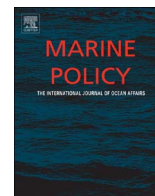




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Deep-sea mining prospects in French Polynesia: Governance and the politics of time[☆]

Pierre-Yves Le Meur^{a,*}, Nicholas Arndt^b, Patrice Christmann^c, Vincent Geronimi^d

^a Institut de Recherche pour le Développement, UMR Gouvernance, Risque, Environnement, Développement (GRED), Montpellier cedex 5, BP 64501, France

^b Université Grenoble Alpes, Institut des Sciences de la Terre (ISTerre), CS 40700, Grenoble cedex 9, 38058, France

^c Bureau de Recherches Géologiques et Minières (BRGM), 3 avenue Claude-Guillemain, BP 36009, Orléans cedex 02, 45060, France

^d Université de Versailles-Saint-Quentin, Centre d'Études sur la Mondialisation, les Conflits, les Territoires et les Vulnérabilités (CEMOTEV),

47 boulevard Vauban, Guyancourt cedex 78047, France

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ABSTRACT

This contribution aims at sharing the results of an interdisciplinary expert group review led by the Institute for Development Research and commissioned by the French Polynesian and French governments with the view of reviewing the current state of knowledge on DSM deposits in French Polynesia in order to evaluate the potential for establishing a DSM mining sector, and to make recommendations that could be used as guidelines for developing a policy framework if the exploration and exploitation of DSM resources were to go ahead. The paper focuses on the governance issue in a context of non-independent overseas territory and specifically of the French nuclear testing legacy. The distribution of legal competences between the French and French Polynesian governments is of course at stake but governance is also about inclusion, transparency; it is a matter of redressing asymmetries of information and power and alleviating moral and normative uncertainties. The time dimension of governance – the gaps between the various temporalities and timescapes underlying the DSM activities – will be particularly stressed.

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1. Introduction

International interest in deep sea mineral (DSM) resources began in the 1970s and came to the fore in 2002 as a result of the tensions caused by rising commodity prices linked to the Chinese economic boom. Today's depressed metal prices, a consequence of the weakening of the Chinese economy, is seen as temporary and could be quickly replaced by a new increase in commodity prices albeit at a slower pace than what resulted from the 2003 to 2013 boom of the Chinese economy. This time the raise of prices will come from progressively growing supply/ demand gaps, due to insufficient investment in mineral exploration [1]. Deep sea mineral mining (DSM mining) has not yet occurred anywhere in the world: the most advanced project is the Solwara 1 seafloor massive sulfide project in the Bismarck Sea in Papua New Guinea's exclusive economic zone (EEZ), which is expected to start in 2018 [2]. Many uncertainties remain on the best way to regulate and manage such industry, as documented by the SPC-EU Deep Sea

Minerals Project, a partnership between the Pacific Community (SPC) and the European Union (EU) [3]. Although French Polynesia is not part of this initiative, many common concerns can be noted.

This contribution aims at sharing the results of an expert group review led by the French Institute for Development Research and commissioned by the French Polynesian and French governments with the view of reviewing the current state of knowledge on DSM deposits in French Polynesia. This work evaluates the potential for establishing a DSM mining sector, and makes recommendations that could be used as guidelines for developing a policy framework if the exploration and exploitation of DSM resources were to go ahead [53]. This timeline means that the situation is optimal for the French Polynesian government to put in place regulations for future DSM mining activities within its maritime jurisdiction well before any positive or negative social or environmental consequences occur. The situation provides Polynesian authorities with an opportunity to engage in anticipatory "politics of time" [4] that are tuned to future prospects and uncertainties as opposed to "traditional scientific knowledge and environmental safety regulations [which] tend always to be past oriented" [5]. A proactive approach is crucial for successful natural resources development, and can be phrased in terms of the precautionary principle [6]. Effective governance requires anticipation of both positive and negative developments and prudent regulation of the multifaceted

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* Corresponding author.

E-mail address: pierre-yves.lemeur@ird.fr (P.-Y. Le Meur).

impacts of future DSM mining. It is commonly agreed that DSM activities can have long lasting, even irreversible, impacts that should be addressed in the intergenerational framework of sustainability, either weak or strong [7]. This issue has far-reaching implications for the governance of DSM, and extends far beyond a purely economic dimension. Particularly for French Polynesia, it includes knowledge creation and diffusion, as well as rent distribution and the participation of all stakeholders.

The focus on the ocean spaces and the sea floor, both in the international seabed area ('the Area') and in EEZs has led to a "scramble for the seas" and its resources [8]. This world-wide process and the inherent risks from "ocean grabbing", or "dispossession or appropriation of use, control or access to ocean space or resources from prior resource users, rights holders or inhabitants" according to Bennett et al. [9: 62], have intensified over the past twenty years. It has been noted that such movement has several and sometimes severe impacts especially on the "sea of islands" [10] and "the people of the sea" [11] that make up the South Pacific. The scramble for the marine spaces and resources is driven by a vision of vast stretches of unappropriated, untamed ocean, nurturing an ideology of *mare nullius* [12]. It echoes the notion of *terra nullius* that justified the colonial conquests in the past century. In this respect, the seafloor appears as a last territorial frontier [13], the conquest of which involves a diverse set of strategies and objectives. The multiple underlying discourses emphasise environmental protection in parallel with, or in opposition to, the obvious economic (mineral resources, fishing zones and quotas, etc.), cultural, political and sovereignty issues. The risk of ocean grabbing (for environmental or mining purposes) is obvious. However, not all processes involving re-allocation of marine space or ocean resources should be qualified as ocean grabbing [9], and prudent marine spatial planning can counterbalance the latter tendency. This is the sense of a recent declaration by the French Polynesian government that rejected a project to create a large-scale marine protected area in the Tuha'a Pae or Austral Islands [15]. Instead the declaration advocated a spatial planning policy in the form of a "marine managed area" encompassing the entire French Polynesian EEZ [16]. This issue recalls the embedding of development and environmental issues in Polynesian party politics.

Governance thus lies at the core of potential DSM mining in French Polynesia. The very limited currently available data point to a very high potential cobalt-rich polymetallic crusts which are known to exist in the French Polynesian EEZ [17]. The critical question is how can the government foster the positive impacts, and control the negative impacts of any future DSM exploration, and any subsequent exploitation on the economies and institutions of the small archipelagos and scattered populations constituting French Polynesia. The answer is very uncertain at this stage, given the many technical, economic, social and political unknowns.

This paper will at first provide an overview of the current context of French Polynesia before to present the existing legal framework, taking into consideration the distribution of legal jurisdictions between French Polynesia and France. The interplay of different legal layers, including international regulations and 'soft' laws, will be discussed in the context of a non-independent overseas territory. In a third section, the paper will give a broad and multifaceted definition of the resources that are potentially available before tackling the political issue of framing a transparent, democratic, socially and environmentally responsible governance of DSM mining in a context of the strong power imbalances and asymmetries that characterise the French Polynesian political economy and its relations to the French metropole. Besides the politics of time, the transparency issue is of the essence in a territory plagued by the secrecy disease [18] inherited from

the nuclear era. As it will be demonstrated, restoring trust (reducing moral uncertainty) and clarifying the rules of the game (reducing normative uncertainty) are crucial in this respect.

2. The french Polynesian context: looking for economic and political autonomy

The territory of French Polynesia comprises 118 islands, of which only 67 are inhabited. It has a population of less than 300,000, nearly two thirds of whom live on its main island, Tahiti. The territory is surrounded by a large EEZ covering approximately 5.5 million km². Colonised by France in the 19th century, French Polynesia has enjoyed broad autonomy since 1984, though the use of the atolls of Fangataufa and Moruroa as nuclear testing grounds from 1966 to 1996 implied a strong colonial tie. French Polynesia is currently undergoing a complicated period in its history, with difficulties arising in four main areas – the economy, politics, institutions and identity.

The territory is in the middle of a profound crisis triggered by the need to find credible economic alternatives to the annual payments received during the period of nuclear testing which ceased in 1996 [19]. The political situation has become extremely unstable, marked by volatility in political alliances and a short lifespan for administrations. From an institutional point of view, the country's autonomous status, reviewed in 2004, is contested by those in favor of full independence. In 2014, this group succeeded in having French Polynesia added to the list of seventeen non-self-governing territories of the United Nations' Special Committee on Decolonization. Since the 1980 s, there has been a strong movement to reconnect with local culture and identity [20]. These "politics of recognition" [21] impacts on how development projects, policies, and land disputes are negotiated [22]. A report from the French Senate released in 1996 [23] highlights the extent to which the territory's centralised structure is ill-suited to its geographic isolation and the social, cultural and natural diversity of its archipelagos.

Possible exploitation of DSM resources in French Polynesia would take place within this complex institutional context. It would also coincide with the search for development options (tourism, fishing, pearl farming, etc.) and strategic partnerships within the Pacific region, which will become one of the world's most important economic and geopolitical regions in the 21st century (as exemplified by the current US foreign policy). However, unless curtailed by periodical institutional volatility, the selected development options will shift the balance between political autonomy, the distributional impacts of socio-economic development, the management of various rents, and the composition of external financing flows accruing to the economy [24].

Public interest in DSM resources is relatively new to French Polynesia, although the topic has been discussed in the past within and between political parties but without resulting in any firm policy decision. In large part, this renewed interest was triggered by an article published by Kato et al. [25] in the journal *Nature* that incautiously evoked the presence of rich deposits of rare earth elements in Pacific seabed sediments and particularly in French Polynesia at a time of high prices (2010–11 supply crisis) of these elements. After the publication of the paper by Kato et al. [25], a strategic committee was appointed in 2011 with representatives of the French state and Polynesian government, allowing a renewal of discussions between the two bodies.

The territory has a specific history of on-land mineral resource exploitation, a history summed up in two names: Makatea and Mataiva. The phosphate resources of the Makatea atoll were mined from 1908 to 1966 [26] while those of Mataiva remain unexploited. The latter have been the subject of several studies but

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