspaper, posted on an official government website or broadcast in the media. Other public awareness-raising initiatives are generally not mentioned in legislation, but may include producing leaflets or posters about the plan to be displayed in village halls, canteens, shops, post offices, dispensaries or hospitals. These documents should be short and concise, summarising the plan by including only key information, such as a map of the managed area, applicable rules and related penalties, and a person to contact in case of breach of the plan. Awareness-raising activities can support monitoring and enforcement of the arrangements under a CBFM plan.

#### Kiribati.

##### **Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019. § 4 (excerpts).**



#### **4. Preparation and Approval Conditions**

- (4) Appropriate public notice shall be given of an approved community-based fisheries management plan. In particular:
  - (a) the Director will maintain a public register of approved community-based fisheries management plans;
  - (b) the coastal community will provide a copy of the approved plan to the relevant Island Council; and
  - (c) the coastal community will take appropriate measures to raise public awareness of the plan and the area to which it applies.

## Marshall Islands



### Revised Code 35 CAP.5 (Protected Areas Network (PAN) Act 2015). § 505.

#### 505. Designation of Areas

The Ministry of Resources and Development in consultation with the LRC and local government officials, may designate areas as Protected Areas. A notice on the designated area or areas shall be published on the National Government's website. The notice shall be read on the radio broadcasting from Majuro and copies of the notice shall be distributed or made available to the persons of the area or atoll designated as protected area.

Promoting voluntary compliance is key to implementing and enforcing any CBFM initiative. Voluntary compliance can be promoted through the dissemination of information about a designated managed area, such as the reasons for creating a management plan for the area and the rules relating to the area – including the rationale behind them and the penalties for breaking them. This information must reach affected communities, other stakeholders and anyone else who might be affected by the plan, such as visitors to the area. In some places, educational materials about management areas are provided to all visitors. The law can set forth the process and identify the parties responsible for preparing and distributing information that increases awareness about marine protected areas and resources. The example below illustrates how Palau increases public awareness of the Palau National Marine Sanctuary.

## Palau.



### Executive Order No. 395 of 2017. Restructuring the Palau National Marine Sanctuary and its Executive Committee. §§ (I)(1)(e) and (g), and (I)(4)(a) (excerpts).

#### (I)(1)(e) Administrative Officer

The Administrative Officer's duties are as follows:

- Assist the Media Advisor in the development of the awareness program and in the preparation and distribution of all promotional materials;
- Undertake tasks identified by the PNMS [Palau National Marine Sanctuary] Executive Director to support the Office, media advisor and tourism Liaison in carrying out their respective duties;

## Palau cont.



### (I)(1)(g) Marketing and Tourism Liaison

The Marketing and Tourism Liaison's duties are as follows:

- Work with the President's Press Secretary and with Public Affairs to integrate the Sanctuary into appropriate areas of Media coverage;
- Work with the PNMS Executive Director, the Palau Visitors' Authority, and the Belau Tourism Association in developing a National Tourism Plan that focuses on high quality Eco Tourism activities;
- Work with international Non-Governmental Organizations (NGOs) and governments to promote the PNMS.

### (I)(4)(a) Committee on Education and Awareness

The Committee on Education and Awareness shall be responsible for implementing, under the direction of the Executive Committee, an education and awareness program for the PNMS.

The following examples, taken from two management plans from Palau, provide further ideas about the types of activities that can increase awareness among visitors to a managed area.

## Palau.



### Helen Reef Management Plan 2011–2016. Goals 5 and 6 (excerpts).

#### 5. Enforcement and Compliance Goal: To ensure 100% Protection of Helen Reef from Infractions of Resource Regulations

##### Enforcement and Compliance Objectives:

- (2) To always ensure complete compliance of regulations by visitors to Helen Reef.

##### Actions:

- (9) Create and provide awareness materials to all visitors on the ecology and regulations of the Helen Reef Management Area.

## Palau cont.



**6. Awareness and Education Goal: the Hatohobei community, stakeholders, and supporters are familiar with and supportive of the goals and objective of the Hatohobei/Helen Reef Management Area Education and Awareness.**

**Objectives:**

- (1) All People of Hatohobei have access to an opportunity to visit and learn about Helen Reef at least once every year.
- (2) To ensure that majority of the Hatohobei community members, users, and supporters have received information on the HRRMP at least annually.
- (3) Ensure that all visitors to the area are made aware of the fragility of the ecosystem and regulations of the area through awareness materials and/or presentations annually.

**Actions:**

- (1) Compile and develop materials on the cultural and natural history of Helen Reef by the end of 2012.
- (2) Hold youth summer camp at Helen Reef annually.
- (3) Establish a Community and Learning Center for People of Hatohobei by end of 2014.

**Ngarchelong Marine Area Management Plan 2012–2017. p. 10 (excerpts).**

**Education, Awareness, Outreach, and Tourism Strategies**

Outreach Strategies include all efforts to raise awareness about the NMMA [Ngarchelong Marine Managed Area], both to local and foreign audiences, for the purposes of community involvement and tourism. Enhanced outreach is a priority in Years 2-3.

- Planning for detailed education and outreach and starting adult community outreach are priorities in Year 1.
- Based on the Plans, developing materials and conducting community outreach are priorities in Years 2-3.
- Improving promotion of the NMMA as a tourist destination and improving visitor experiences are priorities in Years 4-5.

## Palau cont.



### Specific Activities in Years 2-3

#### Materials

- (1) Division Director develops materials for tourists and visitors (brochures, website, signs, videos, pamphlets).
- (2) Division Director develops materials for community outreach (radio announcements, press releases, reports, slideshows, guest presentations, fact sheets, school materials, posters, etc.)
- (3) Division Director and Conservation Officers develop guidelines for visitation (e.g., no walking on coral)
- (4) Division Director and Conservation Officers develop guidelines for boat operators and visitors on invasive species.

Examples of awareness-raising for the public about managed or protected areas can also be found in countries outside the Pacific region, including the Philippines and the United Republic of Tanzania.

## Philippines.



### **Executive Order No. 533 of 2006 adopting Integrated Coastal Management as a national strategy to ensure the sustainable development of the country's coastal and marine environment and resources and establishing supporting mechanisms for its implementation. § 4 (excerpts).**

#### **4. Implementation of [Integrated Coastal Management] Programmes**

The implementation of ICM programmes shall take into account the following elements:

- (c) public awareness programmes to increase the level of understanding of, and appreciation for, the coastal and marine resources of the area, and to promote a shared responsibility among stakeholders in the planning and implementation of the ICM programme;

[Note: In this Executive Order, “integrated coastal management” means “a dynamic process of planning and management involving stakeholders, and requiring the analysis of the environmental and socioeconomic implications of development, the ecosystem processes, and the interrelationships among land-based and marine-related activities across jurisdictions” (preamble).]

## United Republic of Tanzania.



### Marine Parks and Reserves Act 1994 (Act No. 29). § 10 (excerpts).

#### 10. The purposes of designation of a marine park or reserve shall be —

- (c) to manage marine and coastal areas so as to promote sustainability of existing resource use, and the recovery of areas and resources that have been over exploited or otherwise damaged;
- (e) to promote community oriented education and dissemination of information concerning conservation and sustainable use of the marine parks and reserves;

### 3.7 Reviewing and amending a plan

It is useful for CBFM plans to provide enough flexibility to be revised and modified over time, while ensuring legal certainty and broad publicity, particularly when they have a binding effect and can be enforced on fishers (as illustrated under section 3.5 above). This makes it possible to implement temporary measures, such as rotational fishing area closures or opening/closure of fishing seasons, which are common traditional practices. It also allows for adaptive management in changing contexts, thus determining shifts in policy priorities.<sup>31</sup> A good practice is to review the contents of the management plan periodically; if the measures, authorities or other requirements prescribed within appear ineffective, an amendment to the plan may be warranted.

A management plan may include language specifying when and how it can be amended, what the amendment process involves, and how the amended plan is approved and adopted. Some countries require stakeholder consultation for any amendment to a plan. It is important to ensure that the amendment procedure is not too cumbersome for communities, and to ensure due publicity of the new rules, allowing everyone to comply. It would also be useful to specify in the provision who from (and what proportion of) the community will be endorsing the amendments and what process will be established to ensure a participatory approach at the community level.

<sup>31</sup> For example, the relaxation of marine conservation measures has been needed in some countries, such as Fiji, to preserve the livelihoods of local fishers during the coronavirus disease 2019 pandemic (Sloan and Samuela 2020).



## Vanuatu.



### Environmental Management and Conservation Act 2002. § 38 (excerpts).

#### 38. Amendment to registered areas

- (1) An applicant may, at any time, apply in writing to the Director for a determination to do all or any of the following:
  - (b) amend any established “Community Conservation Area” management plan;
- (2) Upon receiving an application from the applicant, the Director must consult with the landowners, community concerned and other interested parties before determining the application.
- (3) If the registration of the Community Conservation Area is cancelled, the Environmental Registry must be amended accordingly.
- (4) If any amendment is made to a Community Conservation Area, a new certificate of registration must be issued and the Environmental Registry amended accordingly.

## Solomon Islands.



### Fisheries Management Act 2015. Second Schedule. §§ 14 and 15.

#### Duration and review

- (14) Fisheries Management Plans are to provide for the duration and periodic review of the Plan.
- (15) Where assessment and review of any existing Community Fisheries Management Plan shows that any of the management measures, powers or authorities are sufficiently ineffective to secure management of the fisheries resources or compliance with management measures, the Director, Provincial Executive and relevant community shall consult with a view to revising the Plan.

## Kiribati.



### Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019. § 5 (excerpt).

#### 5. Content

- (2) The plan shall be revised every five (5) years or when the Minister considers necessary, upon the advice of the Director and of the community involved. Any amendments to the plan shall be endorsed by the community involved and approved by the Minister in writing.



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## 4. CO-MANAGEMENT COMMITTEES

CBFM arrangements may include the creation of a committee to facilitate and coordinate community participation in managing coastal fisheries resources in each co-management area. Such a committee may play an advisory role, providing advice to the government, or it may have decision-making authority.

Legal provisions relating to the committee should explain its role and list all of its powers. The provisions should also include information about the committee's membership, the process for electing or appointing committee members, the length of members' terms, the frequency of committee meetings, the number of members that constitute a quorum, voting procedures, and what can be done if committee members are inactive, behave inappropriately or act beyond their powers.

In the provisions, allowance should be made for an existing committee or a traditional institution to take the place of a committee specifically established for CBFM.



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## 4.1 Forming a committee and determining membership

Legal provisions should address how a committee can be formed and whether it needs to be registered. The law should also explain who can become a member of the committee. An appropriate balance in representation is important because, for example, tribal owners might take exception to decisions made by non-rights holders, even if those decisions are democratically derived.

Advisory committees tend to have representatives of government agencies and involve various stakeholders. Such committees can include representatives of the community – including marine resource owners and under-represented community groups (such as women, youth and religious groups) – but they may be in the minority. Meanwhile, in committees that have a more substantial role in management, community members often make up a larger share of the committee’s membership. In fact, some committees only include community members, such as fishers.

### French Polynesia.

**Order No. 1203 CM of 12 July 2018 regulating fishing on the public maritime domain in the right of the associated municipality of Afaahiti, municipality of Tairapu-East. §§ 4 and 5.**<sup>32</sup>

4. A management committee for the regulated fishing zones of Afaahiti, called “Comité de gestion des Rahui, ZPR [zone de pêche réglementée] de Taravao – Afaahiti” is hereby created to ensure the monitoring of the area and to make proposals regarding fisheries management.
5. The composition of the “Comité de gestion des Rahui, ZPR de Taravao – Afaahiti” is as follows:
  - the mayor of the East Tairapu municipality, or his representative;
  - two (2) elected municipal officials, designated by the municipality; the head of the fisheries department or his representative; a representative of a religious group, appointed by the municipality;

<sup>32</sup> Translated by the authors from the original legal text, in French, which is available at: <https://purl.org/spc/fame/cfp/legaltext/xyk6h>.



## French Polynesia cont.



- four (4) representatives of nearshore fishers of Afaahiti or their substitutes, appointed by the municipality;
- two (2) representatives of the economic sector or their substitutes, appointed by the municipality;
- two (2) representatives of the agriculture sector or their substitutes, appointed by the municipality; one representative of the public education sector or his substitute, appointed by the municipality;
- a representative of the Toohitu or his/her alternate, appointed by the municipality.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 26.

#### 26. Community fisheries management committees

- (1) A district community may apply to the Chief Executive Officer to register a community fisheries management committee.
- (2) An application under subsection (1) shall consist of:
  - (a) the name of the community fisheries management committee;
  - (b) names of the Chairperson, other officers of the committee if any and other members of the committee;
  - (c) banking information;
  - (d) the committee's mission statement and proposed activities;
  - (e) the committee's rules of procedure; and
  - (f) such other information or documentation as the Authority may require.

## Sri Lanka.



### Fisheries and Aquatic Resource Act 1996 (Act No. 2). § 32 (excerpts).

#### 32. Fisheries Committees

- (1) Registered fishermen residing or engaged in fishing in each fisheries management area or part thereof, or migrant fishermen may form themselves into a fisheries committee.
- (3) The Director may, on application by any fisheries committee, register such fisheries committee and shall publish in the Gazette a notification of such registration.
- (4) From and after the date of registration of a fisheries committee under subsection (3) such committee shall be a body corporate with perpetual succession and a common seal and may sue and be sued by the name by which it is registered.
- (5) Regulations may be made in respect of the election of office hearers of such committee and the procedure for the transaction of business by such committee and the audit of such accounts by the Director or an officer authorized by him in that behalf.

It can be useful for committees to be able to co-opt, when necessary, persons from the community who are not members of the committee.

## Tonga.



### Fisheries (Coastal Communities) Regulations 2009. §§ 5 and 6.

#### 5. Establishment

A Committee is hereby established for each of the coastal communities listed in Schedule I [designated to manage a Special Management Area].

#### 6. Membership

- (1) A Committee shall comprise of the following members –
  - (a) the Chairperson who shall be elected by the coastal community;
  - (b) the Town Officer of the coastal community;

## Tonga cont.



- (c) the District Officer of the district within which the coastal community is situated;
  - (d) one representative of the Ministry to be nominated by the CEO [Chief Executive Officer responsible for fisheries];
  - (e) two members representing the interests of fishermen elected by the community;
  - (f) two members representing the interests of women elected by the community; and
  - (g) three representatives of the coastal community to be nominated by the Chairperson.
- (2) The Committee may co-opt any person to participate in meetings and provide advice.

In co-management committees with an advisory role, members tend to be appointed by a government official, while in those with decision-making authority, members are often elected by the community.

## Tonga.



### **Fisheries (Coastal Communities) Regulations 2009. § 8.**

#### **8. Election of members**

- (1) The members of the Committee to be elected by the coastal community under regulation 6(1)(e) and (f), shall be elected by a majority vote of the relevant coastal community, in a meeting convened by the Chairperson of the Committee and the Ministry.
- (2) Such members referred to in sub-regulation (1) shall be elected for a three-year term and may be elected for a second or subsequent term, unless the member resigns from the Committee.

It is also possible to allow those who are not members of the designated coastal community (e.g. people from landlocked communities) to participate in the management of a coastal area through committee membership.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 31.

#### 31. Disadvantaged communities

- (1) A disadvantaged community or a member of a disadvantaged community shall have the right to participate on an equitable basis in the management of an area of the coastal fisheries waters through a community fisheries management committee where any one or more of the following exist:
  - (a) traditional links and affinity;
  - (b) family or clan relationship;
  - (c) ownership of land adjacent to coastal fisheries waters; or
  - (d) other arrangements between a disadvantaged community and a Community fisheries management committee.
- (2) For the purposes of this Section, a 'disadvantaged community' means a district community whose access to the coastal fisheries waters is dependent on access to another district community.



## 4.2 Defining committee functions

The functions of a co-management committee with decision-making authority are generally broader and more substantial than those of an advisory committee; they often include drafting a management plan, conducting stakeholder consultations, reviewing and revising the plan, collecting data to monitor implementation of the plan and participating in enforcement of the arrangements and rules under the plan.

### Papua New Guinea.

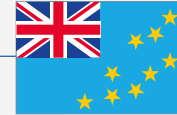


#### Talasea Marine Environment Management Law 2004. § 11 (excerpts).

##### 11. Functions of the locally managed marine area committee

- (1) The Locally Managed Marine Area Committee shall have the following functions-
  - (a) to coordinate the management of the Area;
  - (b) to make recommendations to the Local-level Government on the making of rules applicable within the Area;
  - (c) to make recommendations to the Local-level Government to declare areas of high marine value;
  - (d) to advise the Local-level Government in respect of co-ordination of compatible development activities within the Area;
  - (e) to facilitate the preparation of management plans for the Area outlining the manner in which the marine area will be managed and features of special significance conserved;
  - (f) to negotiate with the marine resource owners and make appropriate recommendations to the Local-level Government to enter into a contract with the landowners to protect and manage their area or areas;
  - (g) to monitor the use of the Area by the marine resource owners;
  - (h) to enforce the provisions of this legislation; and
  - (i) such other functions as are determined by the Local-level Government.

## Tuvalu.



### Falekaupule Act 1997. § 40 (excerpts).

#### 40. Functions

- (1) The general functions of a Falekaupule shall be those set out in Schedule 3.
- (2) The Minister may by order amend Schedule 3.
- (3) In relation to development the functions of a Falekaupule shall be, amongst other things, —
  - (a) to prepare and implement development plans and programs in consultation with the community, government agencies, non-government organisations and other development partners;
  - (b) to coordinate and monitor all programs and projects implemented within its area of authority;
  - (c) to seek technical advice on policy and project development in accordance with its plans and programs;
  - (d) to mobilise the people for development efforts; and
  - (e) to ensure the proper management and use of the physical and natural resources in the Falekaupule area.
- (4) Any function conferred on a Falekaupule or Kaupule or local government council shall be exercisable over all persons within the Falekaupule area except as is otherwise expressly provided in this Act or in any regulations or bye-laws made under this or any other Act.
- (5) The conferring of a function on a Falekaupule does not preclude the performance of that function by the Government where the function can more appropriately be performed by the Government and the Minister shall, in consultation with each Falekaupule, determine which functions should be performed by the Falekaupule and which by the Government.

### Conservation Areas Act 1999. § 6.

#### 6. Management of the conservation areas

- (1) The Kaupule shall be responsible for the overall management of the conservation areas in terms of both planning and implementation and for which purpose it shall appoint a special committee to include all main parties involved or with interest in the conservation area including Government Departments and local community representatives.
- (2) The Kaupule, with the assistance of the Government shall prepare or cause to be prepared a management plan for the conservation area based on the report of the survey made under section 5 of this Act. The plan shall be prepared in full consultation with representatives of the community.

## Tonga.



### Fisheries (Coastal Communities) Regulations 2009. § 12.

#### 12. Functions

- (1) The function of the Committee shall be to, in cooperation with the Ministry, assist the coastal community to conduct its operations in a manner that is conducive to the effective conservation and management of fisheries resources in its special management area.
- (2) Notwithstanding sub-regulation (1), the Committee shall:
  - (a) prepare a Plan for the conservation, management, sustainable utilisation and development of fisheries resources for its special management area to be submitted to the CEO for approval;
  - (b) ensure all community members are provided an opportunity to be involved in the preparation of the Plan;
  - (c) facilitate meetings or discussions with sectors of the coastal community such as fishers, women, youth and any other relevant key stakeholders;
  - (d) keep the community informed of the Plan with regular community meetings;
  - (e) consult with adjacent communities and other stakeholders about the Plan;
  - (f) implement, monitor and conduct annual revision of the Plan;
  - (g) maintain the fishers register and the fishing vessels register;
  - (h) collect such data as is necessary to effectively monitor the operations and effectiveness of the Plan and maintain such data in a form required by the CEO which may include electronic storage and the use of a database provided by the CEO for that purpose;
  - (i) assist authorised officers in implementation and enforcement of the Plan;
  - (j) stop, board and search any vessel within the special management area;
  - (k) require the master or any person aboard to provide information regarding call sign and country of registration of the vessel and the names of all persons aboard;
  - (l) question the master or any person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel;

## Tonga cont.



- (m) where they have reasonable grounds to believe that an offence has been committed under these Regulations, with a warrant, enter and search any vessel or premises in which they believe the offence has been committed;
- (n) seize anything which he has reasonable grounds to believe might be used as an exhibit in any proceedings under this Regulations; and
- (o) issue a written receipt for any article or thing seized and the ground for such seizure shall be stated in the receipt.

## Sri Lanka.



### Fisheries and Aquatic Resource Act 1996 (Act No. 2). § 32 (excerpts).

#### 32. Fisheries Committees

- (2) The functions of a fisheries committee shall include-
  - (a) formulating a fisheries programme for its area and implementing that programme;
  - (b) assisting its members to obtain boats, gear, and equipment to be used in fishing operations;
  - (c) carrying out social infrastructure and welfare activities with a view to improving the living standards of the fishing community of that area; and
  - (d) engaging in such other activities as are approved by the Director as beneficial to the fishing community of the area.

### 4.3 Setting committee rules, procedures and safeguards

CBFM provisions should contain information about how committee rules and procedures are established, how many members constitute a quorum and how decisions are made (including the voting procedure, if applicable). It is useful to include language that would ensure that minority voices are not constantly overruled simply because they are in the minority.

#### Tonga.



**Fisheries (Coastal Communities) Regulations 2009. §§ 7, 9 and 11.**

##### 7. Procedures

The Committee shall develop its own rules and procedures for the conduct of its business and its meetings with the guidance of the CEO, and such rules and procedures shall comply with the provisions of the Act, these Regulations and any standards and guidelines approved by the CEO.

##### 9. Quorum

The quorum shall be 4 members including the chairman.

##### 11. Decision-making

- (1) The Committee shall make decisions by consensus.
- (2) If all efforts to reach a decision by consensus have been exhausted, decisions by voting shall be taken by a majority of those present and voting.
- (3) Where sub-regulation (2) is applied and there is a tie in the vote, the Chairman shall have the casting vote.

#### Tuvalu.



**Falekaupule Act 1997. § 37.**

##### 37. Standing orders for committees

- (1) A Kaupule shall make and may amend, vary, and revoke standing orders to regulate the activities and proceedings of any committee which it appoints.

## Tuvalu cont.



- (2) Without affecting the general powers of subsection (1) standing orders made under this section shall provide —
  - (a) that all acts of a committee shall be done and decided by a majority of members present and voting at a meeting of such committee;
  - (b) that the chairman or other person presiding at a meeting of a committee shall, in the event of an equality of votes, have and exercise a second or casting vote; and
  - (c) for the quorum, proceedings and place of meetings of a committee.

CBFM provisions can address the consequences for committee members who have a conflict of interest or fail to fulfil their duties, including by not attending meetings or by otherwise undermining committee activities. Committee members can also be removed for abuse of power and similar inappropriate conduct, as well as for general misconduct or criminal behaviour. Finally, the whole committee may be dissolved for inactivity.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 14.

#### 14. Disclosure of interest

- (1) Where a member of the Council has an interest of a financial or fiduciary nature that conflicts with his or her function or duty under this Act, he or she shall promptly disclose the nature of such interest at the meeting.
- (2) Any conflict of interest disclosed under subsection (1) shall be recorded in the minutes of a Council meeting.
- (3) Where a member contravenes subsection (1), such member may be removed from the Council.

## Tonga.



### Fisheries (Coastal Communities) Regulations 2009. § 10.

#### 10. Non-attendance at meetings

Where a member of the Committee fails to attend three consecutive meetings without an appropriate explanation submitted to and accepted by the Committee, it shall require the resignation of that member and shall appoint a replacement.

## Papua New Guinea.



### Bialla Marine Environment Management Law 2004. § 15 (excerpts).

#### 15. Vacation of Office

- (1) A member of the Locally Managed Marine Area Committee may be removed from office if he or she:
  - (a) resigns from the Committee; or
  - (b) is, in the opinion of a medical practitioner, unfit by reason of physical or mental incapacity to carry out his or her duties under the Act; or
  - (c) is convicted and sentenced to more than three months imprisonment for a criminal offence; ...
  - (d) in the opinion of two thirds of the members of the Committee, deliberately and persistently frustrates the work of the Committee.
- (2) Another person from the group whose representative has been removed shall be nominated by the group and appointed by the Local-level Government and holds office for the remainder of the term.

## Kenya.



### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 20.

#### 20. Dismissal of executive committee members by the assembly

- (1) The assembly may dismiss a member of the executive committee, or any subcommittee, on the grounds that he—
  - (a) is proven to be of unsound mind;
  - (b) has failed without reasonable cause to attend three consecutive scheduled meetings;
  - (c) has engaged in or condoned illegal fishing activities;

## Kenya cont.



- (d) has failed to perform the duties required of his office as specified in these regulations or the by-laws; or
  - (e) is convicted of a criminal offence.
- (2) An assembly to consider the dismissal of any member of the executive committee shall be convened in response to a written request signed by one-third of the beach management unit members, citing the grounds for dismissal.
- (3) A decision to dismiss a member of the executive committee shall be taken by secret ballot requiring a simple majority of votes in favour of dismissal, and shall be confirmed by the authorised fisheries office in writing.
- (4) A member of the executive committee who has been dismissed pursuant to subsection (1) of this regulation may within 14 days of the relevant assembly appeal in writing by notice to the Director stating the basis for the appeal.
- (5) The Director shall determine any such appeal within 14 days by of receipt of the notice of appeal and shall promptly inform the beach management unit and the authorised fisheries officer.

## New Zealand.



### Fisheries Act 1996 (Act No. 88). § 285.

#### 285. Members

- (1) Any member of the Catch History Review Committee may resign his or her office at any time by notice in writing to the Minister.
- (2) Any member of the Committee may be removed from office at any time by the Minister on the ground of inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct of the member proved to the satisfaction of the Minister.

## Sri Lanka.



### Fisheries and Aquatic Resource Act 1996 (Act No. 2). § 32 (excerpt).

#### 32. Fisheries Committees

- (6) The Director may cancel the registration of any fisheries committee if he is satisfied, after holding such inquiry as he may deem fit, that the fishery committee has been inactive or has failed to conduct itself in the interests of its members.



## 4.4 Preparing committee reports

It is useful to have the CBFM committee prepare a report about its activities, including annual reports, meeting reports or ad hoc reports. Such reports should be made available to community members, including marine resource owners, and relevant government officials.

### Papua New Guinea.



#### Hoskins Marine Environment Management Law 2004. § 14.

##### 14. Annual Reports of the Locally Managed Marine Area Committee

- (1) The Locally Managed Marine Area Committee shall as soon as practicable after the end of each year and before the end of March in the following year, furnish to the Local-level Government a report outlining its operations during that year.
- (2) A copy of the annual report shall be made available to the marine resources owners of the locally managed marine areas, the government agencies responsible for fisheries and environment and conservation matters.

### Tuvalu.



#### Falekaupule Act 1997. § 38.

##### 38. Committees to report

Every committee appointed by a Kaupule under this Part shall report its proceedings to the Kaupule whenever required to do so by the Kaupule and in any event within a reasonable time after such proceedings.

Various laws on cooperative associations include detailed provisions on transparency and oversight, offering interesting models. For example, the Spanish law on cooperatives of Euskadi (Basque country) provides for the creation of an oversight commission, an internal, independent body of the cooperative established for the purposes of governance and financial oversight. The creation of these commissions is mandatory for all cooperatives of 100 members or more.<sup>33</sup>

<sup>33</sup> Spain, Law 11/2019 of 20 December on Cooperatives of Euskadi, § 53.

## Spain.



### Law 11/2019 of 20 December on Cooperatives of Euskadi. §§ 54 and 56 (excerpts).<sup>34</sup>

#### 54. Information powers

- (1) The [cooperative] administrators must inform the oversight commission, at least once a quarter, of the activities and foreseeable progress of the cooperative.
- (2) The oversight commission has the right to carry out all the necessary checks for the fulfilment of its mission and may entrust this task to one or more of its members or request the assistance of experts.
- (3) Each member of the oversight commission will have access to all the information communicated or received, but may not reveal, not even to other members of the cooperative, the result of the investigations produced or the information obtained.

#### 56. Functions and operation

- (1) The oversight commission has authority to perform the following functions:
  - (a) Review the annual accounts and issue a mandatory report on those accounts, as well as on the proposed distribution of surpluses or attribution of losses before they are presented to the general assembly.
  - (b) Review the books of the cooperative.
  - (c) Call a general assembly meeting when deemed necessary in the interest of the cooperative and when the administrators have neglected, within the established deadlines, a request previously addressed to them by the members in accordance with the [law].
  - (e) Challenge the decisions of the management bodies, in the cases provided for in this law.
  - (f) Inform the general assembly about specific questions and/or situations.
  - (g) Oversee the process of election and appointment by the general assembly of the members of other governance bodies

<sup>34</sup> Translated by the authors from the original legal text, in Spanish, which is available at: <https://www.boe.es/boe/dias/2020/01/16/pdfs/BOE-A-2020-615.pdf>.

## 4.5 Receiving the support of coordinating bodies

Coordinating bodies can be a key asset in scaling up CBFM at the national level. They can bring together all the community committees operating in the same district or other administrative division and support the sharing of experience among them. They may provide assistance in preparing management plans, monitoring managed areas or coordinating other CBFM initiatives. Coordinating bodies also enable the representation of communities that do not have access to coastal marine areas.

### Palau.



**Palau National Code, Title 24 (Environmental Protection). § 3402 (excerpt).**

#### **3402. Protected Areas Network**

- (b) The Protected Areas Network shall be administered and managed by the Minister of Natural Resources, Environment and Tourism in consultation with the PAN Management Committee. Funding and technical assistance to states may include, but is not limited to:
  - (a) management of PAN sites;
  - (b) enforcement of environmental laws and regulations affecting PAN sites;
  - (c) general environmental management and planning at the state level; and ...

In Nauru, the Community Fisheries Stakeholder Forum, comprising one representative of each district community fisheries management committee and a senior staff member of the Fisheries and Marine Resources Authority, who acts as a coordinating body, working directly with stakeholders.<sup>35</sup> This forum may also develop a dispute resolution mechanism for its members.

<sup>35</sup> Nauru, Coastal Fisheries and Aquaculture Act 2020, § 17.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 16.

#### 16. Objectives of the Forum

The Forum may:

- (a) work collaboratively on the development of project outcomes;
- (b) work directly with key stakeholders to ensure that their concerns and needs are considered;
- (c) with the assistance of the Chief Executive Officer, develop a dispute resolution mechanism to resolve disputes between members;
- (d) provide feedback on analysis, alternatives or outcomes including policies, national coastal fisheries and aquaculture plans, legislation or other conservation, management and development measures; and
- (e) where necessary or when required, provide relevant parties including the Coastal Fisheries Advisory Council with balanced, objective and accurate information.

## Chile.



### Law 21.069 of 2018 creating the National Institute for the Sustainable Development of Artisanal Fisheries and Small-Scale Aquaculture (INDESPA). § 9.<sup>36</sup>

#### 9. INDESPA's Regional Advisory Councils

INDESPA shall have 14 regional advisory councils, composed of:

- (a) An official from the regional office of INDESPA designated by the Director, who will chair it.
- (b) The Regional Ministerial Secretary of Economy or his designee.
- (c) The Zonal Director of Fisheries or his designee.
- (d) The Regional Director of Fisheries or his designee.
- (e) A representative designated by the Regional Government.
- (f) 7 representatives of the small-scale fisheries sector.

The main function of the regional advisory councils shall be to provide the INDESPA Council with proposals and information for the formulation of its programmes at the local level, which may serve as a basis for the elaboration of plans and programmes in their region. Likewise, the advisory councils shall be responsible for answering the Council's queries within the scope of their competencies. The councillors shall not receive remuneration for the exercise of their functions.

A regulation of the Ministry shall determine the functioning of the advisory councils and the procedure for the designation and appointment of the representatives referred to in letter f), which shall be carried out in accordance with the provisions of Law No. 20.500, on associations and citizen participation in public administration, and other applicable legal provisions in force.

<sup>36</sup> Translated by the authors from the original legal text, in Spanish, which is available at: <https://www.bcn.cl/leychile/navegar?idNorma=1115065>.



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## 5. MONITORING AND ENFORCEMENT

Legal provisions can strengthen the monitoring and enforcement of CBFM arrangements, in particular management plans, and boost compliance with coastal fisheries regulations and rules more broadly by implementing community surveillance. The provisions can address, for example, the registration of fishers or vessels allowed to operate in a managed area or the marking and colour-coding of fishing boats. Legal provisions can also allow for community members to become community authorised officers or local wardens (sometimes called fish wardens) to facilitate monitoring and enforcement, as well as describe their duties and powers. Training, tools, equipment and other support that will be provided to community members to assist them in managing a CBFM area may also be covered by the provisions.

Both government and community roles in enforcement should be carefully ascertained. For communities, factors to consider before assigning their functions include interest in enforcement (which might affect the number of community members who are prepared to take responsibility for enforcement activities); knowledge of the managed area; knowledge of the rules and ability to spot illegal practices; and availability of resources (such as vessels and tools for enforcement activities) and finances (which might be needed to obtain resources). The amount of illegal fishing in the managed area should also be considered; in general, enforcement is challenging when there are major or repeated transgressions, or when transgressions are perpetrated by outsiders. Inaccurate assessment of a community's ability to enforce the rules in a managed area could lead to, in extreme cases, community officers giving up or, alternatively, overstepping their authority.

Regarding the role of government, consideration should be given to what it can enforce and when. Assigning government authorities enforcement functions they are not in a position to carry out – for example because the community is in a remote location requiring expensive transport to reach – can undermine community trust in the co-management arrangements.

## 5.1 Registering fishers and vessels

Registration can facilitate the monitoring and enforcement of CBFM arrangements. For example, it provides a framework for collecting fisheries data and helps control fishing in restricted areas. Legal provisions may specify who can register to use the marine resources in the managed area and how to register. The registration of fishers and fishing boats can be among the functions of the community committee.

Maintaining a register of fishers and fishing vessels authorised to fish in a locally managed area and keeping the register up to date (including by withdrawing the records of those who have lost their authorisation as a consequence of a rule violation) improves monitoring and enforcement. Administrative responsibilities should, however, be adapted to the capacity of the management authority or the community committee to maintain a register.

### Tonga.



#### Fisheries (Coastal Communities) Regulations 2009. § 16.

##### 16. Registers

- (1) [The Committee] shall establish and maintain a Fishers Register and a Fishing Vessels Register.
- (2) Any register may be kept electronically and shall, when so required by the CEO be kept on a database provided by the CEO for that purpose.
- (3) A Fishers Register shall contain the names and details of persons authorised by the Committee to fish in the special management area.
- (4) A Fishing Vessels Register shall contain the name of the owner of the vessel and details of the vessel authorised by the Committee to fish in the special management area.
- (5) The Committee shall not register a vessel on the Fishing Vessels Register unless that vessel has been registered on the Register [in section 20 of the Act].
- (6) The Committee shall submit copies of both registers to the Ministry, and promptly inform the Ministry of any additions or deletions from either of the Registers.



## Tonga cont.



- (7) The Committee shall withdraw the name of:
- (a) a person or vessel from the appropriate Register for non-compliance with the conservation and management measures applicable to the special management area; or
  - (b) a vessel from the Fishing Vessels Register where the vessel has been removed from the Fishing Vessels Register maintained by the Ministry.
- (8) Such persons or vessels whose names have been withdrawn under subregulation (6)(a) shall not be allowed to fish in the special management area until corrective action, as determined by the Committee, is taken, and their name is reinstated on the appropriate Register.

In Fiji, customary rights to marine resources are registered in the Register of Native Customary Fishing Rights. In Kiribati, while customary fishing rights are recognised in law, they are not officially registered. In both countries, non-members of traditional clans require a licence to fish in ancient customary fishing grounds.

## Fiji.



### Fisheries Act 1941. §§ 13 (excerpts) and 14.

#### 13.

- (l) ... it shall be an offence for any person to take fish on any reef or on any kai (cockle) or other shellfish bed in any area in respect of which the rights of any *mataqali* or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission [now *iTaukei* Fisheries Commission] in the Register of Native Customary Fishing Rights unless he shall be a member of such *mataqali*, division or subdivision of the Fijian people who does not require a licence.

14. The Minister responsible for Fijian affairs may appoint a Native Fisheries Commission, consisting of one or more commissioners, each of whom shall have the powers of the Commission, who shall be charged with the duty of ascertaining what customary fishing rights in each province of Fiji are the rightful and hereditary property of native owners, whether of *mataqali* or in whatsoever manner or way or by whatsoever divisions or subdivisions of the people the same may be held.

## Kiribati.



### Fisheries Act 2010. § 18.

#### 18. Protection of customary rights

- (1) A person who is not a member of a kainga, utu or other division of the people may take fish in a sea or lagoon area or on a reef forming part of the ancient customary fishing ground of the kainga, utu or other division only if the person has a licence under this section.
- (2) The person may apply to the Director of Fisheries in the prescribed form for a licence to take fish.
- (3) The Director of Fisheries may, with the approval of the Minister, grant a licence in the prescribed form, authorising the person to take fish.

## Draft provision: Registry of fishers

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- (1) For the purpose of monitoring and enforcement of fishing activities within the [co-management area], the [local community co-managing the area] shall establish, maintain, and update in a timely manner so as to have the most accurate version of, an [electronic] registry of fishers who are authorised to fish in the [locally managed area].
- (2) For each authorised fisher, the registry shall contain the fisher's name and other details needed to verify the fisher's identity.
- (3) The [local community co-managing the area], in coordination with the [local government/government official], shall promote and facilitate the registration of fishers, including by providing clear information on the registration process. The [country's local government/national fishery agency/government official] shall support the registration process through budget allocation and/or deployment of personnel.
- (4) Whenever a fisher commits a violation or violations of the [management plan] or other misconduct and loses authorisation to fish in the [co-management area], the [local community co-managing the area] shall withdraw the fisher's name from the registry until a corrective action is taken by the fisher and the fisher is re-authorised to fish in the [co-management area].
- (5) The registry of fishers shall be available to all persons participating in the monitoring and enforcement activities in the [co-management area].

## Draft provision: Registry of fishing vessels

- (1) For the purpose of monitoring and enforcement of fishing activities within the [co-management area], the [local community co-managing the area] shall establish, maintain, and update in a timely manner so as to have the most accurate version of, an [electronic] registry of fishing vessels that are authorised to fish in the [co-management area].
- (2) For each authorised fishing vessel, the registry shall contain the name of the vessel's owner, any details needed to identify the vessel and the type of fishing gear carried on the vessel.
- (3) The [local community co-managing the area], in coordination with the [local government/government official], shall promote and facilitate the registration of fishing vessels, including by providing clear information on the registration process. The [country's local government/national fishery agency/government official] shall support the registration process through budget allocation and/or deployment of personnel.
- (4) Whenever a fishing vessel commits a violation or violations of the [management plan] or other misconduct and loses authorisation to fish in the [co-management area], the [local community co-managing the area] shall withdraw the fishing vessel from the registry until a corrective action is taken by the vessel's owner and the fishing vessel is re-authorised to fish in the [co-management area].
- (5) The registry of fishing vessels shall be available to all persons participating in the monitoring and enforcement activities in the [co-management area].

Legislation may also require the marking and colour-coding of boats that are allowed to fish in the CBFM area to facilitate monitoring and enforcement and promote compliance.

### Kenya.



#### Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 7 (excerpts).

##### 7. Co-management areas

- (4) Following the designation of a co-management area the authorised fisheries officer shall, in consultation with relevant beach management units, develop a draft co-management plan for that co-management area, specifying fisheries management measures that are to be taken to ensure the sustainable utilization of fisheries in that area, including, but not limited to— ... (c) the marking of fishing vessels;

## Draft provision: Colour coding of fishing boats<sup>37</sup>

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- (1) In order to provide a visual reference for the efficient management of fishing resources and facilitation of enforcement measures, the [co-management authority] shall design a colour-coding system for [area under the co-management authority's jurisdiction], and such colour code system shall include identifiable markings to be displayed by the [co-management area] fishing boats.

## 5.2 Appointing community authorised officers

Community members involved in monitoring and enforcement activities are called community authorised officers – or fish wardens, honorary fishery officers or guardians. Sometimes they have a local language or traditional name (e.g. *tiaki ra'ui* in the Cook Islands).

CBFM provisions may include information about the ways in which community members can participate in the monitoring and enforcement of a managed area. Further, provisions can cover their appointment (who will appoint them and how), the time they will serve as officers and the extent of their powers (noting any limitations, for example geographical).

### Solomon Islands.



#### Choiseul Province Fisheries and Marine Environment Ordinance 2011. §§ 44–47.

##### Honorary Fisheries Officers

44.

- (1) The Minister may appoint appropriate people as Honorary Fisheries Officers by posting notices in the area in which the Honorary Fisheries Officer will work.
- (2) The Minister may appoint an Honorary Fisheries Officer for a fixed period, or for an indefinite period.

<sup>37</sup> Based, in part, on the Implementing Rules and Regulations of the Philippine Fisheries Code of 1998 (Administrative Order No. 3 of 1998 of the Department of Agriculture), Rule 16.8.

## Solomon Islands cont.



- (3) The Minister may limit the authority of an Honorary Fisheries Officer to a specific geographical area.
  - (4) The Minister may limit the authority of an Honorary Fisheries Officer in any way that he or she thinks fit.
  - (5) The Minister may terminate the appointment of an Honorary Fisheries Officer at any time by giving notice of that termination to that Honorary Fisheries Officer.
- 45.
- (1) The Minister shall issue each Honorary Fisheries Officer a warrant to act.
  - (2) No Honorary Fisheries Officer may act as such unless they have a current warrant issued under this section.
  - (3) A warrant under this section shall state any limits on the Honorary Fisheries Officer's authority.
  - (4) A warrant issued under this section shall be valid for a maximum period of one year, and must be reissued following expiration if the person is to continue to act as an Honorary Fisheries Officer.
- 46.
- (1) Honorary Fisheries Officers are not employees or agents of the Province, and shall receive no payment from the Province, other than for reimbursement of expenses authorised by the Province.
  - (2) An Honorary Fisheries Officer may be an employee of the community or any other organisation, and may receive payment from the community or the organisation for their work as an Honorary Fisheries Officer.
47. Complaints against Honorary Fisheries Officers may be made to the Minister who shall arrange for the complaint to be investigated and then may:
- (a) dismiss the complaint;
  - (b) warn the Honorary Fisheries Officer not to repeat the behaviour complained of;
  - (c) suspend the Honorary Fisheries Officer for a fixed period; or
  - (d) terminate the Honorary Fisheries Officer's warrant.

[Note: Honorary fisheries officers may only enforce provincial legislation, unless they are also appointed as provincial authorised officers under the Solomon Islands Fisheries Management Act 2015, § 15.]

## Cook Islands.



### Environment (Atiu and Takutea) Regulations 2008. § 21.

#### 21 Tiaki Ra'ui [Guardians]

- (1) The Ui Ariki, Mataiapo Tutara and Mataiapo shall be entitled to appoint and dismiss certain persons to be called "Tiaki Ra'ui", who shall act as guardians or caretakers of the Area and carrying out the activities in the Management Plan.
- (2) The names of the Tiaki Ra'ui shall be publicised throughout public places in Atiu as well as in the radio and television.
- (3) In the event that a Tiaki Ra'ui resigns, retires, passes away or moves to another village or island, the Ui Ariki, Mataiapo Tutara and Mataiapo shall appoint another person to be his or her replacement.

## New Zealand.



### Fisheries Act 1996 (Act No. 88). § 197.

#### 197. Appointment of honorary fishery officers

- (1) The chief executive may, from time to time, appoint as honorary fishery officers for a specified area or areas such persons as the chief executive considers fit and proper.
- (2) Every person appointed as an honorary fishery officer under this section—
  - (a) shall be appointed for such term, not exceeding 3 years, as the chief executive thinks fit, and may be reappointed:
  - (b) may, at any time, be removed from office by the chief executive if the chief executive no longer considers him or her to be a fit and proper person for reasons of incapacity, neglect of office, misconduct, or otherwise:
  - (c) may at any time resign his or her office, and notification of such resignation shall be given to the chief executive.

## New Zealand cont.



- (3) There may be paid to any honorary fishery officer out of money appropriated by Parliament for the purpose—
  - (a) an honorarium at a rate determined by the chief executive; and
  - (b) reimbursement of actual and reasonable expenses incurred in the course of carrying out his or her powers and duties, where the chief executive has given prior authorisation and has subsequently approved the expenses.
- (4) No person appointed as an honorary fishery officer under this section shall be deemed to be employed by the Crown by reason of the appointment or any money paid to the person under this section.

## Kenya.



### Fisheries Management and Development Act 2016. § 19.

#### 19. Honorary Fisheries Officers

- (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions of this Act.
- (2) An honorary fisheries officer shall —
  - (a) hold office subject to such conditions as the Director may prescribe, for a period of five years; and
  - (b) have such functions as may be prescribed by rules made under this Act.

### 5.3 Defining the functions of community authorised officers

Legislation enabling CBFM can spell out the functions and powers of community authorised officers. Provisions may, for instance, enable them, like other enforcement officers, to examine and seize documents, fishing gear or catch, and to board and seize any fishing vessel. Their powers may include entering and inspecting any premises that may have been used in an alleged offence (see the Tongan example under section 4.2 above on committee functions), although a judicial warrant may be required to inspect dwellings. The law generally specifies the area of authority of a community authorised officer, restricting it to a specific CBFM area, although there may be exceptions such as in the case of Fiji. In addition to the enforcement role they may have, community authorised officers may also play a crucial role in raising public awareness of the rules in place in managed areas, and this role should be emphasised.



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## Vanuatu.



### Fisheries Act 2014. §§ 115B and 115C.

#### 115B. Powers of community based authorised officers

A community based authorised officer, without a warrant, has the following powers:

- (a) to examine and seize copies of any licence, logbook, record of a vessel or aircraft; and
- (b) to seize any fish, fishing gear or explosive, electrical device, fishing net, poison or other noxious substance; and
- (c) to seize any fish or fish products which he or she has reasonable grounds to believe is held in contravention with this Act or its Regulation; and
- (d) to seize a local fishing vessel operating without a local fishing licence; and
- (e) to stop and board a local fishing vessel not more than 8 meters in length to inquire and examine the vessel and take samples of fish or fish products on or in the vessel.

#### 115C. Functions of community based authorised officers

Community based authorised officers have the following functions:

- (a) to carry out awareness[-raising activities] on matters concerning fisheries; and
- (b) to assist authorised officers in coastal monitoring and surveillance activities; and
- (c) to assist authorised officers in coastal fisheries resource management and conservation and related matters; and
- (d) to submit reports with evidence of offences and related matters to an authorised officer; and
- (e) to execute any instructions from the Director or an authorised officer for the purposes of management and conservation of fisheries resources; and
- (f) to assist authorised officers in monitoring and enforcement operations.

## Fiji.



### Fisheries Act 1941. § 7.

#### 7. Power of examination and detention

- (1) Any licencing officer, police officer, customs officer, honorary fish warden and any other officer empowered in that behalf by the Minister, may, for the purpose of enforcing the provisions of this Act:-
  - (a) require any person engaged in fishing to exhibit his licence, apparatus and catch;
  - (b) go on board any vessel reasonably believed to be engaged in fishing and search and examine any fishing apparatus therein;
  - (c) where there is reasonable suspicion that any offence has been committed, take the alleged offender, the vessel, apparatus and catch, without summons, warrant or other process, to the nearest police station or port. The vessel and apparatus may be detained pending trial of the offender and the catch may be sold and the proceeds of the sale detained pending such trial; and thereafter any vessel, apparatus or money so detained shall, unless forfeited under the provisions of subsection (7) of section 10, be returned to the person from whom the same was taken.
- (2) Any person who refuses to permit any officer or person mentioned in subsection (1) to board a vessel or obstructs or hinders him in the course of boarding a vessel or in the course of otherwise executing his duties shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months.

[Note: While honorary fish wardens are not specifically designated for locally managed areas in the Act, their instrument of appointment is likely to limit their authority to a specific area.]

## Cook Islands.



### Environment (Atiu and Takutea) Regulations 2008. § 22 (excerpts).

#### 22. Role and Duties of the Tiaki Ra'ui

- (1) A Tiaki Ra'ui may use all of his or her powers stated in [Part III of these Regulations] for the purpose of carrying out of activities necessary to give effect to the Ra'ui Management Plan in consultation with the Ui Ariki, Mataiapo Tutara and Mataiapo.
  - (2) Where any person is found to have committed an offence against the Ra'ui Management Plan, the Tiaki Ra'ui shall –
    - (a) be empowered to request the name, address and identification from the person;
    - (b) seize any plant or animal found in their possession and seize any article used for the commission of the offence; and
    - (c) apply an on-the-spot utunga of \$100.00; or
    - (d) refer the matter to the National Environment Service for prosecution under the provisions of the Act or any regulations thereunder.
  - (3) Each Tiaki Ra'ui shall, where necessary, be given an identification card by the Ui Ariki, Mataiapo Tutara and Mataiapo for the purpose of identifying themselves to any person for the purpose of the enforcement of the Ra'ui Management Plan.
- ...
- (13) It shall be an offence to interfere with the work of a Tiaki Ra'ui or refuse to provide information or provide false information to a Tiaki Ra'ui when requested.

## Kenya.



### **Fisheries (Beach Management Units) Regulations 2007 (Cap. 378). § 7(8)–(9).**

- (8) A beach management unit shall constitute a patrol sub-committee who shall in collaboration with the Director undertake regular patrols within the co-management area, or within the designated patrol area in the case of a joint co-management area, in order to ensure compliance with the Act and any applicable co-management plan and applicable by-laws.
- (9) The authorised fisheries officer and the executive committee(s) of the concerned beach management unit or units shall supervise the implementation of the co-management plan and shall periodically review its contents and revise it as necessary.

In some cases, monitoring and enforcement duties are performed by members of the community committee. These duties can be listed in the provisions related to the committee's functions (see also the example of Tonga in section 4.2 above).

## Nauru.



### **Coastal Fisheries and Aquaculture Act 2020. § 29.**

#### **29. Monitoring and enforcement of community fisheries management area**

- (1) A community fisheries management committee shall:
  - (a) monitor its community fisheries management area;
  - (b) enforce its community fisheries management area plan; and
  - (c) report any breach of its community fisheries management area plan to the Chief Executive Officer.
- (2) For the purpose of this Section, a community fisheries management committee may appoint persons from its committee to monitor its fisheries management area.

## 5.4 Providing training and equipment

Given the specific knowledge and skills needed in coastal fisheries monitoring and enforcement, it is useful to set qualifications for persons appointed as community authorised officers or fish wardens in a CBFM area. For example, proper training needs to be provided to any community members who seek to assist with monitoring and enforcement activities.

### American Samoa.



**Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program). §§ 24.1004 (excerpt) and 24.1016.**

#### **24.1004. Village Participation in the Community-based Fisheries Management Program**

To participate in the Community-based Fisheries Management Program a Village must do the following:

- (a) Notify the Department of the Village's intent to participate;
- (b) Meet with the proper representatives from the Department; ...
- (f) Select members for a Village Monitoring and Enforcement Committee;
- (g) Mark the Village Marine Protected Area;
- (h) Sign a cooperative agreement with DMWR to work together on the program;
- (i) Receive training from the Department for the individuals of the Village Monitoring and Enforcement Committee who will monitor the Village's Marine Protected Area;

#### **24.1016. Training of individuals to enforce Village By-laws**

- (a) The Department shall provide all training of the individual(s) from a Village that is to monitor the Village's Marine Protected Area.
- (b) The number of individuals trained by the Department for each Village shall be only the number of persons reasonably needed to monitor the Village's Marine Protected Area.

## Vanuatu.



### Fisheries Act 2014. § 115A.

#### 115A. Appointment of community based authorised officers

- (1) The Minister may, on the recommendation of the Director, appoint a person or a group of persons as community based authorised officer or officers.
- (2) A person or a group of persons to be recommended under subsection (1), must complete a basic community based authorised officer's training.

## Philippines.



### Philippine Fisheries Code of 1998 (Act No. 8550). § 124.

#### 124. Persons and Deputies Authorized to Enforce this Code and Other Fishery Laws, Rules and Regulations

The law enforcement officers of the Department, the Philippine Navy, Philippine Coast Guard, Philippine National Police (PNP), PNP-Maritime Command, law enforcement officers of the LGUs [local government units] and other government enforcement agencies, are hereby authorized to enforce this Code and other fishery laws, rules and regulations. Other competent government officials and employees, punong barangays and officers and members of fisherfolk associations who have undergone training on law enforcement may be designated in writing by the Department as deputy fish wardens in the enforcement of this Code and other fishery laws, rules and regulations.

**Draft provision:**  
**Training and equipment for [community authorised officers/  
fish wardens/honorary fishery officers]**

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- (1) In making appointments under this section, the [Minister] shall:
  - (a) ensure that proper training is provided to all persons who are to be appointed as [community authorised officers/fish wardens/honorary fishery officers];
  - (b) be satisfied that persons so appointed have fully and successfully completed all proper training necessary for carrying out the enforcement powers identified in [section X]; or
  - (c) make the appointments contingent on the full and successful completion of such training.
- (2) Once a person is appointed as a(n) [community authorised officer/fish warden/honorary fishery officer], the [Minister] shall:
  - (a) provide such uniform and equipment as required for the [community authorised officer/fish warden/honorary fishery officer] to fulfil his or her duties;
  - (b) provide reimbursement for all duty-related costs that are reasonable or approved in advance;
  - (c) provide periodic training in accordance with the duties assigned to the appointed [community authorised officers/fish wardens/honorary fishery officers]; and
  - (c) maintain a national registry of all [community authorised officers/fish wardens/honorary fishery officers] appointed with detailed information on each [community authorized officer/fish warden/honorary fishery officer] that includes area of duty, level of competency and number of trainings undertaken, official identification number, and compliance and enforcement activities undertaken.



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## 6. LOCAL BY-LAWS AND LEGAL PROCESSES

A local government (such as a village council, an island council or other administrative division) may create its own fisheries by-laws to facilitate the management of marine areas within its sphere of authority, in consultation with communities or directly through recognised traditional bodies. The legal provisions on by-laws should specify how by-laws can be created and what matters they can address.



## Samoa.



### Fisheries Management Act 2016. § 86.

#### 86. Making of fisheries bylaws

- (1) A village Fono may make village fishery bylaws, consistent with this Act, for the purpose of conserving, protecting, managing, developing and sustaining harvest of fish in the village fisheries management area, including any or more of the following matters:
- (a) prohibit harvest of certain type of fish;
  - (b) prohibit fishing methods that are destructive or damaging;
  - (c) provide periodic closure of fishing in certain areas;
  - (d) restrict or limit size of fish to be caught or harvested;
  - (e) restrict mesh size fishing nets;
  - (f) restrict importation or exportation of fish;
  - (g) regulate any activity that would cause adverse effects on marine environment and coastal fisheries;
  - (h) provide any other matter necessary to protect coastal fisheries.

[Note: In Samoa, a village fono “in relation to any village means the assembly of the Alii and Faipule of that village meeting in accordance with the custom and usage of such village and includes the plural; “village land” does not include government land or freehold or leasehold land” (Village Fono Act 1990, § 2).]

- (2) Fisheries bylaws are to be:
- (a) prepared under the guidelines issued under section 6; and
  - (b) vetted by the Attorney General; and
  - (c) approved by Cabinet; and
  - (d) signed by the Chief Executive Officer; and
  - (e) published in the Savali after they are signed; and
  - (f) effective on the 14th day after they are first published in the Savali; and
  - (g) distributed (copies of bylaws) by the Chief Executive Officer to stakeholders, including neighbouring village communities.

## American Samoa.



### Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program). § 24.1006.

#### 24.1006. Village By-laws

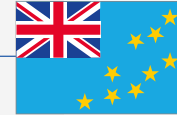
- (a) Each participating Village shall, after consultation with the Department, implement the set of Village by-laws that set forth the conservation and management measures that will control the Village's Marine Protected Area.

[Note: Under the Regulations, a "village" is defined as "a common association or grouping of houses, families, or people based upon traditional, recognized boundaries" (§ 24.1003).]

- (b) The set of Village by-laws shall be adopted as required in ASCA § 4.1004.
- (c) The Department shall keep on file, and make available to the public upon proper written request, a copy of the Village's by-laws. Any Person may request a copy of any Village by-laws.
- (d) Each participating Village's Pulenu'u shall retain a copy of the Village by-laws.

[Note: Community members are consulted before any such rules are adopted or changed through the notice and comment mechanism described in American Samoa Code Annotated, Title 4, Chapter 10 (Administrative Procedures): "Prior to the adoption, amendment, or repeal of any rule, the agency shall give at least 20 days notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be mailed to all persons who have made timely requests of the agency for advance notice of its rule-making proceedings and shall be publicized in all news or broadcasting media operated by the government." (§ 4.1004)]

## Tuvalu.



### Falekaupule Act 1997. § 53.

#### 53. Bye-laws; general provisions

- (1) A Kaupule may from time to time make and having made may amend, vary, or cancel bye-laws, having the force of law in the Falekaupule area, for the purpose of carrying out any statutory function of the Kaupule or the Falekaupule.
- (2) Bye-laws made under subsection (1) may specify a fine not exceeding \$400 or, in default of payment, imprisonment not exceeding 6 weeks, for any breach of a bye-law and, in the case of a continuing offence; a further penalty not exceeding \$20 for each day on which the offence is continued after written notice of the offence has been given to the offender.
- (3) Bye-laws may further provide that, in addition to any penalty as specified in subsection (2), any expense incurred by the Kaupule in consequence of any breach of the bye-laws or in the execution of any work directed by any bye-law to be executed by any person and not executed by such person shall be paid by the person committing such breach or failing to execute such work and shall be recoverable as a civil debt.
- (4) Bye-laws may provide for the payment of such fees or charges as are specified in the bye-laws.
- (5) Subject to subsection (6), every bye-law shall be read and construed subject to this Act and to any other law for the time being in force in Tuvalu.
- (6) Where a bye-law makes provision for any matter for which provision is made in any other Act, the bye-law shall not be invalid unless there is a conflict between the provisions of the bye-law and of the Act, in which case the provisions of the Act shall prevail.
- (7) Nothing in the Laws of Tuvalu Act shall prevent a Kaupule, when making a bye-law on any topic, from incorporating, repealing, amending or re-stating any customary rules previously in force with regard to that topic.
- (8) A bye-law may require acts or things to be performed or done to the satisfaction of a specified person and may empower a specified person to issue orders to any other person requiring acts or things to be performed or done, imposing conditions and prescribing periods and dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

## Tuvalu cont.



- (9) A bye-law may confer upon a Kaupule and any of its officers and employees specified in such bye-law such powers of inspection and inquiry and such powers to execute any work as may be reasonably necessary for the proper carrying out or enforcement of such bye-law.
- (10) A bye-law may specify that it shall apply to the whole or any part of the Falekaupule area or to all or any class of persons in such area and, failing such specification; a bye-law shall be deemed to apply to all parts of the Falekaupule area and to all persons in it.

## Cook Islands.



### Marine Resources Act 2005. § 8.

#### 8. Conservation, Management and Development of Fisheries of Local Interest by Local Authorities

- (1) A local authority may take measures for the conservation, management and development of any fishery of local interest or aquaculture within its area of authority in accordance with the principles and provisions of this Act, in addition to the measures in respect of designated fisheries described in section 6(3), or aquaculture management areas described in section 7 of this Act, including preparation of - (a) a fishery plan in cooperation with the Ministry; and (b) where no fishery plan exists, by-laws for promulgation by the Queen's Representative by Order in Executive Council.
- (2) Any by-law prepared in accordance with subsection (1) shall be submitted to the Minister and Cabinet for approval before consideration in Executive Council. The Minister or Cabinet may disapprove of a proposed by-law only if it is not consistent with the principles and provisions in this Act, and shall disapprove of a proposed by-law if it is inconsistent with any fishery plan adopted in accordance with this Act.
- (3) A local authority shall inform the Secretary of the development of any conservation, management or development measures, who may provide technical, monitoring, research and other advice or assistance as appropriate.

## Cook Islands.



- (4) Upon agreement between a local authority and the Secretary, and approval by the Minister, measures for co-management between the local authority and the Ministry may be implemented.
- (5) The Secretary shall consult with a local authority on any matter of fisheries conservation, management or development which may affect the local authority or environment, and the local authority shall consult the Secretary on such areas as are mutually important, including, as appropriate, leases for aquaculture, and shall afford the Secretary or his designee adequate opportunity to attend any meeting at which such matters are to be considered.



# SUSTAINABLE FINANCING FOR COASTAL FISHERIES CO-MANAGEMENT

Blue finance is developing at a fast pace. In an effort to direct blue investment flows towards small-scale projects involving coastal communities, various initiatives are emerging. Working as financial intermediaries, these initiatives connect, through blended finance schemes, big investors with small projects that can be shaped into investable opportunities. Well-designed initiatives represent a huge potential for helping to scale up CBFM in the Pacific and elsewhere. A harmonised strategy is crucial for establishing adequate mechanisms to ensure both that the investments will have long-term, sustainable impacts and that local stakeholders are truly empowered and respected. The focus of the strategy is on harmonising the vision of inclusive blue finance, with guidelines to be developed for investment in community-based fisheries, using lessons learned from existing initiatives as well as key elements of the SSF Guidelines. This harmonised strategy could be used as a standard system by which to assess both private and public finance (including subsidies) so that they could earn global recognition as inclusive, sustainable investments.

The management of coastal areas can be costly, and fisheries agencies around the Pacific region are often faced with a lack of human and other resources dedicated to coastal fisheries. A recent SPC report on monitoring national budgets and staff allocated to coastal fisheries and CBFM found that “[f]or most countries, the operational budgets allocated to coastal fisheries are less than 3.5% of the value of the coastal fisheries production, and above 10% for only 3 countries” (p. 12).<sup>38</sup> Communities often find that scarce resources are available for creating and implementing a co-management plan, and for the monitoring and enforcement of arrangements under and rules imposed by the plan. This is a particular problem when community members conduct the monitoring and enforcement activities themselves, but even if the government’s authorised officers do so, it is still imperative that the required financial support is received.

The identification of sources of funding is crucial for the successful management of CBFM areas. Financial resources are best found at the time co-management arrangements are made, rather than searched for only after the local community starts facing the consequences of their lack. Funding sources can be mentioned in the legal provisions describing CBFM arrangements. A clear understanding of the expected roles of government, communities and other stakeholders in managing a CBFM area is required in order to ensure that the necessary funding needs – whether for long-term functions or for specific activities – are identified.

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38 SPC internal report prepared in 2021: *An overview of regional efforts to monitor national budget and staff allocated to coastal fisheries and community-based fisheries management in the Pacific*. Available on request.



## DESIGNATED FUNDS

Funding for CBFM can come from a general government fund designated for fisheries and marine resources. However, such funds often face budgetary constraints, and because they financially support a variety of activities, securing money for co-management can become problematic. Successful implementation of co-management arrangements depends on their funding sources being sustainable.

A separate fund or trust can be established specifically to support the implementation of co-management arrangements. It can be operated by the CBFM committee or by a separate body, such as a board of directors created with the specific purpose of managing the funds, including overseeing all the deposits and expenditures. The legal provisions setting forth such a fund should include:

- a list of sources of funding that can be accepted into the fund;
- the purpose of the fund, including activities on which the money can be spent;
- a description of who administers the fund, including membership and operations; and
- the requirements for record keeping, reporting and auditing.

A draft provision for creating a dedicated fund is presented at the end of this section.

Dedicated funds for community management areas have already been established in some PICTs. In Nauru, for example, a community fisheries management area committee can establish a bank account for receiving donations to and revenue from the managed area. Similarly, a fund for the operation of community-managed areas can be set up in Tuvalu.

## Nauru.



### Coastal Fisheries and Aquaculture Act 2020. § 30.

#### 30. Community fisheries management fund

A community fisheries management area committee may establish a bank account for the purposes of:

- (a) receiving financial assistance or donations for the purpose of supporting the implementation of the community fisheries management area plan; or
- (b) receiving revenue from any sustainable financing activity identified and developed under the community fisheries management area plan.

## Tuvalu.



### Conservation Areas Act 1999. § 30.

#### 10. Conservation Area Fund

- (1) The Kaupule shall establish a special fund to be known as the Conservation Area Fund which shall be used for the management of the conservation areas.
- (2) The following moneys shall be paid to the Fund:
  - (a) sums provided by the Government for the purpose;
  - (b) any fees levied in accordance with the provisions of this Act or regulations or bye-laws issued under it;
  - (c) any fines collected as a breach of this Act or the regulations or bye-laws under it;
  - (d) loans, grants, donations or other voluntary contributions to the Fund from local or international sources; and
  - (e) interests arising out of any investment of the fund.

## **Draft provision: Designated fund for the management of a [co-management area]**

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- (1) A fund is hereby created for the management of a [co-management area].
- (2) The fund is administered and managed by the Board of Directors, composed of [nine] voting members, including representatives of the [island council/village authority]. All members of the Board of Directors are selected in accordance with the fund regulations and serve [three]-year terms.
- (3) The fund is financed through contributions received from:
  - (a) appropriations from the legislature;
  - (b) ocean-related fees, including fishing licence fees, fisher and vessel registration fees, diving fees, [fees related to other activities taking place in the [co-management area]] and [fees obtained from industrial fishing activities];
  - (c) conservation-related fees, such as fees imposed on tourists and non-residents;
  - (d) fines collected from violation of the rules imposed in the [co-management area];
  - (e) ocean-related liability mechanisms, including forfeitures of vessels, catch, and gear used in violations of the rules imposed in the locally managed area, and payments for injury to natural resources;
  - (f) donations, grants and other aid obtained from intergovernmental organisations, non-governmental organisations, philanthropic organisations and individual donors.
- (4) The Board of Directors manages all the funds received and disburses the funds for the following purposes:
  - (a) implementation of by-laws and rules that relate to the management of the [co-management area], including creation, review and modification of the local management plan; consultations with stakeholders on the contents of the local management plan; participation in outreach activities aimed at community members and the government; data collection to protect, preserve and manage the sustainability of marine resources in the [co-management area]; and monitoring and enforcement of the rules imposed in the [co-management area];
  - (b) training and education of [guardians/honorary wardens] who monitor and enforce the rules of the [co-management area]; or
  - (c) performance of annual audits of the fund's operations, which shall not exceed [five per cent] of the annual revenues of the fund.

## SOURCES OF FUNDING

Major sources of funding for CBFM include (1) fees for entry to the managed area by non-members of the community; (2) permit and registration fees for use of the marine resources in the managed area, which can be a significant source of funding if provisions require the registration of all authorised users, both individual fishers and fishing vessels, in the area;<sup>39</sup> and (3) fines for violations of the rules established in the managed area (depending on the legal system, fines may not be allowed to be collected for specific activities).

As shown in the examples provided earlier in this part, funding sources also include grants from the government and private donors. Fees paid by users for activities that might not be located in the managed area but are related to other ocean activities or located elsewhere in the country (e.g. tourism) constitute another funding source.

Palau has established a dedicated conservation funding entity, the Protected Areas Network Fund, which is supported in part through a ‘green fee’ paid by tourists and other non-residents. The USD 100 fee, called the Pristine Paradise Environmental Fee, is collected from each airline passenger traveling to Palau at the time of booking a ticket, as at September 2022. Revenue from this fee is allocated across government departments, and some of it goes to the Protected Areas Network Fund.<sup>40</sup>



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39 As, for example, in Tonga (see the Fisheries (Coastal Communities) Regulations 2009, § 16).

40 See von Saltza 2019 (pp. 6–8, discussing Palau’s effective use of green fees for ocean protection activities), as well as three Republic of Palau Public Laws (RPPLs) amending provisions of the Palau National Code regarding the Protected Areas Network Fund and the Pristine Paradise Environmental Fee – RPPL 7-42 (2008), RPPL 9-49 (2013) RPPL 10-02 (2017).

## Palau.



### National Code. Title 24 (Environmental Protection), Chapter 34 (Protected Areas Network). § 3422.

#### 3422. Protected Areas Network Fund (“PANF”): creation; relationship; and funds<sup>41</sup>

- (a) Creation. The Minister of Finance and the Minister of Resources and Development shall identify one representative from the donor community and together, the three shall act as incorporators to establish a nonprofit corporation to be known as the “Protected Areas Network Fund” (“PANF”). The PANF shall be established under all applicable laws of the Republic of Palau and shall be a registered nonprofit corporation under the Republic of Palau’s corporate registry, to the extent such laws do not conflict with this Act or in any manner distort the character of the PANF. The PANF shall not issue any stock or like instrument. The PANF, through a Board of Directors, shall administer and manage all funds received for the sustainable operation of the PAN and disburse these revenues to provide financial support for PAN sites and the PAN Office to implement the PAN system-wide and individual management and sustainable development plans. The Board shall receive, manage and disburse all funds generated through all sources according to the procedures set forth in this law and in the Corporation’s Articles of Incorporation and By-Laws.

<sup>41</sup> Palau National Code, as amended by RPPL 7-42 (2008).

In Mexico, the Quintana Roo Trust for Coastal Zone Management, Social Development and Security (Quintana Roo Coastal Zone Management Trust) receives fees from beachfront property owners, such as hotels, for commercial use of the beach. The funds will be spent on the repair and maintenance of local coral reefs, protection of marine ecosystems and safeguarding of the tourism value of the area (FOA 2020). An insurance policy, which cost approximately 5 million Mexican pesos (USD 250,000), covers 150 km of coastal ecosystems and protects them for the entire hurricane season. It was acquired through the Quintana Roo Coastal Zone Management Trust.<sup>42</sup>

<sup>42</sup> Unlike traditional insurance that requires an appraisal of losses, this insurance protects with a parametric coverage according to the duration, degree or wind speed of the phenomenon. The higher the wind speed, the greater the damage and the greater the compensation: moderate damage, from 100 to less than 130 knots, corresponds to 40 per cent of the maximum payment; severe damage, from 130 to less than 160 knots, corresponds to 80 per cent of the maximum payment; and catastrophic damage, more than 160 knots, corresponds to 100 per cent of the maximum payment. In 2020, Hurricane Delta registered winds of more than 100 knots when entering Quintana Roo State, therefore, the insurer provided compensation corresponding to 40 per cent of the maximum payment. See *El Quintanarroense* (2020).

In Costa Rica, a bill was introduced in parliament in 2017<sup>43</sup> for the purpose of creating a national fund to encourage the conservation of ecosystem services of the sea and marine and coastal resources. The aim of the fund (known as FONASEMAR)<sup>44</sup> was to recognise the importance of ocean and coastal ecosystem services for fishing, climate regulation, transportation, tourism, recreation and ecological balance, and promote their conservation.

The legal instrument established the regulatory, institutional and operational structure of FONASEMAR. Through FONASEMAR, projects implemented by non-governmental organisations, research centres, universities, municipalities, governmental institutions and fishing organisations would receive funding for actions that support ocean and coastal conservation and sustainable small-scale fishing practices, with a specific percentage of the funds earmarked to be allocated to projects implemented by local governments or municipalities.

The bill aimed to promote the socio-economic development of local communities legally authorised to use ocean space and take advantage of marine resources in a sustainable way. As explained in the introductory part of the bill, FONASEMAR would initially receive government contributions and would secure its long-term implementation by raising funds through three fee programmes: a tax on plastic packaging and single-use plastic bags, a voluntary contribution on touristic and sports fishing, and a fee on maritime transportation for the use of sea routes.

The bill also considered, but did not include, the implementation of a legal reform that would earmark a fraction of the funds raised through the sale of fishing access licences to the international tuna fleet to provide funding to help with the implementation of small-scale fisheries co-management projects.

43 Although the bill was considered, it was not passed into law (*Ley de Creación del Fondo Nacional para Incentivar la Conservación de los Servicios Ecosistémicos del Mar y de los Recursos Marinos y Costeros (FONASEMAR)*, Expediente No. 20.531).

44 From its name in Spanish: *Fondo Nacional para Incentivar la Conservación de los Servicios Ecosistémicos del Mar y de los Recursos Marinos y Costeros*.

## Costa Rica.



### Bill for an ocean and coastal ecosystem services fund 2017. §§ 4 and 17–19 (excerpts).<sup>45</sup>

#### 4. Establishment of the national fund to promote the conservation of marine ecosystem services (FONASEMAR)

FONASEMAR is hereby established with the objective to grant incentives to duly approved projects that [through] conservation actions and activities [intend to achieve] sustainable use, research, management, recovery and capacity-building [relating to] marine and coastal resources, as well as to maintain or increase the ecosystem services they provide. ...

#### 17. Certificate of recognition of voluntary contribution

[The fund administrator] will issue a certificate of recognition of the voluntary contributions it receives as compensation for the use of the ecosystem services of the sea, especially those related to provisioning and recreation (cultural services) that will be provided by the holders of licences and permits for sport fishing and tourist fishing.

The minimum amount of said voluntary certificate is established in the sum of fifty US dollars or its equivalent in local currency, which will be updated annually by [the fund administrator]. To compensate for the required procedures to obtain the certificate by the holders of sport fishing and tourist fishing permit, ten per cent (10%) of the amount previously defined will be distributed between the licence holder and the captain and crew members, when appropriate, as follows: thirty-five per cent (35%) for the licence holder and sixty-five per cent (65%) for the captain and crew. The amounts received by captains and crew, when appropriate, will not be considered salary for the purposes of labour legislation. ...

#### 18. Creation of the fee for the use of the ecosystem services of the sea for the transportation of goods

A fee for the use of the ecosystem services of the sea is hereby established for the transport of goods that are unloaded and dispatched in port facilities of the country in view of the negative impacts of these activities on marine ecosystems, which ultimately allow the adequate transport of goods.

The fee will be charged according to the weight of the merchandise transported by the vessels. The fee is determined, initially in a fixed amount of ten US dollars, or its equivalent in local currency, per tonne of goods transported. The amount of the fee must be reviewed annually. It will be collected by the [customs agency] at the time of clearance or dispatch of the goods in any national port, at the time of issuing the customs declaration that the tax administration determines for the purposes of the fee.

<sup>45</sup> Translated by the authors from the original legal text, in Spanish, which is available at: <http://www.aselex.cr/boletines/Proyecto-20531.pdf>.

## Costa Rica cont.



The fee will be deposited in the [national treasury], in a special account for the FONASEMAR ...

... The [customs agency] may, in consultation with the competent authorities, establish a list of goods totally or partially exempt from paying the fee ...

The [customs agency] must submit a quarterly report. The report must indicate the number of vessels, the cargo transported and the amounts charged to each vessel for the fee. ...

19. Tax on the polluting capacity of containers, packages or packaging of any material, and tax on plastic bags

Manufacturers or importers that sell or import containers, packages and packaging of any material will pay a tax according to the pollutant level of each container, package and packaging, based on the following conditions: containers, packages and packaging with high polluting capacity must pay ten per cent (10%) of the highest price of the manufacturer, or of the customs value of the imported product, as the case may be per unit sold or imported. In the case of containers, packages or packaging of medium polluting capacity, they must pay five per cent (5%) of the highest price of the manufacturer, or on the customs value of the imported product, as the case may be per unit sold or imported. In the case of containers, packages or packaging with low polluting capacity, they must pay two per cent (2%) of the highest manufacturer's price, or on the customs value of the imported product, as the case may be per unit sold or imported.

In the case of plastic bags to introduce a product or a set of products already jarred, packed or packaged, the manufacturers or importers that produce or import them will pay a tax of forty per cent (40%) of the highest price of the manufacturer, or on the customs value of the imported product. ...

The taxes introduced in this article will not be part of the tax base of any other tax that affects the sale at the factory level or at the time of importation.

Sixty per cent (60%) of the amounts generated by the taxes created in this section will be devoted to FONASEMAR ...

Each country will find that certain funding sources are better suited than others for the management of its locally managed areas and should tailor the list of sources deposited into the local management fund accordingly.





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# CHECKLISTS FOR COASTAL FISHERIES CO-MANAGEMENT

Two checklists have been prepared to assist governments and communities in the Pacific region with creating and implementing CBFM laws. These checklists are meant to assist PICTs in identifying legal gaps and information needs in order to scale up CBFM.

We suggest that both checklists are reviewed by governments in consultation with communities.

## CHECKLIST FOR GOVERNMENTS

The aim of the following checklist is to assist governments in creating CBFM legal provisions. It can also help identify gaps and areas where legislation should be revised.

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Government authority to enter co-management arrangements</b>				
1. Does your country's legislation provide authority for the national or local government to enter into fishery co-management arrangements with communities?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Community rights</b>				
2. Do your country's laws or Constitution formally allow communities to manage marine resources?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Are rights to manage or set local rules implicit/explicit in the tenure rights or do they need to be made more explicit?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Does the legislation ensure that, prior to designating a local community to manage a marine area, due consideration be given to tenure rights, local knowledge and traditional practices (e.g. that of groups that depend on the marine resources in the area and groups that have traditionally managed the area)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Co-management area</b>				
5. Does the legislation provide for the boundaries of the designated co-management area to be clearly defined and physically marked?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Powers and responsibilities</b>				
6. Does the legislation provide for the community designated to manage the co-management area to be clearly identified and provided with specific management rights (such as the definition of rules through a management plan)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Are powers and responsibilities of the government and any other entities (such as committees) with regard to the co-management area clearly articulated in the law?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Government support</b>				
8. Does the legislation ensure that the government provides support to local communities in managing marine areas (such as funding, drafting, consultations, training, education, monitoring and enforcement)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Management committee</b>				
9. Does the legislation provide for a body, such as a committee, that facilitates collaboration among various stakeholders and helps the local community manage the area?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Participation and planning</b>				
10. Does the legislation ensure that, prior to designating a certain area for local management and setting the area's boundaries, all relevant groups with tenure rights and traditional ties, resource owners and communities that use the area are properly consulted?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Participation and planning cont.</b>				
11. Does the legislation ensure that the participation of vulnerable members of the community (e.g. women, youth) in decision-making processes is not hindered?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Two-way communication</b>				
12. Does the legislation provide tools to ensure communication between the government and communities to share information?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13. Does the legislation articulate clear procedures for collecting and reviewing feedback from stakeholders on the draft co-management plan?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Publicity and awareness</b>				
14. Does the legislation ensure that the co-management plan and all decisions affecting fishing livelihoods of coastal communities are made publicly available, whether formally Gazetted or not, through appropriate channels?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Dispute resolution</b>				
15. Does the legislation articulate dispute resolution mechanisms that can be utilised by communities when conflicts arise about the co-management area?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Monitoring and enforcement</b>				
16. Does the legislation provide for the establishment of well-designed and effective monitoring and surveillance systems?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
17. Does the legislation provide for officers (including community members who serve as officers and honorary wardens) to assist with monitoring and enforcement of the marine area?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
18. Are the roles of community and government clear regarding enforcement?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Sustainable financing</b>				
19. Does the legislation create or allow for the establishment of sustainable funding mechanisms for local communities to ensure effective management of marine areas?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
20. Does the government have enough capacity in terms of budget, infrastructure and staffing to implement and enforce the legislation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
21. Does the government have adequate administrative capacity to process applications and requests to set up CBFM areas and plans in accordance with the law?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

## CHECKLIST FOR COMMUNITIES

The aim of the following checklist is to assist communities in implementing CBFM legal provisions and to help them assess whether CBFM arrangements already in place are adequately covered in legislation.

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Recognition of traditional rights</b>				
1. Are traditional user and management rights over marine resources recognised in legislation and in practice?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Does your Constitution and fisheries laws recognise traditional/customary rights over marine resources?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Community rights</b>				
3. Does your legislation require that the community involved in CBFM initiatives be clearly defined?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Co-management area</b>				
4. Does your legislation require that the co-management area under a CBFM initiative be clearly defined and marked?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Powers and responsibilities</b>				
5. Is the power of local communities to co-manage their adjacent marine areas clearly articulated and in line with traditional practices?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Are all the members of the community managing marine resources in the co-management area aware of the community's management role?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Are fishers expressly mentioned as leading actors of the CBFM initiative?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Government support</b>				
8. Is the government's support (e.g. technical, financial) sufficient to assist communities in the implementation of co-management arrangements?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Management committee</b>				
9. Is there a law establishing a committee, and is the committee truly representative of all stakeholders within the co-management area?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Participation and planning</b>				
10. Are the management plan's measures based on the traditional knowledge of communities and experience of users of marine resources (i.e. fishers) as well as best available science?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
11. Does your legislation establish that all members of the community are entitled to equitable access to resources and benefits, including vulnerable members (e.g. women, youth)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
12. Are consultations with users of marine resources in the co-management area and other stakeholders required by law?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Two-way communication</b>				
13. Does your legislation recognise the need for communication between government and the community to share information?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
14. Does the consultation process allow for the adequate provision of feedback, and for the feedback to be duly incorporated into the draft co-management plan?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

CBFM ASPECT	YES	PARTIALLY	NO	DON'T KNOW
<b>Publicity and awareness</b>				
15. Does your legislation ensure that the co-management plan and all decisions affecting fishing livelihoods of coastal communities are effectively made available to the public (e.g. Gazette or appropriate channels)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Dispute resolution</b>				
16. Does your legislation provide effective means (judicial or administrative) through which disputes can be resolved when community dispute resolution has failed?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Monitoring and enforcement</b>				
17. Does your legislation define offences and penalties for breach of the fisheries co-management plan?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
18. Does the law create community authorised officers, fish wardens or honorary fisheries officers (including trained community members as local wardens) to assist with monitoring and enforcement in the co-management area?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
19. Do the community authorised officers receive training and other support from the government that they need?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<b>Sustainable financing</b>				
20. Are sustainable funding mechanisms available for local communities to ensure effective management of marine areas?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



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# APPENDIX I

## TARGET LEGISLATION FOR SCALING UP COMMUNITY-BASED FISHERIES MANAGEMENT IN THE PACIFIC REGION

The following list presents legislation that supports or provides the legal basis for community-based fisheries management in Pacific Island countries and territories, including legislation relating to fisheries, the environment and local government, which may protect traditional practices.

Reference is intended to the latest amended version available of each law, of which the year of adoption is indicated.

All legislation is available online in REEFLEX, the Pacific Law and Policy Database on Coastal Fisheries and Aquaculture (available at <http://www.spc.int/CoastalFisheries/Legislation/main>).

American Samoa	Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program)
Cook Islands	Marine Resources Act 2005 Island Government Act 2012–2013
Federated States of Micronesia	Chuuk State PAN Act 2017 Kosrae State Protected Area Act 2010 Pohnpei State Marine Sanctuary Act 1999 Yap State Code, Title 18
Fiji	Fisheries Act 1941

French Polynesia	<p>Deliberation No. 88-183 AT of 1988 on fisheries regulations (Délibération n° 88-183 AT du 8 décembre 1988 portant réglementation de la pêche en Polynésie Française)</p> <p>Deliberation No. 2004-34 APF of 12 February 2004 on public domain (Délibération n° 2004-34 APF du 12 février 2004 relative au domaine public)</p>
Kiribati	<p>Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019</p> <p>Local Government Act 1984</p>
Marshall Islands	<p>Fisheries Act 1997</p> <p>Management and Development of Local Fisheries Act 1997</p> <p>Protected Areas Network (PAN) Act 2015</p>
Nauru	Coastal Fisheries and Aquaculture Act 2020
New Caledonia	<p>Organic Law No. 99-209 of 19 March 1999 concerning New Caledonia (Loi organique modifiée n° 99-209 du 19 mars 1999 relative à la Nouvelle-Calédonie)</p> <p>Environment Code of the Loyalty Islands Province 2016 (Code de l'environnement de la Province des îles Loyauté)</p>
Niue	<p>Domestic Fishing Act 1995</p> <p>Village Council Act 2016</p>
Palau	Palau National Code, Title 24 (Environmental Protection)
Papua New Guinea	<p>Fisheries Management Act 1998</p> <p>Organic Law on Provincial Boundaries 1998</p> <p>Organic Law on Provincial Governments and Local-level Governments 1995</p>

Pitcairn Islands	Pitcairn Islands Marine Protected Area Ordinance 2016 Local Government Ordinance 1964
Samoa	Fisheries Management Act 2016 Village Fono Act 1990
Solomon Islands	Fisheries Management Act 2015 Local Government Act 1964 Provincial Government Act 1997
Tokelau	Tokelau Village Incorporation Regulations 1986 Atafu Village Rules 2009
Tonga	Fisheries Management Act 2002 Fisheries (Coastal Community) Regulations 2009
Tuvalu	Falekaupule Act 1997 Conservation Areas Act 1999
Vanuatu	Fisheries Act 2014 Environmental Management and Conservation Act 2002 Decentralization Act 1994
Wallis and Futuna	Law No. 61-814 of 29 July 1961 on the overseas territory of Wallis and Futuna (Loi n° 61-814 du 29 juillet 1961 conférant aux îles Wallis et Futuna le statut de territoire d'outre-mer)  Deliberation No. 73/AT/05 of 25 November 2005 on marine fisheries (Délibération n°73/AT/05 du 25 novembre 2005 portant réglementation en matière de pêche)

## APPENDIX II LEGISLATION USED IN PREPARING THIS GUIDE

The following list compiles the example legislation used in parts B and C of this guide. The latest amended version available for each text has been used.

Most of the legislation from Pacific Island countries and territories is available online in REEFLEX, the Pacific Law and Policy Database on Coastal Fisheries and Aquaculture (available at <http://www.spc.int/CoastalFisheries/Legislation/main>), as well as at government websites and in global databases, such as PacLII of the University of the South Pacific and FAOLEX of the Food and Agriculture Organization of the United Nations.

### PACIFIC ISLAND COUNTRIES AND TERRITORIES

- American Samoa. Regulations, Title 24, Chapter 10 (Community-Based Fisheries Management Program).
- Cook Islands. Marine Resources Act 2005.
- Cook Islands. Environment (Atiu and Takutea) Regulations 2008.
- Fiji. Fisheries Act 1941.
- French Polynesia. Order No. 410 of 21 October 2004 adopting the management plan of the maritime space of the Moorea Island (*Arrêté n° 410 CM du 21 octobre 2004 rendant exécutoire le plan de gestion de l'espace maritime de l'île de Moorea*).
- French Polynesia. Order No. 1203 of 12 July 2018 regulating fisheries on the maritime public domain in the associated municipality of Afaahiti, municipality of Tairapu-East (*Arrêté n° 1203 CM du 12 juillet 2018 réglementant la pêche sur le domaine public maritime au droit de la commune-associée de Afaahiti, commune de Tairapu-Est*).
- Kiribati. Incorporated Societies Act 2002.
- Kiribati. Fisheries Act 2010.
- Kiribati. Fisheries (Conservation and Management of Coastal Marine Resources) Regulations 2019.
- Marshall Islands. Revised Code 35 CAP.5 (Protected Areas Network (PAN) Act 2015).



- Nauru. Coastal Fisheries and Aquaculture Act 2020.
- New Caledonia. Association Statutes “Participatory Management Committee of the West Coastal Zone” 2016 (*Statuts de l’association « Comité de gestion participative de la Zone Côtière Ouest »*).
- New Caledonia. Environment Code of the Loyalty Islands Province 2016 (*Code de l’environnement de la Province des îles Loyauté*).
- Palau. Helen Reef Management Plan 2011–2016.
- Palau. Ngarchelong Marine Area Management Plan 2012–2017.
- Palau. Executive Order No. 395 of 2017. Restructuring the Palau National Marine Sanctuary and its Executive Committee.
- Palau. Palau National Code, Title 24 (Environmental Protection).
- Papua New Guinea. Fauna (Protection and Control) Act 1966.
- Papua New Guinea. Bialla Marine Environment Management Law 2004.
- Papua New Guinea. Hoskins Marine Environment Management Law 2004.
- Papua New Guinea. Talasea Marine Environment Management Law 2004.
- Samoa. Village Fono Act 1990.
- Samoa. Fisheries Management Act 2016.
- Solomon Islands. Choiseul Province Fisheries and Marine Environment Ordinance 2011.
- Solomon Islands. Fisheries Management Act 2015.
- Tonga. Fisheries Management Act 2002.
- Tonga. Fisheries (Coastal Communities) Regulations 2009.
- Tuvalu. Falekaupule Act 1997.
- Tuvalu. Conservation Areas Act 1999.
- Vanuatu. Environmental Management and Conservation Act 2002.
- Vanuatu. Fisheries Act 2014.

## COUNTRIES IN OTHER REGIONS

- Belize. Fisheries Resources Act 2020 (Act No. 7).
- Cambodia. Law on Fisheries 2006.
- Chile. Law 18.892 of 1989 – General Law on Fisheries and Aquaculture (*Ley 18.892 de 1989 – Ley General de Pesca y Acuicultura*).
- Chile. Law 21.069 of 2018 creating the National Institute for the Sustainable Development of Artisanal Fisheries and Small-Scale Aquaculture (INDESPA) (*Ley 21.069 de 2018 – crea el Instituto Nacional de Desarrollo Sustentable de la Pesca artesanal y de la Acuicultura de pequeña escala, INDESPA*).

- Costa Rica. Bill No. 20.531 of 2017 for an Act to establish the national fund to promote the conservation of ecosystem services of the sea and of marine and coastal resources (*Proyecto de ley – Expediente N.º 20.531 de 2017. Ley de Creación del Fondo Nacional para Incentivar la Conservación de los Servicios Ecosistémicos del Mar y de los Recursos Marinos y Costeros (FONASEMAR)*).
- France. Law of 1 July 1901 on the contract of association (*Loi du 1er juillet 1901 relative au contrat d'association*).
- Gambia. Fisheries Act 2007.
- Honduras. General Law on Fisheries and Aquaculture 2017 (*Ley General de Pesca y Acuicultura*).
- Japan. Fisheries Cooperative Associations Act 1957.
- Kenya. Fisheries (Beach Management Units) Regulations 2007 (Cap. 378).
- Kenya. Fisheries Management and Development Act 2016.
- New Zealand. Fisheries Act 1996 (Act No. 88).
- Philippines. Philippine Fisheries Code 1998 (Act No. 8550).
- Philippines. Executive Order No. 533 of 2006 adopting Integrated Coastal Management as a national strategy to ensure the sustainable development of the country's coastal and marine environment and resources and establishing supporting mechanisms for its implementation.
- Philippines. Implementing Rules and Regulations of the Philippine Fisheries Code of 1998 (Administrative Order No. 3 of 1998 of the Department of Agriculture).
- Spain. Law 9/1993 of 8 July on Fishermen's Guilds of Galicia (*Ley 9/1993 de 8 de julio de Cofradías de Pescadores de Galicia*).
- Spain. Law 11/2019 of 20 December on Cooperatives of Euskadi (*Ley 11/2019 de 20 de diciembre de Cooperativas de Euskadi*).
- Sri Lanka. Fisheries and Aquatic Resource Act 1996 (Act No. 2).
- United Republic of Tanzania. Marine Parks and Reserves Act 1994 (Act No. 29).
- United Republic of Tanzania. Fisheries Act 2003.
- United States of America. Fisherman's Collective Marketing Act 1934. 15 U.S.C.





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