

SPC's status and governance



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What is SPC?

The Pacific Community (“SPC”) is the principal **scientific and technical organisation** in the Pacific region, proudly supporting development since 1947. SPC is an **intergovernmental organisation** (“IGO”).

What does it mean to be an IGO¹? It means that SPC is an organisation founded by independent States through the establishment and adoption of a **multilateral treaty** (a treaty signed by several States).

Other IGOs include the United Nations, the World Health Organisation (“WHO”), United Nations Educational Scientific and Cultural Organisation (“UNESCO”), the Green Climate Fund (“GCF”), the World Bank, the Organisation for Economic Co-operation and Development (“OECD”), the European Union (“EU”) and others.

All IGOs operate independently of each other, but within a **common legal framework**:

- (i) **public international law**, which includes international treaties, the general principles of international law (including principles relating to public procurement; the fight against corruption, money laundering and the financing of terrorism; conflict of interest management; transparency; privacy; intellectual property; etc.); and
- (ii) certain specific rules applying to IGOs, such as **international civil service law**.

IGOs are not subjects of private law or national public law, and as such are not subject to any national legal system. This specificity enables SPC to operate at a **supranational level** and to carry out its activities throughout its territorial scope.

For SPC, the founding treaty is the **Canberra Agreement 1947**². The founding treaty establishes SPC’s high-level function and operation standards (territorial scope, membership, powers and functions, the role of the Secretariat, etc.).

SPC is not a non-governmental organisation (“NGO”), a national administration, or a charity. As an IGO, SPC has a wide range of capabilities within its territorial scope and guarantees its **independence** and ability to operate effectively in the region. This status also confers on SPC a number of **privileges and immunities** granted to SPC by its members under its founding treaty and international custom. These privileges and immunities enable SPC to preserve the independence of its action, to facilitate the implementation of its mandate, and to allow the entire regional community to benefit from its activities.

Video summarising “What is SPC?” can be accessed on the following link: <https://youtu.be/berQErg1h3A>.

¹ Harvard Law School on Intergovernmental Organizations: <https://hls.harvard.edu/bernard-koteen-office-of-public-interest-advising/about-opia/what-is-public-interest-law/public-service-practice-settings/international-public-interest-law-practice-setting/intergovernmental-organizations-igos/>

² The Canberra Agreement and its amendments can be found in SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

SPC's governance



Being an IGO means that the organisation is governed by its member countries and territories. SPC is governed and owned by its 27 members to encompass its intergovernmental nature.

How SPC's governance operates?

As other IGOs, the intergovernmental governance of SPC is undertaken through the meetings and decisions made by its **Governing Bodies**. For SPC, the two governing bodies are the **Conference** (main governing body) and the Committee of Representatives of Governments and Administrations ("**CRGA**" - subsidiary body of the Conference). SPC also has several sub-committees in place in different sector of its governance.

The Conference

The **Conference is SPC's main governing body**. It meets every two years at ministerial level. The Conference is charged with establishing the high-level, strategic orientations of SPC, either on its own behalf or in response to recommendations for change submitted by the Secretariat through CRGA.

The CRGA

The **CRGA is a subsidiary body of the Conference**. CRGA meets annually at senior officials' level. In years that the Conference does not meet, Conference has delegated powers to CRGA to decide on all matters that would normally be examined by the Conference, except appointment and renewal of the Director-General. CRGA makes decisions on its own agenda. It only refers decisions or makes recommendations to Conference on matters which fall within the scope of the Conference's high-level, strategic mandate.

CRGA's primary roles include, but are not limited to, monitoring implementation of the SPC Strategic Plan, adopting the organisation's budget and providing governance oversight and guidance to the Secretariat. When considering SPC's budget, CRGA is guided by SPC's priorities and overall strategy as expressed in the SPC Strategic Plan and decisions of the Conference, together with the needs expressed by members and the Secretariat. Due consideration is also to be given to the outcomes of

regional heads of sectors/ministerial meetings and decisions by other governing bodies of the Council of Regional Organisations in the Pacific (“CROP”), particularly those made by Pacific Leaders, that may impact on the work and resources of SPC.

CRGA considers the annual accounts and audit reports and adopts administrative regulations for the Secretariat. CRGA delegates administrative policy adoption and implementation to the Director-General. Significant changes to the terms and conditions of Secretariat staff are referred to CRGA for approval. CRGA assists Conference in the appointment process of the Director-General and conducts the performance evaluation of the Director-General.

Other subsidiary governance bodies

CRGA has the capacity to establish subcommittees or other subsidiary or auxiliary bodies to assist it with its responsibilities. There are currently three subcommittees:

*Subcommittee for the Strategic Plan*³

The **CRGA Subcommittee for the Strategic Plan** assists the CRGA in its governance role of monitoring the implementation of the SPC Strategic Plan and providing guidance to the Secretariat on its strategic direction.

*The Pacific Board for Educational Quality*⁴

The **Pacific Board for Educational Quality** (“PBEQ”) is a subcommittee of the CRGA responsible for providing advice to the SPC Educational Quality and Assessment Programme (“EQAP”) and to assist it with some of its delegated functions to ensure the good governance of the programme.

*The Audit and Risk Committee*⁵

The **Audit and Risk Committee** (“ARC”) is a sub-committee of the CRGA. ARC assists the CRGA in fulfilling its oversight responsibilities of the financial reporting process, systems of internal control, audit, risk management, effectiveness and efficiency of operations, and compliance with legal and regulatory requirements.

Membership

The **Policy on membership and observer status of SPC**⁶ establishes the membership rules (including criteria for admission and the expectations for members) of the organisation.

Currently SPC has **27 member countries and territories**⁷. SPC’s unique membership for an intergovernmental organisation includes not only sovereign States but also non-independent territories. Each of them having a separate vote and seat from their metropolitan country. This practice has been recognised by SPC Conference since 1983 during the 23rd South Pacific Conference held in Saipan, Northern Mariana Islands, and reaffirmed by the 9th Conference of the Pacific Community held in Alofi, Niue in 2015.

³ Terms of reference for the CRGA Subcommittee for the Strategic Plan can be found in Part IV of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

⁴ Terms of reference for the Pacific Board for Educational Quality can be found in Part IV of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>.

⁵ The Audit and Risk Committee Charter can be found in Part IV of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>.

⁶ See Part II, Annex VII of of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

⁷ The members of the Pacific Community and the Protocol order can be found in Part II, Annex VII of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

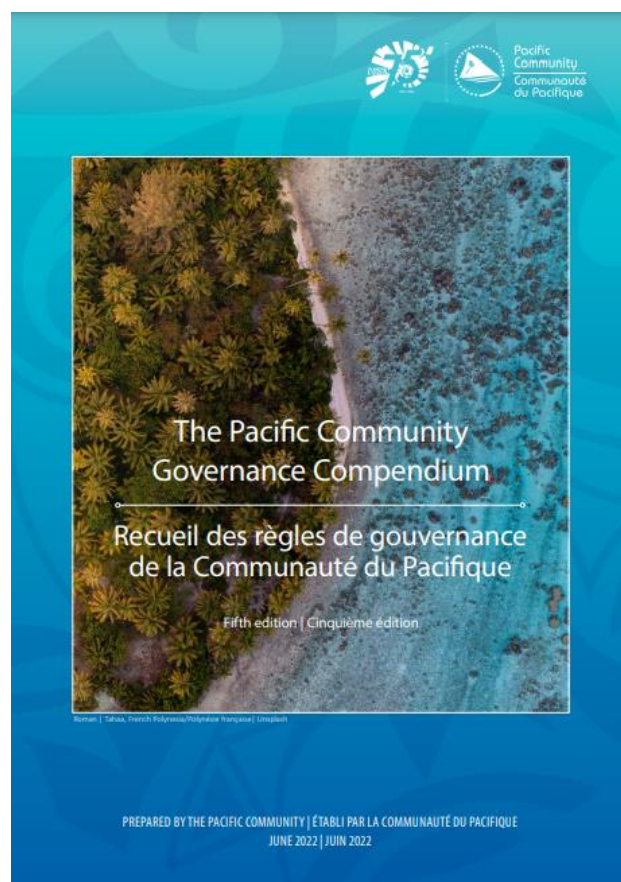
During SPC's governing bodies meetings⁸, one member is represented by one Representative and given one vote. All decisions are taken by consensus in the SPC family. Processing to votes is not common practice.

SPC's web page on governance: <https://www.spc.int/about-us/governance>

All SPC's governance rules, adopted by its members can be found in SPC's Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>.

The Governance Compendium brings together all the key documents that provide the legal and administrative framework for SPC's governance, from the text of its founding treaty as amended over the years, through to the most recent decisions of its governing bodies.

For more information about SPC governance, please consult the **Pacific Community Governance Arrangement** ("PCGA") in the SPC Governance Compendium. The PCGA describes SPC and its major governance bodies and mechanisms.



⁸ See SPC Governing bodies rules of procedure in Part II, Annex I: Rules of Procedure of the Conference of the Pacific Community and Annex II: Rules of Procedure of the CRGA of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

SPC's internal functioning

The Secretariat

The Secretariat of SPC encompasses the administration of the organisation and the divisions responsible for carrying out its activities and mandate. All the international civil servants working for SPC form the Secretariat of the Pacific Community.

The Director-General

The Director General is the head of the Secretariat of the Pacific Community. He is appointed by the Conference under the Criteria and Procedure for appointment of the Director-General of the Pacific Community⁹.

The Director-General is the chief executive officer of SPC. The Director-General has full responsibility and authority to lead and manage the Secretariat and to represent, promote and defend the interests of SPC within the guidelines and regulations established by Conference and CRGA. The Director-General develops the vision, sets the goals, makes proposals to CRGA and the Conference on the range of services SPC may provide to its members, and makes decisions relating to the delivery of such services. The Director-General is fully accountable to CRGA and the Conference for any failure to meet the organisation's objectives or violation of the organisation's regulations and standards of conduct.

The Director-General can delegate powers and responsibilities to the Deputy Director-Generals and other selected Secretariat staff to ensure the effective and efficient operation of the Secretariat and implementation of SPC's activities. Such delegations are included in an Instrument of Delegations and Authorisations compiled by the Secretariat.

The Director-General may modify the structure of the Secretariat from time to time to maintain organisational efficiency. Approval of the Conference is required for major change involving considerations of strategic direction and/or significant, unbudgeted cost increases. In years when the Conference does not meet, such approval is obtained from CRGA.

The Director-General informs members of the state of SPC's administration and work programmes, together with any other significant matters, through an annual report tabled at CRGA. The results of SPC's work programmes are communicated to members by means of an annual SPC Results Report.

The Deputy Directors-General

SPC has two Deputy Directors-General ("DDGs"):

- (i) **DDG Operations and Integration** oversees the direction of all the supporting functions of SPC (the Operations and Management Directorate or OMD) which includes Finance, Human Resources, Procurement, Travel, Facilities, Legal, Partnerships Integration and Resource Mobilisation Office and SPC regional offices.
- (ii) **DDG Science and Capabilities** oversees the direction of the scientific and technical divisions or programmes at the Secretariat such as the Land Resources Division ("LRD"), Climate Change and Environmental Sustainability ("CCES"), Fisheries Aquaculture and Marine Ecosystems ("FAME"), Statistics for Development ("SDD"), Public Health Division ("PHD"), Geoscience Energy and Maritime ("GEM"), Human Rights and Social Development ("HRSD") and Educational Quality and Assessment ("EQAP").

See information about SPC Executive management: <https://www.spc.int/about-us/executive-management>.

⁹ See Part II, Annex III of the SPC Governance Compendium: <https://purl.org/spc/digilib/doc/2zotk>

The Staff

All SPC staff (including the DG and DDGs) are **international civil servants**. Their contracts are not governed by any national labour law but by SPC Staff Regulations, Staff Policies, general principles of international civil service law and the jurisprudence of international administrative tribunals such as the International Labour Organisation Administrative Tribunal (“ILOAT”) which is the tribunal competent to deal with conflicts between SPC and its staff.

By signing their contract with SPC, all staff members adopt the following oath:

‘I solemnly swear [undertake, affirm, declare, promise] to exercise in good faith and conscience the functions entrusted to me as a member of the international service of the Pacific Community, to discharge these functions and regulate my conduct in the interests only of the Pacific Community, and I undertake not to seek or accept instructions in regard to the performance of my duties from any government/administration or from any authority external to the Pacific Community.’

As **international civil servants**, SPC staff enjoy certain privileges and immunities (e.g. exemption from national immigration restrictions) to facilitate their activities within SPC member countries and territories (e.g. travel facilities for SPC staff in the region when on official SPC business).

But they are also entrusted with certain high-level duties which require irreproachable ethical behaviour and conduct to serve the interests of SPC and preserve their independence and that of the organisation.

All staff must adhere to the highest ethical standards and principles of good governance. They are all accountable to the DG, who is accountable to SPC member countries and territories. Good governance underpins stakeholder trust, integrity, and effectiveness, enabling SPC to build a sustainable and better future for all its stakeholders.

Video on SPC Good Governance: <https://youtu.be/P90arHdFOFc>

SPC’s activities

SPC's activities are international (regional) in nature. SPC is an international public service organisation. Its mandate (technical and scientific) is to improve public service and public goods in the Pacific region by providing scientific and technical assistance to its members within the terms of reference adopted by SPC's governing bodies.

As such, SPC's activities are not governed by any particular national law, but by (i) the rules adopted by its members (SPC's Staff Regulations and Financial Regulations) and (ii) internal policies adopted by the DG such as the procurement, grants, cash management, travel, etc.). See below SPC’s legal framework.

SPC’s activities are implemented under the framework of [SPC Strategic Plan 2022-2031](#).

SPC’s budget

SPC's budget is funded from two main sources:

- Resources from its members (through mandatory contributions, ad hoc contributions and programme funding from members and their development agencies).
- External resources from other donors/development partners: other IGOs (EU, UN agencies, WB, GCF, etc.), other non-member countries (Germany, Sweden, etc.), and other categories or external partners: NGOs, private companies, or private foundations/charities.

See SPC Financial Statement for 2022:

https://www.spc.int/DigitalLibrary/Doc/SPC/Annual_Reports/Financial_Statements/Pacific_Community_Financial_Statements_for_2022.pdf

SPC Regional Offices

SPC is a decentralised organisation. SPC's headquarters are based in Noumea, New Caledonia. SPC also has a major regional office in Suva, Fiji, which houses half of SPC's internal divisions.

SPC also has three decentralised offices, one in each of the organisation's sub-regions:

- The SPC regional Office for Melanesia (MeRO) in Port-Vila, Vanuatu
- The SPC regional office for Micronesia (MiRO) in Ponhpei, Federated States of Micronesia
- The SPC regional office for Polynesia (PRO) in Nuku'alofa, Tonga

SPC's legal framework

SPC is a subject of international law and is therefore governed by public international law.

This legal framework includes:

- International treaties applicable to SPC: the Canberra Agreement and Host Country Agreements bilaterally concluded with certain members.
- Internal rules of SPC: Regulations adopted by the governing bodies and policies adopted by the DG. All internal rules of SPC must be aligned with the common legal framework applicable to all IGOs in the world.
- General Principles of international law and custom.
- Specific standards applicable to IGOs such as public procurement rules or international public service law.

Internal Regulations are adopted by the Conference or, in years when Conference does not meet, by CRGA. They outline the basic conditions of service and the rights, duties and obligations of the staff members of the Secretariat (Staff Regulations) and the basic financial policies of the organisation (Financial Regulations).

The Director-General has the responsibility for drawing up and implementing detailed rules and policies within the framework provided by the Regulations. The Director-General has the power to modify such rules and policies as required from time to time in response to changes in the context in which the Secretariat operates.

SPC is committed to transparency and good governance. SPC's legal framework is guided by the principles of fairness and accountability.

SPC's accountability web page including all SPC policies in force: <https://spc.int/accountability>

SPC's privilege and immunities

Like other IGOs, SPC enjoys certain **privileges and immunities** to facilitate and guarantee the proper implementation of its regional mandate. These privileges and immunities generally include tax exemption, exemption from customs restrictions, travel facilities (including exemption from immigration restrictions, i.e. visa exemption) and immunity from jurisdiction and execution.

The purpose of these privileges and immunities is multiple. Firstly, they aim to abolish or simplify national administrative procedures that would normally apply to a foreign organisation, in order to

rationalise SPC's activities and make them more efficient. This allows better use of SPC's funds and resources, dedicated solely to the implementation of its mandate. They are also designed to preserve SPC's independence. Tax exemptions ensure that no country benefits from direct income to its national budget as a result of SPC's activities and preserve the multilateral essence of the organisation. Customs exemptions ensure that SPC remains independent and free to import and export the goods necessary for its activities and projects throughout the region, without national restrictions.

SPC's privileges and immunities found their origins in the Canberra Agreement, under:

- (a) **Article IV, paragraph 10:** *"The participating Governments undertake to secure such legislative and administrative provision as may be required to ensure that the Pacific Community will be recognised in their territories as possessing such legal capacity and as being entitled to such privileges and immunities (including the inviolability of its premises and archives) as are necessary for the independent exercise of its powers and discharge of its functions."*; and
- (b) **Article XIII, paragraph 43:** *" . Each participating Government undertakes so far as possible under its constitutional procedure to accord to the SecretaryGeneral, to the Deputy Secretary-General, to the full-time members of the Research Council and to appropriate members of the staff of the Secretariat such privileges and immunities as may be required for the independent discharge of their functions. The Pacific Community may make recommendations with a view to determining the details of the application of this paragraph or may propose conventions to the participating Governments for this purpose."*

Members of SPC are therefore responsible for making the necessary legislative and administrative arrangements to ensure that SPC and Secretariat staff enjoy privileges and immunities in accordance with international practice and custom. Some members have entered into bilateral treaties with SPC to secure these privileges and immunities. These treaties are called Host Country Agreements. Others have incorporated into their national system (generally in addition to their law on diplomatic privileges and immunities) a specific law on the privileges and immunities of intergovernmental organisations.

Members of SPC are encouraged to consider the development and conclusion of formal host country or privileges and immunities agreements between SPC and member countries to ensure consistent and stable operating conditions for the Secretariat and its staff. CRGA 53 recommended that the Secretariat make the issue of privileges and immunities a standing item on the agenda of CRGA 54 for further consideration.

However, privileges and immunities have limits and restrictions. Firstly, they only apply to the activities of the organisation. No member of staff may claim the application of privileges and immunities for their personal benefit. The privileges and immunities they enjoy are linked to their official capacity as international civil servants of SPC and can only be invoked in the context of an official mission or activity for SPC. They are also intended to protect the interests of the organisation and the DG has the power to waive them if this is in the interests of the organisation.