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« French Pacific Territories : Between maritime space expansion and resource preservation »

While it possesses the second-largest maritime domain in the world along with one of the finest merchant and military navies, France tends to ignore its maritime spaces¹. With its 11 million square kilometers of EEZ, France has continuously expanded the marine areas placed under its jurisdiction. These extensions stem from the Montego Bay Convention, which establishes the EEZ (Exclusive Economic Zone), the continental shelf, and its potential extension. They involve all overseas French territories, but those in the Pacific hold a particular interest.

First of all, they are the most remote, lying between 17,000 km from Paris for New Caledonia and 15,000 km for French Polynesia, not to mention Wallis and Futuna and Clipperton Island. They sit at the heart of the new strategic axis identified by the United States, centered on the Indo-Pacific (marked by the creation of the U.S. Indo-Pacific Command on May 30, 2018). Furthermore, they represent unique communities within the French political framework, some involving significant transfers of authority. Secondly, they are affected in several ways by the current spotlight on the blue economy, combining the preservation of biological resources like tuna with the fight against Illegal, Unreported, and Unregulated (IUU) fishing, as well as deep-sea mineral resources, which garner growing interest face to predictions of the upcoming depletion of terrestrial reserves. While France seems to have chosen preservation for these new spaces under its jurisdiction, their sheer immensity and the challenge of protecting them remain major issues in the face of regional pressure weighing on the exploitation of biological and mineral resources.

The choice to protect biological resources

France has been able to claim EEZs across the four corners of the globe thanks to its overseas territories. These territories actually make up the vast majority of those square kilometers placed under French jurisdiction and are globally preserved from fishing activities by foreign vessels.

Within the EEZ, the coastal State exercises sovereign rights regarding the preservation and exploitation of biological resources at the surface and throughout the water column. These powers have been delegated to the governments of New Caledonia and French Polynesia through organic laws. In just the Pacific, the size of the EEZs in New Caledonia and French Polynesia represents 1.4 million sq km and 4.8 million sq km respectively. To these must be added the EEZ of Wallis and Futuna at approximately 266,000 sq km and that of Clipperton Island at 435,000 sq km. On their own, these territories therefore represent more than half of the total surface area of the French EEZ. Concerning this maritime domain and its resources, France has chosen a policy of preservation, even though these territories are located very close to the Pacific "tuna belt." This belt is globally situated along the northern border of the French EEZs, largely covering the Solomon Islands and Samoa. These waters are rich in tuna—a high value-added fishery product highly prized in the Asian markets of South Korea and Japan. The average annual seafood consumption per person is close to 58 kg and 45 kg respectively, compared to 33 kg in France according to the FAO. Beyond the EEZs, the high seas are under the concerted management of a regional fisheries management organization (RFMO), namely the WCPFC (Western and Central Pacific Fisheries Commission) —an international organization gathering tuna-consuming and tuna-fishing nations for the Pacific zone, comprising 27 State parties including the EU.

Despite these fish-rich waters and the potential revenues from granting fishing licenses, no foreign-flagged vessel is currently authorized to fish in French waters, except for 47 Mexican purse seiners

¹ L.A. DUVIC-PAOLI, *The United Nations Convention on the Law of the Sea: An Instrument for Regulating International Relations through Law*

around Clipperton Island. The only permitted fishing activities are those related to the local fleet, which for deep-sea fishing involves 17 longliners in New Caledonia (accounting for roughly 3,000 tonnes of catches) and around sixty in French Polynesia (accounting for approximately 6,000 tonnes of annual catches). Wallis and Futuna only engages in small-scale subsistence coastal fishing, where 80% of seafood products are intended for self-consumption. Internal pressure on the resource is therefore low, and fishery products are mostly destined for the local market.

Towards the preservation of the continental shelf's deep sea

While the question of preserving fishery resources is a well-known debate, the mineral resources hidden within the soil and subsoil of the continental shelf are now garnering significant interest. Here, it is under claims on the continental shelf that France has been able to extend its maritime limits. Also under the Montego Bay Convention, every coastal State benefit *ipso facto* from a continental shelf extending up to 200 nautical miles. If it wishes to claim a shelf extending beyond 200 miles—frequently referred to as the extended continental shelf—it must submit a dossier to the Commission on the Limits of the Continental Shelf (CLCS). Based on the recommendations issued by the latter, the continental shelf can thus extend up to 350 nautical miles. This is precisely what France did through the Extraplac program (*Extension raisonnée du plateau continental*), which enabled it to submit 8 scientifically grounded dossiers (incorporating bathymetry and sedimentation surveys) to the CLCS. To date, it has received 4 recommendations, which culminated in the adoption of 4 decrees in 2015. The total asset gain is estimated at approximately 500,000 sq km. Once these delineations are established, the coastal State acquires specific rights regarding the exploration and exploitation of mineral resources within the soil and its subsoil. Furthermore, some dossiers are not neutral from a diplomatic standpoint: Clipperton Island continues to be claimed by Mexico; the Matthew and Hunter islands off New Caledonia are contested by Vanuatu; and Wallis and Futuna still lacks an agreement with Samoa regarding its eastern maritime boundary.

The primary interest lies in the ability to exploit the famous polymetallic nodules, as well as cobalt-rich ferromanganese crusts and polymetallic sulfides. These three compositions are all largely made up of iron and manganese at around 15%, silica at roughly 10%, and sulfur at less than 30% (hydrothermal sulfides). Next come lower concentrations, at less than 1%, of nickel, zinc, copper, rare earth elements, and cobalt. These resources are estimated to have a better yield than terrestrial mines due to the density of their component materials. For instance, manganese enters into the composition of mobile phones. A single polymetallic nodule of about 50 grams extracted at a depth of over 2,000 meters meets the manufacturing requirements for approximately 30 mobile phones. Although France has already conducted campaigns to ascertain what its deep-sea floors might hold—such as the 2018 mission in Wallis and Futuna involving a unique domestic consortium combining Eramet, Technip, the IRD, and IFREMER—the perspective of exploitation within these submarine territories remains highly uncertain. Staying alert on these topics, France also holds two exploration contracts with the International Seabed Authority (ISA) extending until 2021 and 2029. These go beyond the continental shelf under national jurisdiction, being located in "the Area" (international seabed under the management mandate of the ISA), but they bear witness to France's dynamism on the matter.

Here too, a trend toward protection seems to be emerging. In New Caledonia, the question of seamounts was the focus of the SeaMount 2019 scientific campaign, and local intent is leaning toward an extension of the protection regime² already established within the Marine Park to cover the soil and subsoil. In 2018, the local authorities of the Marquesas Islands proposed the creation of a Marine Protected Area (MPA)³ where fishing activities (excluding subsistence fishing) and extractive industries could be prohibited. Wallis and Futuna have been at the heart of two scientific campaigns, including the 2008 IFRECOR (*Initiative française pour les récifs coralliens*) mission commissioned by the island's environmental service, which was intended to provide tangible data for defining marine protected areas. In 2015, the REMMOA (*Recensement des mammifères marins et autres mégafaunes pélagiques*) survey also focused on the waters of Wallis. While these various campaigns demonstrate a desire to understand French subsoil resources, technological and environmental uncertainties—combined with

² <https://www.pew.org/fr/research-and-analysis/articles/2019/10/17/local-enthusiasm-and-political-leadership-help-make-ocean-protection-a-priority-for-new-caledonia>

³ The French Environmental Code recognizes 9 types of MPAs, which include regional natural parks, national parks, and Natura 2000 sites.

the weight of public opinion (the strength of local customary representations), particularly within communities benefiting from a specific political status—make it difficult to envision any future exploitation for the time being.

The question of surveillance

Promoting an environmental approach and the preservation of resources across these immense spaces cannot be achieved without the challenge of ensuring their surveillance and protection. Broadly speaking, it is the FANC (Armed Forces of New Caledonia) and the FAPF (Armed Forces of French Polynesia)⁴, and particularly the assets of the French Navy in collaboration with Maritime Affairs, that generally carry out missions to observe the outermost boundaries and blind spots of the EEZs. These consist of regular flights and patrols crisscrossing different sectors of the EEZ. The balance sheets published on the Ministry of Defense website indicate that for 2019, 50 flight hours and 43 days at sea were dedicated to fisheries enforcement by the FANC. In 2018, 4 suspected infringements were notified to the WCPFC. The latest vessel diversions date back to 2017, when two Vietnamese fishing boats were caught red-handed fishing within New Caledonia's maritime space and were diverted (with sea cucumbers and shark fins found on board). For the FAPF, 3 Navy vessels carried out 66 operations of controls on foreign-flagged fishing vessels, and the Falcon aircraft carried out 253 flyovers. These operations are inherently linked to pooling and consultation through regional cooperation mechanisms. Among neighboring countries, two categories can be distinguished: allied maritime powers and PICs (Pacific Island Countries). Thus, along with neighbors such as Australia, New Zealand, and Fiji, France participates in joint fisheries enforcement operations, notably through the joint military tool known as the Quadrilateral Defence Coordination Group (QUAD) in conjunction with the Forum Fisheries Agency (FFA)⁵. On average, approximately 3 joint inspection operations are conducted annually under the auspices of the WCPFC. This organization provides shared data on various fishing fleets and enables campaigns that pool both maritime intelligence and material and human resources for enforcement. On the other hand, PICs, having fewer financial and material resources, find themselves delegating these control and surveillance operations. They may notably seek the support of NGOs, such as Greenpeace, which was active in 2008 in the Phoenix Islands (Kiribati) or in 2015 within the waters of Papua New Guinea and Nauru. Another widely utilized tool in the Pacific takes the form of bilateral agreements dubbed "shiprider agreements" (such as the Niue Treaty, which France has not ratified). These allow officers from countries lacking maritime assets to board the vessels of other nations to conduct inspections within their own EEZs. For instance, in 2016, the United States signed such an agreement with Vanuatu, adding to an already substantial list of partnerships with Palau, Micronesia, the Marshall Islands, the Cook Islands, and Kiribati.

Finally, the high seas are not a zone devoid of rights and duties. The Montego Bay Convention recognizes 5 fundamental freedoms there, including the freedom of fishing. The latter is nevertheless subject to specific provisions within the Convention, as well as a 1994 agreement for the implementation and management of fish stocks whose movements extend beyond the EEZs. These frameworks enable the establishment of several management and control mechanisms for the resource. Consequently, RFMOs currently cover the entirety of the world's maritime surface. For tuna species, 6 such organizations can be identified. These international organizations are frequently composed of an assembly, a council, and a scientific and technical committee. Their mandate is to ensure the monitoring and replenishment of fish stocks within their area of responsibility. To do so, they publish conservation measures aiming to standardize the practices of licensed vessels. They aim, for example, to certify the types of fishing gear or VMS present on board, thereby establishing a baseline requirement. While these prerequisites tend to uniformize vessel equipment (an objective criterion), nothing guarantees actual practices in the field (the reporting of quantities caught relies on a self-reporting system by the vessel's master). At the WCPFC level, the 2017 report on alleged violations of conservation measures mentions around thirty infractions requiring investigation. That being said, their means of action are limited, particularly in terms of controls and inspections, and their effectiveness has been challenged in the management of bluefin tuna, which reached critical stock levels in the 2000s. To this day, they remain

⁴ FANC: Armed Forces in New Caledonia; FAPF: Armed Forces in French Polynesia.

⁵ The Pacific Islands Forum comprises 16 countries and was established in 1971; it features a specialized agency dedicated to fisheries enforcement.

under fire from critics, particularly in the Indian Ocean, which questions the efficiency of this management model for living resources that disregard inter-state maritime boundaries.

Technological support for control

Facing such vast expanses, technological developments make it possible to better track the movements of fishing vessels at sea and control their actions.

The first and most relevant tool in this regard is the Vessel Monitoring System (VMS). This is a beacon installed on the fishing vessel (whose housing is supposed to be inaccessible on board) that provides the vessel's GPS position at a desired frequency (every two hours under European regulations, for example). Thus, using mapping software, it is possible to visualize all the GPS points transmitted by the beacon and thereby retrace the vessel's route. It is one of the prerequisites for conducting fishing activities within global RFMOs, as well as in the EEZs of numerous coastal States. It is an overall reliable tool that at least makes it possible to identify the frequented areas, routes, and ports of call of fishing vessels. Any failure to transmit is therefore manifest and subject to sanctions.

Another trend for increasing surveillance is the use of satellite analysis. This indeed allows access to images of very remote areas. The sensors are radar or optical types and make it possible to detect echoes (tracks). The detected echoes can be correlated with the vessels' Automatic Identification System (AIS) or VMS. If correlation is impossible, an echo is therefore suspicious, and the aggregation of a series of non-correlated tracks can provide trends for identifying areas of greater or lesser risk. Its operational scope has yet to be proven. While the passing of satellites over the area and the capturing of the image can be known in advance, their processing time and the ability to coincide them with sending a resource on-site can prove costly (with no certainty of detection, and transit times to reach the echo's position being entirely out of sync). Conversely, it remains a reliable indicator in terms of zone frequency. The French Navy thus utilizes the Trimaran tool (Telespazio). The EU also possesses acquisition capabilities for optical and radar imagery via the Copernicus satellite network (Sentinel generation).

The Pacific havens

While current trends suggest that French territories could become havens in the Pacific, the fact remains that this sanctuarisation takes place against a backdrop where harvesting pressure and resource extraction are shifted onto the neighboring spaces of less developed nations and the high seas.

Many States whose EEZ borders are adjacent grant fishing licenses. This constitutes a source of funding for nations that have no other alternative, without them being able to provide historical monitoring of these activities. By way of example, Vanuatu is scheduled to exit the UN's list of Least Developed Countries (LDCs) for 2021, which also includes Tuvalu and the Solomon Islands. Even though fishing activities weigh little on their GDP, they represent a source of revenue that must be taken into account. They also serve as entry points for diplomatic leverage. For instance, France and the EU hold interests in the region, highlighted by the 2015 acquisition of Petit Navire by Thai Union (the world's leading exporter of canned seafood), whose fishery products originate partly from the Pacific. The EU maintains privileged ties with these least developed States through the EU-ACP (Africa, Caribbean, Pacific) agreements (Cotonou Agreements, 2000), where, under conditions of resource access, financial counterparts and development programs are implemented.

This pressure is also already perceptible regarding mineral resources. Indeed, the first exploitation permit granted on a continental shelf was issued by Papua New Guinea (ranked 153 out of 189 on the Human Development Index) in 2015 to the benefit of the Canadian company Nautilus Minerals, even though extraction operations have not yet commenced. The race for the deep sea is therefore well and truly underway, and the International Seabed Authority (ISA) predicts that China—a highly active State in the Pacific region—could be the first to enter an operational exploitation phase. It currently represents 20% of the contracts concluded with the ISA. The country has a major need to outsource the production of certain strategic materials (rare earth elements), as terrestrial mines cause environmental havoc. This would also allow it to consolidate its supply chains. In this regard, Japan is also identified as a driving country, with major resources mapped under its jurisdiction. The high seas space must also be addressed as such. Indeed, international law of the sea attributes a specific status to it, recognizing fundamental freedoms, including the freedom of fishing under certain conditions. While RFMOs can organize joint deployment campaigns with State parties, they do not possess their own assets to control

the activities of fishing vessels and depend on the availability of State resources. Thus, the Pacific's "high sea pockets," where only WCPFC provisions apply, are favored fishing locations with very little enforcement, even though the FAO estimates that nearly one in five fish caught originates from IUU fishing, representing an economic cost of \$23 billion each year. Here again, the immensity of the zones to be policed and the frequency of monitoring campaigns complicate targeted surveillance actions. Regarding the Pacific tuna RFMO, approximately 3,527 vessels applied for a license in 2019.

French spaces thus constitute true pockets within the Pacific Ocean and mobilize a plurality of legal environmental protection tools within the MPA spectrum. This sanctuarisation is accelerating: since 2014, the Natural Marine Park of the Coral Sea encompasses the entire EEZ. The establishment of such a park is also planned in Polynesia around the Marquesas Islands (with a potential surface area of 700,000 sq km). In 2016, a biotope protection decree also aimed to protect the territorial waters bordering Clipperton Island. The capacity to monitor and protect the resources of the spaces placed under our jurisdiction clearly positions French overseas territories in the Pacific as privileged areas. Regular flyovers of EEZ boundaries, the multiplicity of vessels cruising in these waters, and the support of cutting-edge technologies play a deterrent role against entities wishing to engage in illicit fishing activities today, and perhaps outlawed mineral extractions tomorrow. Every human activity has its illegal counterpart. However, this policy mathematically leads to a shift of the growing harvesting effort onto neighboring countries or international spaces. That being said, inter-state cooperation bears witness to a shared determination to better preserve biological and mineral resources by formalizing collective enforcement actions, but also by defining marine protected areas that extend beyond state frameworks—as envisioned by the draft convention for the protection of marine biodiversity beyond areas under national jurisdiction (BBNJ).

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