MUCH ADO about nothing

FAKE MARINE PROTECTED AREAS, A REAL ENDORSEMENT OF INDUSTRIAL FISHING

A groundbreaking analysis on maritime protection policy in France from 2009 to 2022
While the COP15 biodiversity summit begins on Wednesday 7th December 2022 in Montreal, the stakes for the preservation of life and the restoration of natural habitats are unprecedented, the European Union’s negotiation mandate has been sacked at the European Council by Member States opposed to the real protection of the ocean, at the forefront of which are France and the Netherlands, unwavering allies of industrial fishing lobbies.

As such, instead of aiming for the European objective of 30% of genuine maritime protection, including a third in full protection, the EU’s mandate no longer mentions the objective of 10% of ‘strict’ protection and is content with speaking about 30% of global protection without specifying exactly what is to be understood by that statement.

Belgium has tried in vain to save the 10% ‘strict’ protection objective from disaster, recognising that completely protecting (i.e. prohibiting all human activities) 10% of European waters is the most urgent and effective measure to regenerate the diversity of species and marine animal forests, devastated by decades of acute overexploitation and destructive fishing methods such as bottom trawling.

Less than 1% of waters in the European Union are really protected. France, the top European maritime power, has a significant influence in the EU’s environmental indifference towards ocean matters. The French exclusive economic zone represents 45% of European Union waters thanks to its overseas territories. Yet, France only protects 4% of the totality of its waters. In mainland France, where the pressure of industrial fishing is the most severe, only 0.005% of waters are really protected on the Atlantic, Channel, North Sea coastline and 0.094% on the Mediterranean coastline. France makes a lot of noise about its Marine Protected Areas – President Macron announced spectacular protection figures of ‘more than 30% of protected areas’ to the media before the presidential election in 2022 – but the reality is something else entirely. Shipping vessels can exploit more than 99.9% of French waters. Two recent studies from BLOOM have revealed that so-called French Marine “Protected” Areas do not protect anything at all: destructive industrial activities in these areas are continuous and entirely authorised. Furthermore, the areas, few and far between, which are genuinely protected from human activities, are implemented in such a way as to never disturb the economic interests of the industrial fishing sector.

The void of French policy on marine protection is not coincidental. It is, on the contrary, the product of large-scale sabotage undertaken for more than a decade by French public powers. Since the ‘Grenelle de la Mer’ movement in France in 2009, successive governments have promised much in the way of marine protection but have in fact endeavoured to make the stated ambition ineffective in practice.

BLOOM has analysed close to fifteen years of public policies and reconstructs the means and strategies that France has utilised to reach the current practically inexistent level of protection: semantic sidestepping and the rewording of objectives, joint management with industrial fishers, a culture of unsuccessful ‘dialogue’ instead of efficient management, and harmful guidance notes and orders…The manoeuvres used to torpedo the already meagre commitments have been varied and have led to the desired objective: to brand the ban on industrial fishing in Marine Protected Areas taboo and impossible to reach.

The latest deception concerns the substitution of the French objective of 10% ‘strong protection’ for the European objective of 10% ‘strict protection’. In creating a new category of protection, ‘strong protection’, which does not even correspond to the basic international definition of a Marine Protected Area, the European Commission still estimates, with the data available, that less than 1% of EU waters (excluding overseas territories) are actually protected.

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2 This figure comes from a 2019 European Environment Agency report (Marine Messages II: navigating the course towards clean, healthy and productive seas through implementation of an ecosystem-based approach) which repeats a 2012 study. No more recent figures are available apart from the Marine Conservation Institute database, which is still incomplete for the European Union. The Marine Conservation Institute still estimates, with the data available, that less than 1% of EU waters (excluding overseas territories) are actually protected (MPA Atlas).
Protected Area, Emmanuel Macron’s government is not simply reformulating semantics, it is mounting the ineffectiveness of the very concept of a “Protected” Marine Area and is thus orchestrating the conditions of French duplicity with regard to international scientific recommendations and European environmental protection objectives.

It is through this type of dangerous degradation of the norm that France, the world’s second largest maritime power, is failing to play its designated role; it is helping to maintain the status quo of an overexploited ocean under the sway of industrial fishing at the very moment we need the Earth’s lungs to be able to absorb our excess carbon the most. It is with the motive of curbing France’s international leverage that BLOOM attacked the French Government in front of the Council of State (Conseil d’État) on 7th October this year.  

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3 According the figures from Claudet (2021) Critical gaps in the protection of the second largest exclusive economic zone in the world.

4 Two studies published by BLOOM in 2022 showed that(1) in 2021, nearly half of industrial fishing in mainland France took place in so-called “Marine Protected Areas” (see the study entitled “So-called marine protected areas under attack by industrial fishing” (in French) dated 7 October 2022), and (2) that the French marine areas under ‘strict protection’ are almost exclusively in inaccessible and globally unexploited areas (see the study (in French) dated 24 November 2022 entitled “Ambition Zero: Marine ‘protected’ areas protecting inaccessible and unexploited areas”).

5 BLOOM suits the French government’s MPA definition before the French Council of State (2022)
The collapse of the living world and scientific warnings

Long thought to be inexhaustible, the ocean is now worn out, methodically drained of its extraordinary riches by a highly efficient industrial fishing fleet, considered by the IPBES, the Intergovernmental Panel on Biodiversity, to be the leading cause of destruction of marine ecosystems.6

Scientific studies are accruing to describe the collapse of marine biodiversity. In the North Atlantic, 90% of marine predator species have disappeared since 1900.7 In the North Sea, the current biomass of fish weighing between 4 and 16 kilograms has fallen by 97.4% compared to the pre-industrial period. The collapse reaches 99.2% for fish weighing between 16 and 66 kilograms.8 Due to a continuous fishing effort/A effort de pêche constant, the catches of trawlers operating in British waters have fallen by 94% since 1890, showing the depletion of British marine ecosystems.9

This collapse of marine life is also a threat to the climate. Indeed, the ocean absorbs 20-30% of the CO2 emitted by humans,10 via marine sediments, which constitute the world’s largest carbon storage reservoir, and via marine fauna, which play a crucial role in storing ‘blue carbon’.11 The ocean is also our main pair of lungs, producing more than half of the oxygen we breathe.12 Fishing techniques that scrape the seabed, such as bottom trawling, dredging or demersal seining, are particularly harmful: they destroy sea grass beds and kelp forests,13 and release CO2 trapped in marine sediments.14 Industrial fishing, by indiscriminately removing a biomass of fish and species that depend on the seabed, undermines the capacity of marine fauna to play its role as a carbon pump.15

At the Rio Conference in 1992, the Heads of State agreed on the urgent need to act to halt the collapse of life. The Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, and Agenda 21 were ratified by 170 countries. These texts set out the main principles for the protection of life in the 21st century. Agenda 21 requires coastal states to ‘take measures to maintain the biological diversity and productivity of marine species and habitats in the waters under their jurisdiction’.

FROM AWARENESS TO INTERNATIONAL COMMITMENTS: A MATTER OF PROTECTION OBJECTIVES

7 Christensen et al. (2003) Hundred-year decline of North Atlantic predatory fishes
8 Jennings et Blanchard (2004) Fish abundance with no fishing: predictions based on macroecological theory
9 Thurstan et al. (2010) The effects of 118 years of industrial fishing on UK bottom trawl fisheries
11 Saba et al. (2021) Toward a better understanding of fish-based contribution to ocean carbon flux; Wilson et al. (2009) Contribution of fish to the Marine Inorganic Carbon Cycle; Davison et al. (2013) Carbon export mediated by mesopelagic fishes in the northeast Pacific Ocean
12 Field et al. (1998) Primary Production of the Biosphere: Integrating Terrestrial and Oceanic Components
14 Sala et al. (2021) Protecting the global ocean for biodiversity, food and climate; Cuetos et al. (2022) Exploring alternatives to Europe’s bottom trawl fishing gears; Epstein et al. (2022) The impact of mobile demersal fishing on carbon storage in seabed sediments
15 Mariani et al. (2020) Let more big fish sink: Fisheries prevent blue carbon sequestration—half in unprofitable areas; Cavan et Hill (2021) Commercial fishery disturbance of the global ocean biological carbon sink; Epstein et al. (2022) The impact of mobile demersal fishing on carbon storage in seabed sediments
IUCN recommendations and first commitments

First recommendations from the IUCN
In 2008, the International Union for Conservation of Nature and Natural Resources (IUCN), the leading authority on conservation, adopted the definition of protected areas, which is still in force today. A protected area (marine and terrestrial) is ‘a clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values’.16

Aichi Biodiversity Targets: 10% of Marine Protected Areas by 2020
In 2010, in order to ‘improve the status of biological diversity by safeguarding ecosystems, species and genetic diversity’, states agreed on the Aichi Targets at COP10 on biological diversity and required each country to establish by 2020 ‘ecologically representative and well-connected networks of effectively and equitably managed protected areas’ in at least 10% of marine and coastal areas.17 This is the first time that a quantified international target has been given.

2016: the IUCN raises the projection target to 30%
Faced with the acceleration of the collapse of life, the IUCN stated in 2016 that it is necessary to increase the target of protecting marine areas to 30%, and to ban all industrial activities that are harmful to the environment, including industrial fishing.18

2021: the IUCN defines industrial fishing to be banned
At the 2021 World Conservation Congress in Marseille, the IUCN specifies that fishing by ‘motorised vessels (>12m long x 6m wide)’, as well as ‘fishing using trawl gear towed or towed along the seabed or water column, and fishing using purse seines and large longlines’ should be prohibited in Marine Protected Areas.19

In addition to this general requirement to prohibit industrial fishing in all Marine Protected Areas, there is a more specific requirement for so-called “strictly protected Marine Areas, which must prohibit all fishing activities. These “strictly protected” areas are intended to protect exceptional and/or biodiversity-rich ecosystems, so that they can serve as places for the regeneration of species and habitats.20

2021: The EU takes up the IUCN objectives
30% protection by 2030 and 10% ‘strict protection’
In 2021, on the basis of the IUCN recommendations, the European Commission published its ‘Biodiversity Strategy for 2030’ and set itself the objective of ‘establishing a truly coherent trans-European nature network’, and achieving at least 30% of Marine Protected Areas by 2030, of which at least one third should be under ‘strict protection’ status.21 The European Commission provides a clear definition of what this ‘strict protection’ objective requires in 2022: ‘Fully and legally protected areas to conserve and/or restore the integrity of biodiversity-rich areas and their ecological
structure so that they maintain all ecological processes within them. Natural processes must not be disrupted by anthropogenic pressures or any threat to the overall structure and functioning of the ecosystem, even if these pressures occur outside the perimeter of the Marine Protected Area\textsuperscript{23}.

**Clear European objectives and framework**

The international scientific recommendations of the IUCN and the objectives of the European Commission define a clear framework for a coherent and effective network of Marine Protected Areas that is representative of the richness and diversity of ecosystems:

<table>
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<tr>
<th>Category</th>
<th>Spatial Coverage Target</th>
<th>Criteria to be Met</th>
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<tr>
<td>‘Marine Protected Area’</td>
<td>30% of waters</td>
<td>Ban on industrial activities and industrial fishing in particular. Industrial fishing is defined as ‘fishing by motorised vessels (&gt;12m length x 6m width)’, as well as ‘fishing using trawl gear dragged or towed along the seabed or water column, and fishing using purse seines and large longlines’\textsuperscript{23}. Artisanal fishing is allowed in ‘Marine Protected Areas’ if these are not protected under ‘strict protection’.</td>
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<tr>
<td>Marine areas under ‘strict protection’</td>
<td>10% of waters</td>
<td>Ban on human activities. The objective pursued is that of protecting and restoring the diversity of marine ecosystems. ‘Fully and legally protected areas to conserve and/or restore the integrity of areas rich in diversity and their ecological structure so that they are able to maintain all their ecological processes. Natural processes must not be disrupted by anthropogenic pressures or any threat to the overall structure and functioning of the ecosystem, even if these pressures take place outside the perimeter of the Marine Protected Area.’\textsuperscript{24}</td>
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\textsuperscript{22} European Commission (2022) Commission staff working document. Criteria and guidance for protected areas designations.
\textsuperscript{23} IUCN (2021) Guidance to identify industrial fishing incompatible with protected areas.
The conduct of so-called “protection” public policies in France has a very clear objective: to avoid offending or constraining the tiny but powerful trawler fishing sector. The State thus submits to the diktat of a handful of individuals and fails masterfully to defend the general interest, marine biodiversity, habitats and the climate. The lack of real protection in France is not well established in the collective consciousness and in the media because it has been masked by a determined communication policy of the public authorities since 2009. One glowing presidential statement after another, but the ocean remains hopelessly exploited and brutalized by industrial machines that have access to more than 99.9% of Metropolitan French waters.

In 2009, the Minister for Ecology, Jean-Louis Borloo, organised the ‘Grenelle de la Mer’, a multi-stakeholder consultation forum. At the end of the negotiations, France made an international commitment to ‘strengthen the objectives of the Convention on Biological Diversity (CBD) on Marine Protected Areas by allocating a significant share to marine reserves’. But at the national level, France is lowering its ambition and breaking away from its own international commitments. The government’s method: systematically reformulating the recommendations of scientists and the European Commission to create a French-style protection model.

France’s latest invention in this area is the creation of a ‘strong protection’ label which allows the government to meet its European objectives without issuing clear bans on human activities. A target of 10% of ‘strong protection’ for all French waters has been enshrined in law, and a decree published on 12 April 2022 defines the boundaries of this ‘strong protection’. This decree, which BLOOM challenged before the Council of State (Conseil d’État) on 7 October 2022, is a pure scam: the term ‘strong protection’, a real legal oddity, allows France to place itself outside any European framework and any scientific reference. There is no mention of the precautionary principle or the ecosystem approach, but rather case-by-case negotiations to define which economic activity will be prohibited here or there.

Emmanuel Macron has not missed a media opportunity, particularly at international conferences, to promote this ‘strong French-style protection’: at the ‘Assises de la Mer’ gathering in Montpellier (September 2019), the World Nature Congress in Marseille (September 2021), the One Ocean Summit in Brest (February 2022) or the Ocean Summit in Lisbon (June 2022).

By substituting the European objective of 10% ‘strict protection’ with a French objective of 10% ‘strong protection’, the government has organised the structural conditions to turn marine protected areas into useless empty shells that would never constrain any fishing activity.

At the COP15 on biodiversity, which starts on 7 December 2022 in Montreal, France intends to use its political influence as the leading European maritime power to endorse this ‘strong French-style protection’ model, which is devoid of any scientific basis.
THE COP15 SABOTAGE OPERATION

France transforms the ‘High Ambition Coalition’ into the ‘Zero Ambition Coalition’

Together with Costa Rica, France chairs the ‘High Ambition Coalition for Nature and People’, which brings together more than 100 States around the objective of 30% protection of the ocean by 2030 in order to ‘halt the accelerated loss of species’ and ‘protect the vital ecosystems that are the source of our economic security’. France will therefore supposedly spearhead this French and European objective of 30% marine protected areas at COP15.

But France is torpedoing the ambition of this ‘High Ambition Coalition’ from within, as it has not pronounced itself on the banning of industrial activities in so-called ‘Protected’ Marine Areas. While Costa Rica has extended the ‘strict protection zones (‘no-take’, integral protection) to 10% of its marine territory, France is content to throw figures without substance to the press.

Indeed, at the launch of the Coalition, French President Emmanuel Macron boasted that he had already surpassed ‘the objective of 30% of French maritime and land areas protected (33%)’. In recent weeks, we have revealed the nothingness of this French ‘protection’ policy: in 2021, in mainland France, almost half of industrial fishing took place in so-called ‘Protected’ Marine Areas, while the French marine areas under ‘strict protection’ are almost exclusively in inaccessible and globally unexploited areas.

This is what France considers the ‘High Ambition Coalition for Nature and People’, to be: a ‘Coalition of Zero Ambition’ characterised by empty rhetoric and culpable complicity with industrial fishing interests.

On the contrary, the challenge for the European Union was to arrive at COP15 with a negotiating mandate that defined, beyond the quantitative objective of 30% ‘protection’, the quality of this protection, particularly with reference to the 10% objective of ‘strict protection’.

A dramatic European negotiating mandate

The negotiations in the Council of the European Union, which took place during the summer and autumn of 2022, bear witness to the weight of the industrial fishing lobbies on the European negotiating mandate. On 12 August 2022, in a working version, the Member States responded to the negotiating mandate proposed by the European Commission for COP15. In addition to the Commission’s objective of ‘effectively protecting, managing and conserving 30% of the land and 30% of the sea by 2030’, Belgium suggested adding a qualitative and quantitative target, mentioning the objective of ‘one third under strict protection’.

Although this is in line with the EU Biodiversity Strategy for 2030, no European country supported the Belgian proposal. On the contrary, the Netherlands wrote back to the Belgian proposal that ‘the Netherlands cannot accept Belgium’s suggestion to add 10% of areas under strict protection to the Council’s mandate’. Belgium was the only country advocating for a real protection policy with clear qualitative and quantitative criteria, and had to accept a reduced negotiating mandate. On 24 October 2022, the Council of the European Union finally adopted its official negotiating mandate for COP15 without mentioning the ‘strict protection’ objective: ‘By 2030, effectively conserve at least 30% of the world’s land area and at least 30% of the oceans, in particular areas of particular importance for biodiversity and ecosystem services, through effectively managed and equitably governed, ecologically representative and well-connected networks of protected areas and other effective area-based conservation measures’.

29 High Ambition Coalition for Nature and People
30 French Government (2022) One Ocean Summit : les avancées pour la biodiversité
31 BLOOM (2022) So-called marine protected areas under attack by industrial fishing
32 BLOOM (2022) Ambition Zero: Marine ‘protected’ areas protecting inaccessible and unexploited areas
33 EU Council (2022) Council approves conclusions for UN biodiversity summit in Montreal (COP15)
This disastrous negotiating mandate reinforces the French government’s operation to destroy the environmental norm: no mention of ‘strict protection’, no formal ban on industrial fishing in so-called ‘Protected’ Marine Areas. At COP15, each European state will therefore be free to promote its own model of marine area protection on the international stage, as long as there is a mention of a 30% target somewhere.

**France accepts its ‘zero ambition’ at the France Ocean Committee**

On 23 November 2022, two weeks before the launch of COP15, the Ministry of Ecological Transition confirmed this sabotage of international negotiations at a meeting of the France Ocean Committee (Comité France Océan, CFO):  

> ‘On the Convention on Biological Diversity, for the time being we only have 30% for land and 30% for the sea, the 10% is not fixed at this stage.’
> - Ministry of Ecological Transition, CFO meeting, 23 November 2022.

France has thus assumed before scientists and environmental protection associations that it will continue to defend, against all odds, a model of ‘strong French-style protection’ that is free of international scientific recommendations and European objectives: ‘on the European positioning, we are very keen on our position, on our definition of French-style strong protection zones which in fact associate all stakeholders, so it is something we defend and which does not exclude all activities from the outset’ (Ministry of Ecological Transition, CFO meeting, 23 November 2022).

This ‘French exception’ in terms of marine protection can be explained in one sentence: letting industrial fishing operate with impunity in French waters.

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34 France Ocean Committee is a ‘consultative body’ created by the Prime Minister in 2018 to accompany the ministry in charge of the environment and organize a regular dialogue between the government, public establishments of the State and about fifty NGOs for the protection of the marine environment.
As Europe’s leading maritime power, France bears a major responsibility for the implementation of international scientific recommendations and European objectives, particularly with regard to ‘strict protection’.

With this aim in mind, we call for:

→ An ambitious policy at the COP15 on biodiversity: France must speak out on the European and international stage for a ban on industrial fishing in at least 30% of the ocean, and for ‘strict’ protection in at least 10% of waters.

→ A ban on industrial fishing in all French Marine Protected Areas: In line with the call published by now more than 300 scientists, and in line with the recommendations of the International Union for Conservation of Nature (IUCN), France must ban industrial fishing – vessels over 12 metres long and 6 meters wide, and ‘fishing using trawl gear towed or towed along the seabed or water column, and fishing using purse seines and large longlines’ – in all of its Marine ‘Protected’ Areas.

→ Strict protection of 10% of our waters: In line with the IUCN recommendations, in accordance with the European objective set out in the European Biodiversity Strategy for 2030, and following the European Commission’s recommendations on ‘strict protection’, France must establish a coherent and representative network of marine protected areas meeting the requirements of ‘strict protection’ in 10% of its waters in order to ‘conserve and/or restore the integrity of areas rich in biodiversity and their ecological structure so that they maintain all the ecological processes within them’. A formal prohibition on anthropogenic activities should also be established to ensure that ‘natural processes are not disturbed by anthropogenic pressures or any threat to the overall structure and functioning of the ecosystem, even if these pressures occur outside the perimeter of the Marine Protected Area’.

→ A coherent and representative French network of Marine Protected Areas: France must define a network of Marine Protected Areas that is coherent and representative of the marine diversity in its waters. The objectives of 30% marine protection and 10% ‘strict protection’ must be met by maritime outward appearance, and not solely by hitting targets in the remote and little-frequented waters of the Southern Territories or the Pacific Ocean.
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