

Celia FERNÁNDEZ CALVO

Degree in International Relations Universidad Complutense de Madrid. Master in International Law Diplomatic School.

E-mail: celiafernandezcalvo@gmail.com

The extension of the Spanish continental shelf

Executive summary

The expansion of state sovereignty beyond its territorial sea is becoming increasingly attractive in view of technological improvements and the reduced costs of exploiting maritime spaces far from the coast. The four conventions signed at the first United Nations conference on the Law of the Sea in 1958 and the 1982 United Nations Convention on the Law of the Sea are the legal basis for delimiting these maritime spaces, divided according to the degree of sovereignty that states exercise over them. The continental shelf, which extends from the outer limit of the territorial sea to a maximum of 200 nautical miles, is one of the most controversial areas. Additionally, coastal states whose continental shelves meet certain requirements were ultimately allowed to apply for an extension of their shelf to 350 nautical miles, known as an extended shelf.

Spain's planned continental shelf in the Atlantic meets these requirements, so the Spanish State has made three requests for extension: in the Celtic Sea and Bay of Biscay, which includes the FISU area (the acronym for the four countries that submitted the joint application, i.e. France, Ireland, Spain and the United Kingdom); in Galicia and the Area of Common Interest with Portugal; and in the waters adjacent to the Canary Islands.

Keywords

Law of the Sea, extended continental shelf, Limits Commission, Spanish presentation

Cite this article:

FERNÁNDEZ CALVO, Celia (2023). "The extension of the Spanish continental shelf". *Revista del Instituto Español de Estudios Estratégicos*, no. 22, pp. **635-670**.

Abbreviations

UNGA	United Nations General Assembly
ACI	Area of Common Interest
BBNJ	Biodiversity Beyond National Jurisdiction
CLCS	Commission on the Limits of the Continental Shelf
CNUDM	United Nations Conference on the Law of the Sea
COCSABO	Commission for the Coordination and Monitoring of Oceanographic Vessel Activities
UNCLOS	United Nations Convention on the Law of the Sea
DOALOS	Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat
EMEPC	Mission Structure for the Extension of the Continental Shelf
FISU	France, Ireland, Spain and United Kingdom
IEO	Spanish Institute of Oceanography
IGME	Geological and Mining Institute
IGN	National Geological Institute
IHA	Naval Hydrographic Institute
LENMAR	Maritime Navigation Act 14/2014 of 24 July 2014
MAUC	Ministry of Foreign Affairs, European Union and Cooperation.
RD	Royal Decree
EEZ	Exclusive Economic Zone
The Area	International Seabed Area

I. Introduction

If the Vienna Convention of 1815 is considered the birth of modern international law, the sub-category of the International Law of the Sea does not fully develop until the 20th century, in the post-World War II period. Its origins, however, can be traced back centuries. From the late 15th century onwards, incipient nation-states already began to claim sovereignty over certain parts of the sea and ocean in the context of the *Age of Discovery*, where the possession of large fleets to secure maritime trade and communication routes was crucial for empires such as the Portuguese and Spanish, and later the French and British. Colonisation and occupation of land has been a historical constant accentuated in this period. However, the appropriation of maritime spaces beyond a few kilometres along the coast was a novelty of the Modern Age that soon received the attention of great jurists; the main contributions are described below.

In the 16th century, Spanish theologian and jurist Francisco de Vitoria of the School of Salamanca postulated the idea of freedom of the seas in a somewhat rudimentary way

under the principles of *ius gentium*¹. But undoubtedly, the most transcendent legacy in the academic debate is Dutch jurist and philosopher Hugo Grotius, who proposed the principle of the freedom of the seas in *De Jure Praedae* of 1604 and, above all, in his magnum opus *Mare Liberum* of 1609, where he defends the non-appropriation and free disposition of these spaces. In any case, his postulates proved successful in the almost century-long academic debate between his ideas and those of English jurist John Selden, a proponent of appropriation in his 1635 work *Mare Clausum*².

Grotius' theoretical contribution was prevalent and put into practice from the 17th century onwards by the great European powers. Over time, however, this freedom was questioned as it led to abuses such as human trafficking and smuggling. Early customary-based rules were progressively developed separating two maritime spaces: the area outside state sovereignty (comprising internal waters and the three-nautical-mile territorial sea) and that outside the sovereignty of any state (the high seas). Paradoxical is the example of the British *Hovering Acts* of 1648 which restricted the use of foreign ships in English trade to prevent smuggling and which are the origin of the modern concept of the contiguous zone, comprising 24 nautical miles from the territorial sea baseline.

After World War I, the world saw a revitalisation of international law as a peaceful dispute settlement mechanism. The use of maritime spaces was not exempt from these disputes and for this reason the League of Nations held a first conference in The Hague in 1930 to try to codify matters relating to nationality, the responsibility of states and the territorial sea. Spain participated actively in this conference represented by Antonio Goicochea y Cosculluela, plenipotentiary of Alfonso XIII. Efforts, however, failed due to major disagreements over the delimitation of the territorial sea and discrepancies over new concepts such as the contiguous zone. The failures of the League of Nations in the years leading up to World War II were not conducive to holding subsequent conferences.

It was not until the United Nations was created in 1945 that the issue was raised again. Thus, at the instigation of Arvid Pardo, representative of Malta and later considered the Father of the Law of the Sea, a First Conference was held in 1958³, which led to the signing of four conventions on:

1. High Seas, in force since 1962.
2. Fishing and Conservation of the Living Resources of the High Seas, in force since 1966.

1 Salom Franco, Nicolás. Vitoria y Grocio frente al mar. *Revista Estudios Socio-jurídicos*, 2001. <https://revistas.uosario.edu.co/index.php/sociojuridicos/article/view/191>

2 Ziskind, Jonathan. International Law and Ancient Sources: Grotius and Selden. *The Review of Politics*, Vol. 35, No. 4 (Oct., 1973), pp. 537-559; Cambridge University Press. <https://www.jstor.org/stable/1406000>

3 United Nations Doc. AQ/C, PV.1515 of 1 November 1967. General Assembly Official Records (GAOR). New York, 1968. https://www.un.org/depts/los/convention_agreements/texts/pardo_gar1967.pdf

3. the Continental Shelf, in force since 1966.
4. the Territorial Sea and the Contiguous Zone, in force since 1964.

A Second Conference was convened in 1960 to resolve disagreements over the delimitation of the territorial sea, but it failed. The issue would not be taken up again until the Third Conference, which began in 1973.

As for Spain, after World War II its activity in international conferences declined to the point of being practically non-existent. Firstly, Spain was not allowed to participate in the 1945 San Francisco Conference for the founding of the United Nations⁴. In addition, on 12 December 1946, the United Nations General Assembly (UNGA) approved Resolution 39/1 on United Nations relations with Spain, which excluded the Spanish government from international organisations and conferences established by the United Nations because the regime in place following the civil war was considered illegitimate⁵. The resolution recommended the immediate withdrawal of ambassadors and ministers plenipotentiary accredited to the Spanish government; it was approved with 34 votes in favour, 6 votes against, 13 abstentions and one absence⁶.

The dynamics of the Cold War brought about a change in this *status quo* with Resolution 386, adopted by the UNGA on 4 November 1950 with 38 votes in favour, 10 against, 12 abstentions and no absences, repealing the above-mentioned resolution. US Secretary of State himself, Dean Acheson, came to regret the impetus his government had given to Resolution 39/1, thus leading this new repeal resolution⁷. This led to Spain's entry into the United Nations, which finally took place in 1955⁸. Perhaps due to Spain's then recent accession to the United Nations or due to lack of practice in the international dynamics of the time, Spain did not take part in the drafting of the 1958 Geneva Conventions on the Law of the Sea.

Spain's active participation in developing the codification of the Law of the Sea began in 1968 when the UNGA requested that the Secretary-General seek Member States' views on the advisability of convening a new conference on the Law of the Sea. The Spanish Government's reply, sent in June 1970, pointed out the need for a new effort to reach a thorough international regulation, particularly to specify the limits between the different marine areas and to complete the regime applicable to each of

4 Houston, John. A, The United Nations and Spain, *The Journal of Politics*, Vol. 14, No. 4, 1952, page 683-709, The University of Chicago Press <https://www.jstor.org/stable/2126447>

5 United Nations General Assembly. Resolution 39 (1946) [*Relations of the Members of the United Nations with Spain*] A/RES/39(I) <https://digitallibrary.un.org/record/209755>

6 United Nations Security Council. *Resolution 4 (1946) [The Spanish Question]*, 29 April 1946, S/RES/4 (1946) <https://www.refworld.org/docid/3boofi370.html>

7 Glennys J. Young; Spain and the Early Cold War: The "Isolation Paradigm" Revisited. *Journal of Cold War Studies* 2022; 24 (3): 43-79. Massachusetts Institute of Technology Press Direct https://doi.org/10.1162/jcws_a_01088

8 United Nations General Assembly. *Resolution 386*, 4 November 1950, A/RES/386(V) (1950) <https://digitallibrary.un.org/record/209546?ln=en>

them⁹, and that this codification effort should be made in *a holistic manner, without thematic limitation*¹⁰. When the UNGA adopted resolution 2750 (XXV) in 1970 to convene the Third United Nations Conference on the Law of the Sea in 1973, the Seabed Commission became the Preparatory Commission for the Conference and the number of its members increased to 86, including Spain¹¹. Spain was therefore one of the driving forces behind UNCLOS.

To reinforce this involvement, in 1971 Spain acceded to the 1958 Geneva Conventions with a number of interpretative declarations relating to Gibraltar and others of a technical nature. An important Spanish regulatory development related to the matter also began at that time. Thus, today we find various instruments, framed within Maritime Law, which are compatible with international instruments on the subject ratified by Spain, such as Act 10/1977 of 4 January on the Territorial Sea¹², Act 15/1978 of 20 February on the Spanish EEZ¹³, Act 27/1992 of 24 November on State Ports and the Merchant Navy¹⁴ and finally the long awaited Act 14/2014 of 24 July on Maritime Navigation (LENMAR)¹⁵.

Finally, in 1968, preparations began for a Third Conference which, after years of work, adopted the United Nations Convention on the Law of the Sea in Montego Bay in 1982 (UNCLOS) and which has been informally nicknamed the Constitution of the Oceans. During negotiations, the Spanish state considered various legal claims to be detrimental to its national interest, in particular issues relating to the Strait of Gibraltar and the waters adjacent to the rock given the particular legal status of the Strait of Gibraltar deriving from the Treaty of Utrecht of 1713. Hence the Spanish delegation, led by Spanish diplomat José Manuel Lacleta y Muñoz¹⁶, abstained from voting on the 1982 UNCLOS and did not sign it until 4 December 1984. Spain then took advantage of blockages relating to the codification of the International Seabed Area to not ratify it, but following the Part XI Agreement on the International Seabed Area reached in 1994 and

9 Yturriaga Barberán, J. A. *La Conferencia de Derecho del Mar vista desde dentro por un diplomático español*. 1st ed. 2022. Madrid, Publications Ministry of Foreign Affairs, European Union and Cooperation, p. 15.

10 Note from the Government of Spain to the UN Secretary-General concerning the convening of a General Conference on the Law of the Sea. In Yturriaga Barberán, J.A. *La actual revisión del Derecho del Mar: Una perspectiva española. Textos y Documentos; Institute of Political Studies*. Madrid, 1974. Vol. II (2), pp. 357-358.

11 Yturriaga Barberán, J. A. Op. cit. *La Conferencia de Derecho del Mar vista desde dentro por un diplomático español*, p. 16.

12 Act 10/1977 of 4 January 1977 on the Territorial Sea. <https://www.boe.es/buscar/doc.php?id=BOE-A-1977-465>

13 Act 15/1978 of 20 February 1978 on the Spanish EEZ. <https://www.boe.es/buscar/act.php?id=BOE-A-1978-5340>

14 Act 27/1992 of 24 November 1992 on State Ports and the Merchant Navy. <https://www.boe.es/buscar/doc.php?id=BOE-A-1992-26146>

15 Act 14/2014 of 24 July 2014 on Maritime Navigation (LENMAR). <https://www.boe.es/buscar/act.php?id=BOE-A-2014-7877>

16 Yturriaga Barberán, J. A. Op. cit. *La Conferencia de Derecho del Mar vista desde dentro por un diplomático español*, p. 110.

the mass ratification of the convention, Spain finally ratified it in 1997¹⁷; albeit with six interpretative declarations relating to Gibraltar waters and the need for reciprocity in allowing foreign fishing vessels to fish in the Exclusive Economic Zone. The number of states participating in UNCLOS is now so large that even non-participating states, such as the United States, Türkiye and Venezuela, tacitly apply it.

Recently, Spain has been an active player in the development of the 2023 Biodiversity Beyond National Jurisdiction (BBNJ) Convention under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, which had been delayed due to disagreements over fishing rights¹⁸. In this case, it was the delegation led by Agustín Santos Maraver, Permanent Representative of Spain to the United Nations, which was responsible for signing and ratifying the convention¹⁹.

This paper is based on the need to address the expansion of Spain's maritime borders, specifically in relation to the delimitation of the marine space known as the continental shelf. This interest is supported by the current context of codification of the management and use of marine resources in areas beyond national jurisdiction.

2. The enlargement application procedure

The procedure for requesting an extension of a state's continental shelf from the United Nations is detailed below. It analyses the legal basis, the body responsible for assessing the submission, the deadline given to states to submit the application, the documents provided by the Limits Commission to facilitate the work of the applicants and the content to be included in the applicants' submission.

2.1. Legal basis

Article 76 of the 1982 UNCLOS provides for the possibility for States Parties to extend their continental shelf from 200 nautical miles to 350 nautical miles where the geomorphic characteristics of the seafloor and subsoil so allow. Canada, India and

17 Instrument of ratification of the United Nations Convention on the Law of the Sea, at Montego Bay on 10 December 1982. <https://www.boe.es/buscar/doc.php?id=BOE-A-1997-3296>

18 Agreement within the framework of the United Nations Convention on the Law of the Sea on the conservation and sustainable use of the marine biological diversity of areas beyond national jurisdiction <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/177/31/PDF/N2317731.pdf?OpenElement>

19 United Nations General Assembly, *Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction*, 3 April 2023; https://www.un.org/bbnj/sites/www.un.org/bbnj/files/bbnj5-_provisional_list_of_participants_as_of_3_april_2023.pdf

Australia are obvious candidates, however other states, such as Spain, do not appear to project a large continental shelf but have certain points along their coastline that may be eligible for this claim.

2.2. The responsible body: the Limits Commission (CLCS)

UNCLOS created three *ex novo* institutions to enforce its provisions: 1) the International Tribunal for the Law of the Sea, based in Hamburg; 2) the Enterprise (whose mission is to manage the exploitation of seabed resources in the Area); and 3) the Commission on the Limits of the Continental Shelf (CLCS), which is part of the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat (DOALOS) and whose legal regime is found in Annex 2 of UNCLOS.

The last of these institutions is responsible for handling requests to extend the shelf of coastal states. The CLCS was established for the dual purpose of examining requests for continental shelf extension submitted by coastal states, issuing recommendations, and to provide scientific and technical assistance to requesting states in preparing their requests.

It should be noted that the CLCS has no competence to establish the outer limit of the continental shelf. Nor does the International Seabed Authority have any competence in this procedure. The right and power to establish the outer limits of the continental shelf belongs exclusively to coastal states, in recognition of their sovereign rights, as stated in article 77.3 UNCLOS.

The Commission on the Limits of the Continental Shelf is composed of 21 members who must be experts in geology, geophysics or hydrography (according to article 2.1 of Annex 2 of UNCLOS). They serve in their personal capacity, but are elected by the States Parties to the Convention from among their nationals, by a two-thirds majority, taking into consideration the equitable representation of the different geographical regions.

Members sent by a particular state do not participate in the subcommissions that consider submissions made by the state of which they are a national or if they have advised that state in the process of drafting the submission, although they may participate in the general discussions. They should also refrain where there is a conflict of interest between their country and the submitting state. Therefore, in the case of Spanish requests for extension, a CLCS member sent by Spain would not be able to participate in their assessment. It is a fact, however, that no Spaniard has ever been a member of the CLCS and Spain has never paid the expenses of a member of another

nationality. The last term of CLCS members ran from 2017 to 2023, so we will soon have a renewed CLCS, presumably again without a Spanish member²⁰.

2.3. *Deadline*

The deadline for submitting this request is set out in article 4 of Annex 2 of UNCLOS, which establishes the obligation to submit the scientific and technical details of such limits to the CLCS “*as soon as possible but in any case within 10 years of the entry into force of the Convention for that State*”.

Since the Convention entered into force in 1994, the deadline expired in 2004 for states that had ratified it at that initial time. However, since the CLCS did not start its work until May 1997 and did not establish the procedure until 1999, it was clear that the timeframe initially stipulated was insufficient. In view of the difficulties faced by coastal states in preparing their submissions and considering the limited time available, different alternatives were proposed at the 2001 Meeting of States Parties to the Convention; a deadline extension was finally decided²¹. Thus, taking as a reference the date on which the CLCS Guidelines were adopted, 13 May 1999, the ten years began to run from that date and not from the time of ratification of each State Party that had ratified the convention before that date. This decision was based on the inherent right of the coastal state over the adjacent continental shelf, regardless of its occupation or whether it had made an express declaration to that effect. Therefore, the new deadline for those states that had ratified the Convention before 13 May 1999 was 13 May 2009.

Despite this moratorium, the 2009 Meeting of States Parties modified the manner in which coastal states could comply with this obligation. Although the ten-year deadline and the starting point remained the same, the format of the submission was relaxed and was no longer required to be complete. Partial submissions were allowed to provide preliminary indicative information on the outer limits of the continental shelf beyond 200 nautical miles, as well as a description of progress and estimated date for full submission. This preliminary information should not prejudice the final submission that the coastal state might make in the future.

This alternative was specially designed to provide developing countries the option to stop the clock and avoid running out of time too early. Since the coastal state has an inherent right over its continental shelf as a natural prolongation of the continental

²⁰ United Nations, *CLCS Members from 1997 to 2023*. https://www.un.org/depts/los/clcs_new/commission_members_1997_2017.htm

²¹ Decision SPLOS/72 of 29 May 2001 regarding the date of commencement of the 10-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex 2 of UNCLOS. <https://digitallibrary.un.org/record/441543?ln=es>

territory, it was considered that it should be understood that this right should not expire due to failure to meet a deadline.

Not surprisingly, the extension of the original deadline led to a marked increase in submissions near the new deadline of 13 May 2009. These were supplemented by partial submissions and preliminary information. No specific deadline was set for all these cases.

Finally, note that the Commission must also consider the submissions of states that became parties to the Convention after 1999 and those that may do so in the future, for which the deadline is not 13 May 1999 but ten years from the time they ratify the Convention. In any case, the first application was made by the Russian Federation in 2001, followed by Brazil and Australia in 2004, Ireland in 2005 and New Zealand in 2006. As of September 2023, the CLCS has received 93 applications, along with ten other revised submissions²².

2.4. Documentation of the Commission on the Limits of the Continental Shelf (CLCS) available to coastal states for preparing submission

The CLCS Regulation, the latest version of which dates from 2008, has two annexes:

1. Annex I: concerning the processing of submissions in case of a dispute between states with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes;
2. Annex 2: on confidentiality.

This document, for internal use by the CLCS, can provide guidance to states when making their requests for information on how the CLCS works and the criteria it uses to analyse requests. In addition, the CLCS has developed two other documents to guide states in their application: the Scientific and Technical Guidelines²³ and the Manual²⁴.

The Scientific and Technical Guidelines, published in 1999, specify the procedure to be followed in order to obtain evidence for the delineation of the outer limit of the continental shelf to the coastal state, generally of a geological and cartographic nature.

22 Submissions, through the Secretary-General of the United Nations, to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea of 10 December 1982; last updated 17/08/2023 https://www.un.org/Depts/los/clcs_new/commission_submissions.htm

23 Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, *Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf adopted by the Commission on 13 May 1999 at its fifth session*; New York 1999. <https://digitallibrary.un.org/record/276889?ln=en>

24 Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, *Training Manual for delineation of the outer limits of the continental shelf beyond 200 nautical miles and for preparation of submissions to the Commission on the Limits of the Continental Shelf*; New York, 2006. <https://digitallibrary.un.org/record/700597?ln=es>

This is probably the most costly part because it requires the employment of scientific teams with the necessary equipment to carry out the surveys; many states lacking resources cannot afford these costs, so collaborations are often established between neighbouring states to carry out the surveys. The Manual describes the planning and procedure for the preparing submissions. The first edition of the Manual was published in 2006 and is the main guide for coastal states interested in requesting the extension of their continental shelf.

2.2. The report to be submitted by coastal states

As we have seen, the application must contain a detailed technical report on the geomorphological characteristics of the specific section of the continental shelf whose boundaries are to be extended, including information on water depth and thickness of sedimentary layers. Water depth is crucial to establish the transition point between the continental slope and the deepest part. This transition point is located at the 2,500 metre isobath. Sediment thickness plays a key role in identifying points where the thickness of sedimentary layers equals 1% of the shortest distance between that point and the transition point mentioned above. This information is obtained through underwater oceanographic surveys, which also provide data on the resources present on the seabed and subsoil under study.

Submission of this documentation should follow a formal structure consisting of three parts, in accordance with the procedure laid down in the CLCS Regulation: summary, main section and supporting scientific and technical data. The summary should include elements such as the coordinates defining the outer limits of the continental shelf, baselines used to measure the territorial sea, the provisions of article 76 of UNCLOS supporting the submission, Commission members who provided advice, and any unresolved land or maritime disputes.

The main section should thoroughly analyse the data provided, the charts drawn and the scientific methodology employed. The third part requires the coastal state to submit the scientific and technical data supporting its proposal to extend the continental shelf. This data is subject to thorough study and assessment by the Limits Commission.

This documentation is prepared in four key steps.

Firstly, establishing “baselines”. The transition point between the continental slope and the deepest part is used as a reference to draw the lines obtained using the Hedberg and Gardiner formulae defined in article 76.4.a of UNCLOS. The outer limit of the continental shelf is established from the outermost line marking the intersection of these lines.

Secondly, the extension test. At this stage, the coastal state must provide evidence that the natural prolongation of its submerged continental territory to the point of transition between the continental slope and the deepest part extends beyond 200

nautical miles measured from the baselines. If it fails to provide this evidence, the limit of its continental shelf is automatically drawn to a distance of 200 nautical miles.

Thirdly, establishing restriction lines. Article 76.5 of UNCLOS establishes two restrictions on the process of extending the continental shelf: one based on distance (up to a maximum of 350 nautical miles measured from the baselines) and the other based on depth (100 nautical miles measured from the 2,500 metre isobath). Where these restriction lines intersect, the outermost line shall be drawn, comprising the sections furthest from the coast. Where there is no crossing, the line furthest from the coast shall be selected. Submarine ridges are subject to stricter regulations under article 76.6. The outer limit of these submarine ridges is 350 nautical miles. However, at submarine elevations which form a natural part of the continental margin (such as plateaus, emersions, peaks, shoals or spurs), the outer limit may extend beyond 350 nautical miles, provided that it does not exceed 100 nautical miles measured from the 2,500 metre isobath.

Fourthly and finally, drawing the outer limits. With the evidence of extension submitted and the baselines and restriction lines drawn, the coastal state can proceed with the final delineation of the outer limit of its extended continental shelf. If the line obtained from the formulae lies inside the restriction line, this will define the outer limit of the continental shelf. If the line obtained extends beyond the restriction line, the latter will be decisive for the outer limit of the continental shelf. In general, this process results in a combined line that incorporates sections of the baselines and the restriction lines. Following these criteria, the coastal state may make its submission to the Limits Commission.

3. The case of Spain

The characteristics of the current Spanish continental shelf, the working group in charge of preparing the request for extension, the delimitation of areas susceptible to extension and, finally, submission by the Spanish State to the CLCS are presented below.

3.1. *The current Spanish continental shelf*

Spain's vast coastline, with 7,880 kilometres, would suggest the possible existence of a large continental shelf. However, the geographical characteristics of the seabed adjacent to the Spanish coast do not support these claims.

As an inland sea, the Mediterranean has no steep slopes like in the Atlantic Ocean. Bordering the eastern and southern part of the Iberian Peninsula there are two Neogene basins covered by the Mediterranean Sea, the Alboran Furrow and the Valencia Furrow

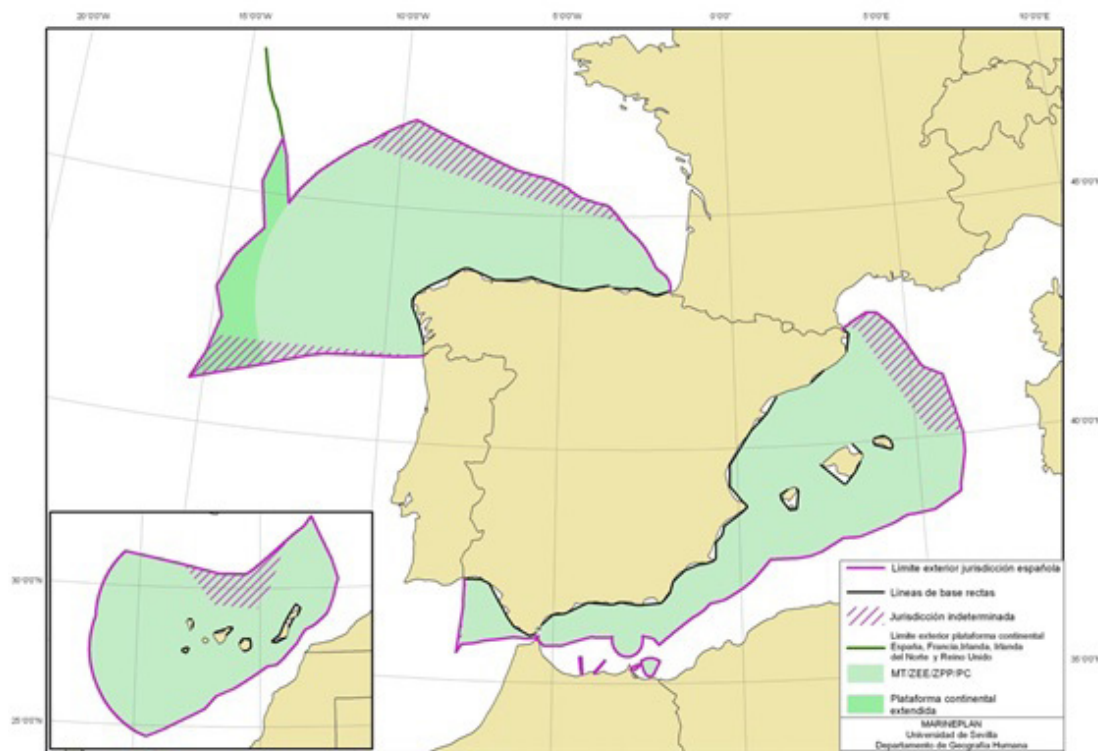
or Catalan-Balearic Basin, both belonging to the Spanish maritime area, but in no area deeper than 3,500 metres.

In the Atlantic, Spain has hardly any natural continental shelf as the outer margin slopes steeply downwards. In the Gulf of Cadiz the shallower area is also quite wide, although it narrows considerably in the Alboran Sea, widening again in the eastern part of the Levantine Shelf.

Therefore, the geographical characteristics of the peninsula are not conducive to a claim for enlargement in the Mediterranean. Moreover, the proximity to neighbouring coastal states also means that an extended shelf, but also a normal 200 nautical mile shelf, is no longer possible. The geological reality imposes the possibility of applying for extension only in the north-west of the peninsula and around the Canary Island archipelago.

3.2. The Spanish working group

In contrast to the decisions taken by other neighbouring countries (such as France and Portugal), the Spanish government agreed not to create a new temporary administrative structure. Thus, preparation of submissions to the Limits Commission was entrusted to a temporary working group created *ad hoc* for the first Celtic Sea and Bay of Biscay submission and replicated for the following two submissions. This working group is the Scientific and Technical Group for the Extension of the Continental Shelf, made up of scientists and technicians from the Spanish Geological

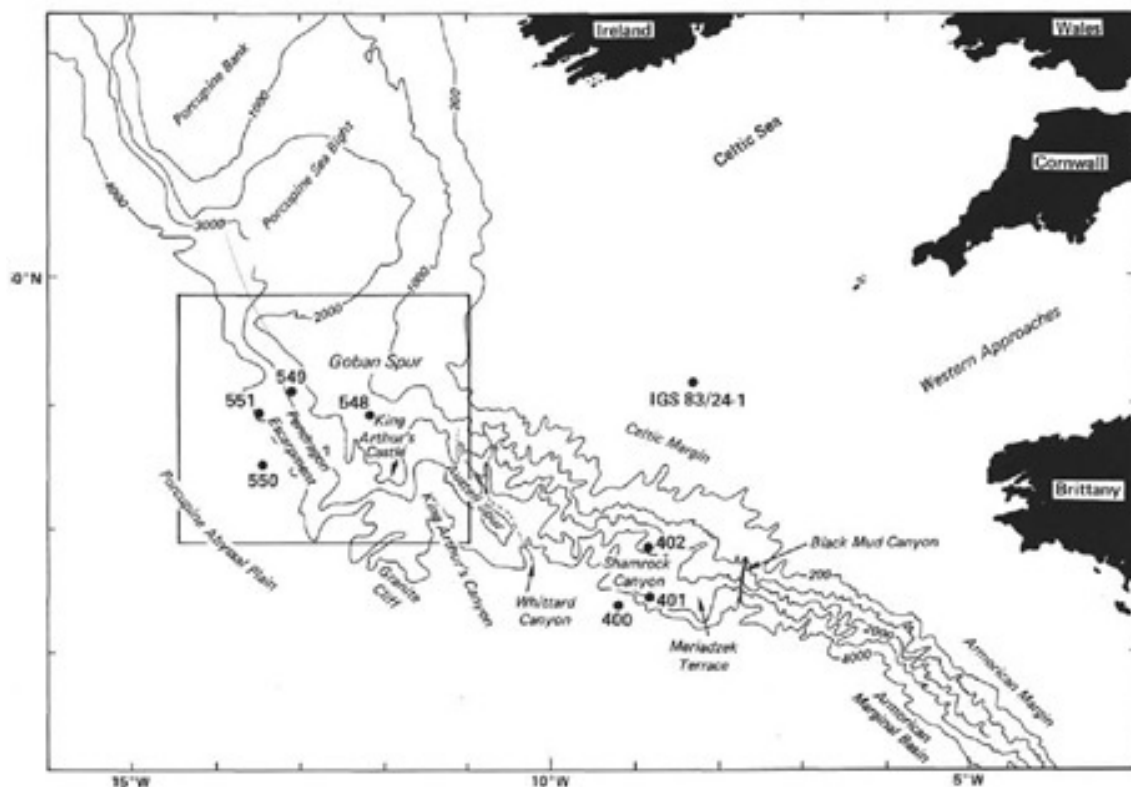


Limites exteriores de la jurisdicción española ante las solicitudes de ampliación. Fuente: Atlas para la planificación nacional marítima de la Universidad de Sevilla <http://hurricane.us.es/atlas/escalanacional/presentacion.pdf>

and Mining Institute (IGME), which is the group's technical coordinator; the Spanish Institute of Oceanography (IEO) and the Hydrographic Institute of the Navy (IHM) of the Ministry of Defence. This group coordinates with France and Portugal, and is under the supervision of the International Legal Department of the Ministry of Foreign Affairs, European Union and Cooperation (MAUC), which is in charge of the oral and written submission to the Limits Commission in New York. It also had logistical support from the Naval General Staff and collaboration from the Commission for the Coordination and Monitoring of Oceanographic Vessel Activities (COCSABO) of the Marine Technology Unit (UTM-CSIC)²⁵.

3.3. *The delimitation of areas eligible for enlargement in Spain*

As we have seen, despite its extensive coastline, Spain's geographical position prevents it from extending its continental shelf in the south and east of the peninsula, so it was only possible to consider enlargement in the western Atlantic.



Batimetría del margen continental mostrando las regiones de Goban Spur, la plataforma céltica y los Armorican Margins. Fuente: Graciansky, P.D y Poag, C. *Geologic history of Goban Spur, Northwest Europe continental margin* 1985. http://deepseadrilling.org/80/volume/dsdp80pt2_58.pdf

25 Somoza, L., Medialda, T., Rengel, T., León, R.; Vázquez, T.; Bohoyo, F.; González, F. J., *Extensión de la Plataforma Continental española en el Golfo de Vizcaya y Mar Céltico con arreglo al artículo 76 de la Convención de las Naciones Unidas sobre el Derecho del Mar (1982)*. 6th Symposium on the Iberian Atlantic Margin, Oviedo, 1-5 December 2009; <http://www.repositorio.ieo.es/e-ico/handle/10508/3202>

3.3.1. The Celtic Sea, the Bay of Biscay and the FISU Area

Within the Atlantic Ocean, the Celtic Sea and the Bay of Biscay present the ideal geomorphic characteristics. The area covered by the 2006 application is therefore in the north of the peninsula, bordering to the north by the outer edge of the extended continental shelf claimed by Ireland, and to the south by the 200 nautical mile limit measured from the baselines of the Spanish coast; it comprises a total area of some 79,000 square kilometres.

The outer limit was determined by identifying the geological features of the ocean floor (regions known by the names, from north to south, Goban Spur, the Celtic Shelf and the Armorican Margins), extending to a deeper sedimentary basin in the Bay of Biscay known informally as the Union Basin, located between the Celtic margin and the northern Iberian margin, an area where possible continental shelf extensions of the four coastal states converge: Spain, France, United Kingdom and Ireland. Determining this part of the outer boundary was the most challenging because the Goban Spur margin is highly irregular, featuring a series of successive geological faults.

Preliminary survey work to delimit the area began in late 2003. These preparations were based on a considerable volume of previous technical data from the four countries, as well as the collection of new data acquired specifically for the joint submission. Such was the case with the seismic survey and sampling campaign named Breogham, carried out by the Spanish oceanographic vessel *Hespérides* and manned by a team of scientists from the four states.

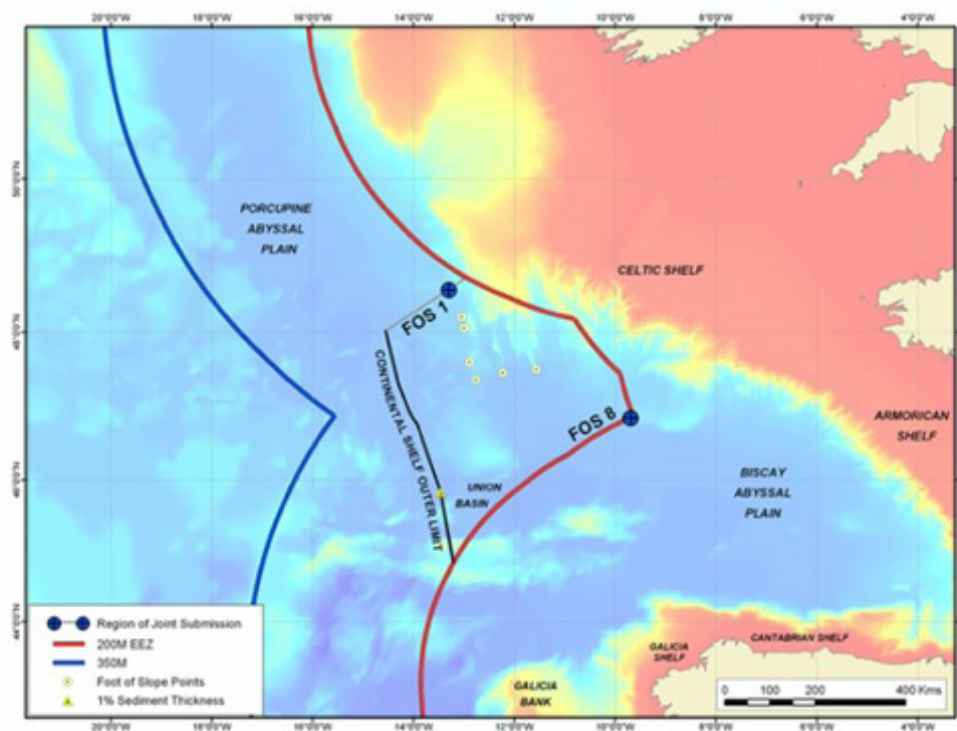


Figure 1 : Limite exterior de la plataforma continental en el área del Mar Céltico y Golfo de Vizcaya

Fuente: Resumen Ejecutivo de la presentación conjunta.

This work accredited the membership formula, confirming that the seabed sediment thickness was greater than the 1% established by the Gardiner formula. Consequently, the outer limit of the continental shelf in the Bay of Biscay was set at 17 fixed points established by applying the Hedberg and Gardiner formulae, and one fixed point located within 200 nautical miles of Spain.

3.3.2. Galicia and the Area of Common Interest (ACI) with Portugal

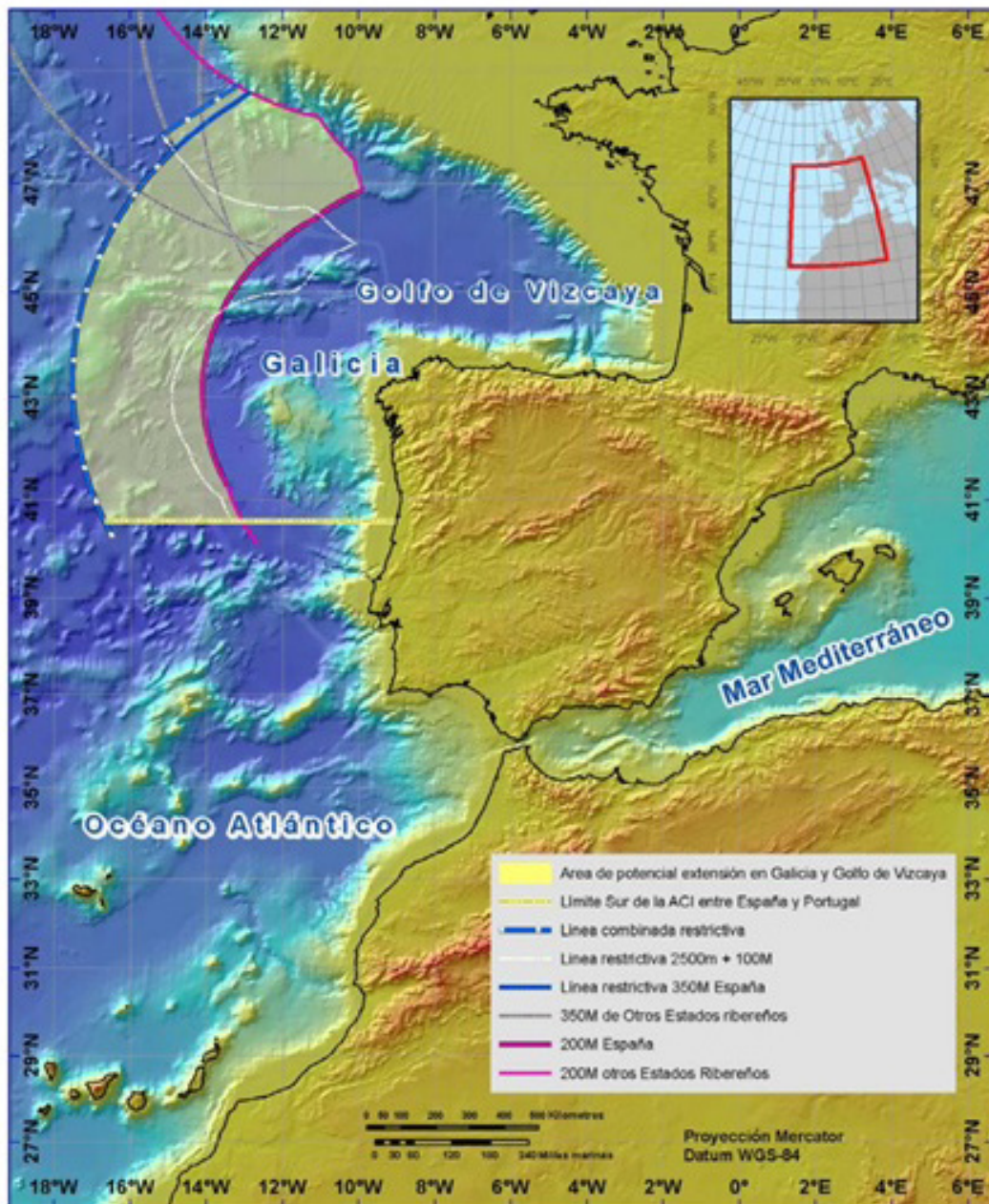


Figura 1: Mapa de la extensión potencial de la plataforma continental de España en el área de Galicia y Golfo de Vizcaya.

Fuente: Resumen Ejecutivo de la presentación española.

Espacios marinos bajo jurisdicción española antes del establecimiento de la plataforma ampliada	
Aguas interiores	14.679 km ²
Mar territorial	101.700 km ²
Zona contigua	117.216 km ²
Zona Económica Exclusiva	758.253 km ²
Zona de protección de pesca	190.582 km ²
Plataforma continental en el Mar de Alborán	14.019 km ²
Total espacios marinos bajo jurisdicción española	1.196.449 km²

Fuente: elaboración propia a partir del "Atlas para la planificación nacional marítima" de la Universidad de Sevilla
<http://hurricane.us.es/atlas/escalanacional/presentacion.pdf>

The second area where the extension of the Spanish continental shelf was considered was in the maritime areas adjacent to the western coasts of Galicia. This is a strip of ocean floor with continuity with respect to the extended continental shelf in the area of the Celtic Sea and Bay of Biscay. In this case there was no overlap with France, the UK or Ireland, but there was an overlap with Portugal.

Given the lack of a bilateral treaty for the delimitation of the continental shelf opposite the mouth of the Miño River (finally signed in 2017²⁶), the two states jointly decided to create an Area of Common Interest (ACI). The extent of this ACI is bounded on its northern edge by the 41° 52' parallel north, and on its southern edge by the 40° 34' 13" parallel north. These limits include the possible variation in latitude of the equidistant line drawn from the mouth of the river Minho. On the other hand, boundaries to the east and west are defined by lines drawn at distances of 200 nautical miles and 350 nautical miles respectively, measured from the baselines used to measure the breadth of the territorial sea. In total, the area claimed by Spain in this zone is around 56,000 square kilometres.

Within the ACI, both commissions undertook to carry out joint oceanographic research missions to acquire data of common interest, share the information obtained and use the same methodology in determining the outer edge of the continental shelf established in their respective submissions. On the Spanish side, the ship *Hespérides* participated with the Breogham and ESPOR campaigns and on the Portuguese side, the *NRP Joao Coutinho*²⁷.

26 Treaty between the Kingdom of Spain and the Portuguese Republic establishing the closure line of the mouths of the Minho and Guadiana rivers and delimiting the international sections of both rivers, signed at Vila Real on 30 May 2017, published in the BOE (Official State Gazette). https://www.boe.es/diario_boe/txt.php?id=BOE-A-2018-11228

27 Somoza, Luis. *España amplía sus fronteras en el mar*, XX Semana de Estudios del Mar, Fundación ASESMAR 2012.

During these investigations it was possible to conclude that the northern outer limit of the Portuguese continental shelf, given the geomorphological structure of the submarine promontory known in Portuguese as *Esporão da Extremadura*, did not coincide with the outer limit of the Spanish continental shelf, as measured from the geomorphological structure of the Bank of Galicia. In a normal situation, counting only from the geomorphological structures located south of the equidistant line, the outer limit of the Portuguese continental shelf would have been closer to the

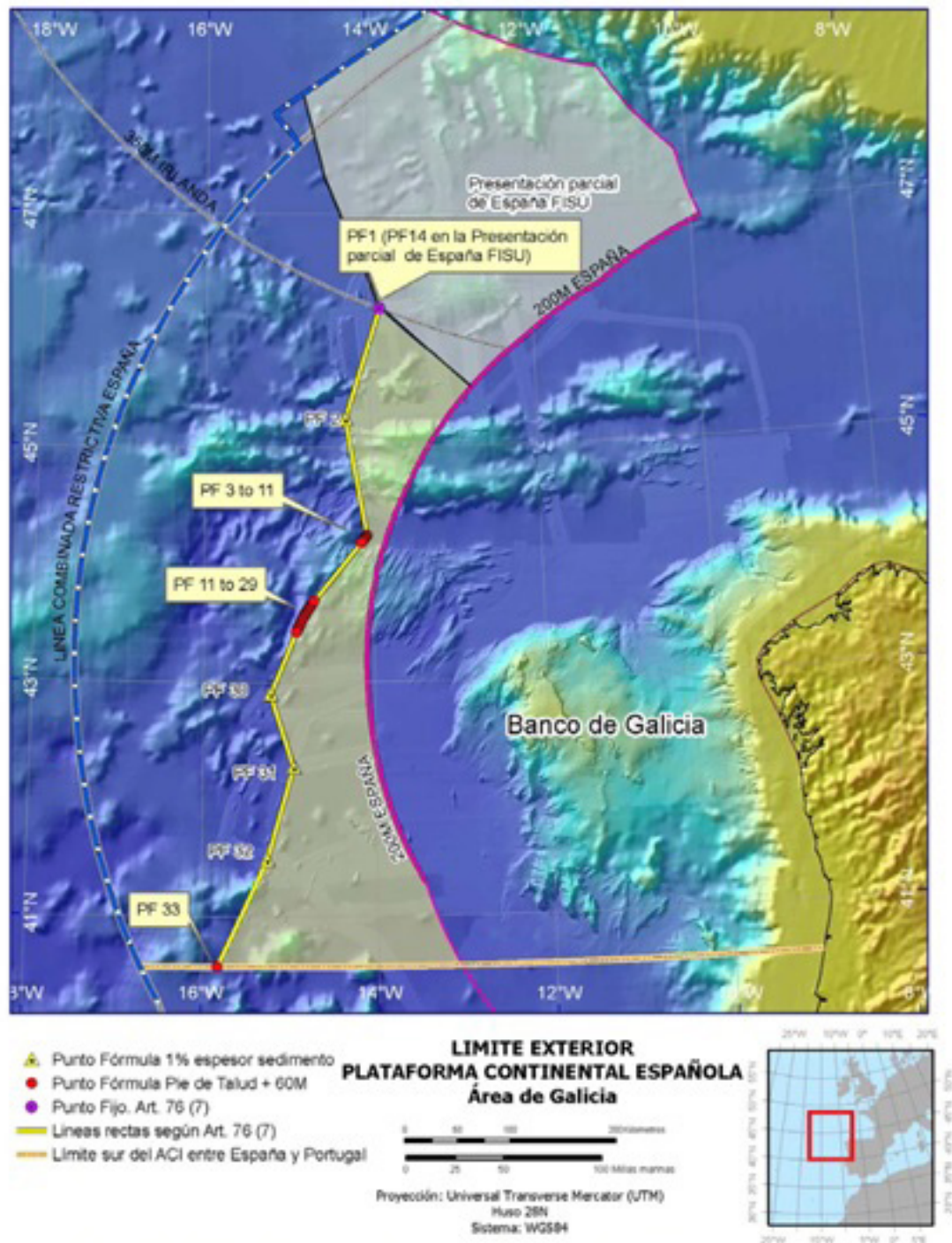


Figura 2: Detalle de las líneas resultantes de las fórmulas utilizadas para definir el límite exterior de la plataforma continental más allá de las 200 millas marinas en el área de Galicia.

Fuente: Resumen Ejecutivo de la presentación española.

coastline than the outer limit of the Spanish continental shelf. In these circumstances, the two delegations agreed to lower the southern boundary of the ACI so that the southernmost fixed point of the Spanish proposal could be connected to a slope fan

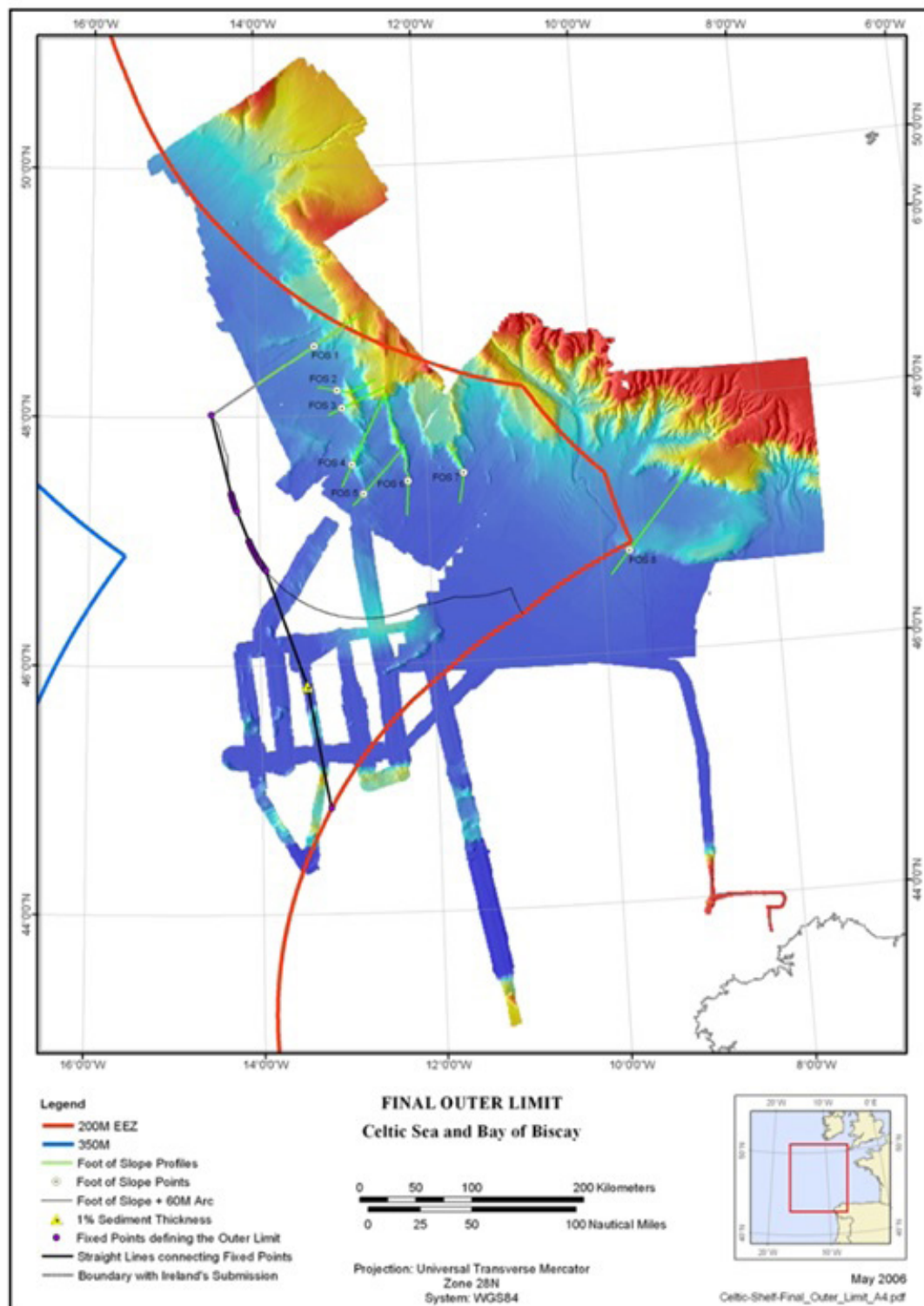


Figura 2: Detalle de las líneas resultantes de las fórmulas utilizadas para definir el límite exterior de la plataforma continental ampliada en el área del Mar Céltico y Golfo de Vizcaya.

Fuente: Resumen Ejecutivo de la presentación conjunta.

https://www.un.org/Depts/los/cles_new/submissions_files/frgbires06/presentacion_conjunta_resumen_espanol.pdf

located in the *Esporão da Extremadura* and, in reciprocity, the northernmost point of the Portuguese proposal could be connected to a slope fan located in the Bank of Galicia.

3.3.2. Canary Islands

The extension of the Canary Island continental shelf may initially seem straightforward given that it is an archipelago in a deep-water ocean. Nothing could be further from the truth, particularly in the western part of the archipelago, where preparing the technical and scientific studies was particularly complex due to the possible overlap with areas claimed by the neighbouring states of Mauritania, Cape Verde, Portugal and, above all, Morocco. Surveys took place between 2010 and 2014 and were carried out by Spanish oceanographic vessels *Hespérides* (which had already participated in previous surveys), *Sarmiento de Gamboa* and *Miguel Oliver*. In addition, information gathered by the four campaigns carried out by the Ministry of Defence in the EEZ in 1999 (the oceanographic vessel *Geco Tau* also participated in this campaign), 2000, 2011 and 2012²⁸ was also used. Based on this information, Spain drew the outer limit of its continental shelf on its application to the west of the Canary archipelago by establishing the position of 448 fixed points, representing an area of approximately 220,000 square kilometres.

It is also important to underline that the outer limit of the Spanish continental shelf to the west of the Canary Islands is fixed at a distance of 350 nautical miles from the baselines from which the breadth of the territorial sea is measured, as established by Royal Decree 2510/1977 of 5 August²⁹, on the western coasts of the islands of La Palma and El Hierro. In this sense, the 2010 act on Canary Islands waters³⁰ establishes a somewhat confusing perimeter delimitation of the archipelago's waters³¹, which provoked Morocco's protest through various notes verbales. Spain responded to this objection by recalling that the baselines used in the presentation are those defined by RD 2510/1977, thus complying with the rules of international law in force.

28 Hydrographic Institute of the Navy Report, year 2012. *Plan de Investigación Científica de la ZEE*; Ministry of Defence, Madrid 2013. <https://publicaciones.defensa.gob.es/media/downloadable/files/links/P/D/PDF430.pdf>

29 Royal Decree 2510/1977 of 5 August 1977 on the drawing of straight baselines in implementing Act 20/1967 of 8 April 1967 on the extension of Spanish waters under Spanish jurisdiction to 12 miles for fishing purposes. <https://www.boe.es/buscar/doc.php?id=BOE-A-1977-23967>

30 Act 44/2010 of 30 December on Canary Islands waters. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2010-20140

31 This act establishes a somewhat different delimitation of Canary Islands waters than that of RD 2510/1977. However, it also contains an additional provision stating that “*The outline of the perimeter contour shall not alter the delimitation of the maritime areas of the Canary Islands as established by the Spanish legal system under current international law*”. Consequently, the Canary Islands Waters Act does not repeal Royal Decree 2510/1977, which establishes the baselines for measuring the territorial sea. In any case, this confusion was enough to prompt Morocco to send several notes verbales to the Limits Commission expressing its disagreement. Finally, Spain clarified the use of the limits established by RD2510/1977 and was able to prove the non-existence of international disputes as the Moroccan protest lacked any legal basis.

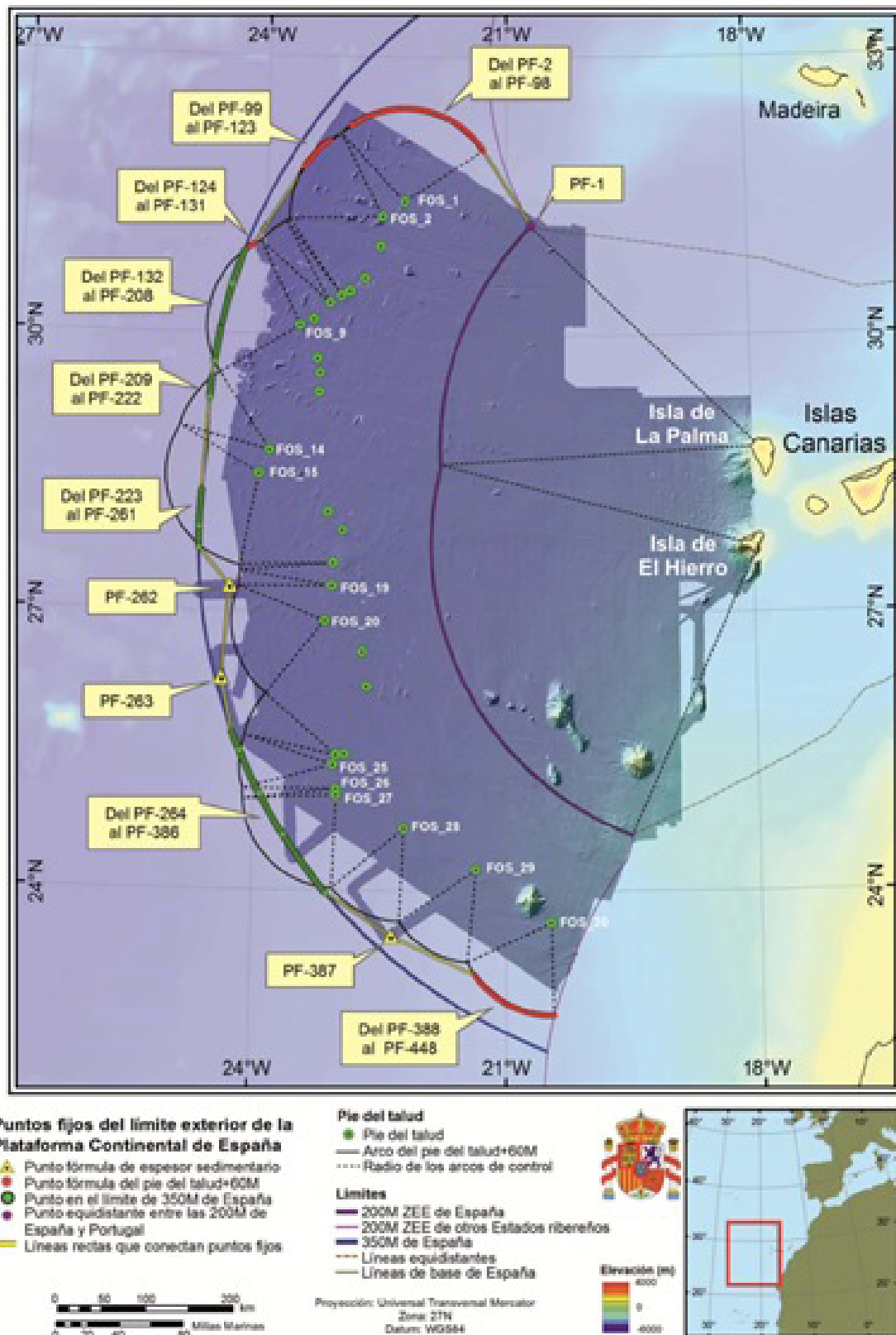


Figura 3: Límite exterior de la Plataforma Continental de España más allá de las 200 millas marinas en el área al Oeste de las Islas Canarias

Fuente: Resumen Ejecutivo de la presentación española.

Posibles ganancias territoriales resultantes de la ampliación de la plataforma continental	
Plataforma continental ampliada en Mar Céltico y Golfo de Vizcaya	~ 79.000 km ²
Plataforma continental ampliada en Galicia	~ 56.000 km ²
Plataforma continental ampliada en Canarias	~ 220.000 km ²
Total	355.000 km²

Fuente: elaboración propia a partir de datos aportados por la CLPC.

3.4. Spanish presentations

As seen, States Parties have a period of ten years from the date of deposit of this State Party's instrument of ratification to request the extension of its continental shelf. UNCLOS entered into force for Spain on 14 February 1997, so the deadline for submission to the Limits Commission should have been 2007. However, as previously noted, the deadline was extended to ten years from the adoption of the CLCS Guidelines on 13 May 1999, thus expiring on 13 May 2009³².

Spain did not miss this deadline, during which three partial submissions were made: one in 2006 and two in 2009. The first of these was a joint submission (the first of its kind made to the Commission) with France, the United Kingdom and Ireland, concerning the Bay of Biscay and Celtic Sea area³³. Unfortunately, successive requests for enlargement could not be made jointly with the neighbouring countries. In the case of Portugal, as this country submitted a single global application for of the whole of its continental shelf subject to extension beyond 200 nautical miles, an area of two million square kilometres, only a small part of which overlaps with the Spanish continental shelf. However, the Spanish and Portuguese applications were submitted on the same day and were the result of close technical and legal cooperation. In the case of the request for enlargement in the area adjacent to the Canary Island archipelago, a joint declaration was also not submitted with neighbouring states because of a delay in the collection of scientific data and the pressure imposed before the application deadline.

The enlargement submissions made by Spain to the UN CLCS are analysed in detail below.

32 Decision SPLOS/72 of 29 May 2001 regarding the date of commencement of the 10-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex 2 of UNCLOS. <https://digitallibrary.un.org/record/441543?ln=es>

33 Joint submission to the Commission on the Limits of the Continental Shelf in accordance with article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982 with respect to the Celtic Sea and Bay of Biscay area, ISBN 84-7840-633-6 Spain. https://www.un.org/Depts/los/clcs_new/submissions_files/frgbireso6/presentacion_conjunta_resumen_espanol.pdf

	Mar Céltico y Golfo de Vizcaya	Galicia	Canarias
Superficie solicitada	79.000 km ²	56.000 km ²	220.000 km ²
Tipo de solicitud	Conjunta	Individual	Individual
Fecha de entrega de información preliminar	No hubo	No hubo	11 mayo 2009
Fecha de registro	19 mayo 2006	11 mayo 2009	17 diciembre 2014
Fecha de presentación	21 agosto 2006	7 abril 2010	26 de agosto 2015
Estado de la solicitud	recomendaciones emitidas el 24 marzo 2009	en estudio	en lista de espera

Las tres presentaciones españolas para la ampliación de la plataforma continental española. Fuente: elaboración propia a partir de datos aportados por la CLPC. https://www.un.org/depts/los/clcs_new/commission_submissions.htm

3.4.I. Presentation for the Celtic Sea and Bay of Biscay 2006

In this case, the four states involved decided to make a joint application, which was submitted to the Commission on 19 May 2006³⁴. This area is also known as FISU, after the acronym of the four countries that submitted the joint application, i.e. France, Ireland, Spain and the United Kingdom. According to British delegate Douglas Wilson, who made the oral presentation to the Sub-Commission on 6 October 2006, the four states could potentially have made separate, overlapping submissions, but considered it more appropriate to take advantage of the possibility of making a joint submission since, following the issuance of recommendations by the Commission, the four states could establish the outer limit of their continental shelf in the region prior to its delimitation among themselves³⁵. This joint submission was, in reality, a partial claim made by the four coastal states. It did not refer to the outer limits of the entire continental shelf to which each of the states is entitled, but was confined only to the part of the outer limits in the area of convergence of the continental shelf adjacent to the four coastal states.

The final recommendations were approved by the Limits Commission on 24 March 2009³⁶ and imply for Spain a total extension of the legal title to the continental shelf beyond 200 nautical miles of 79,000 square kilometres.

.....

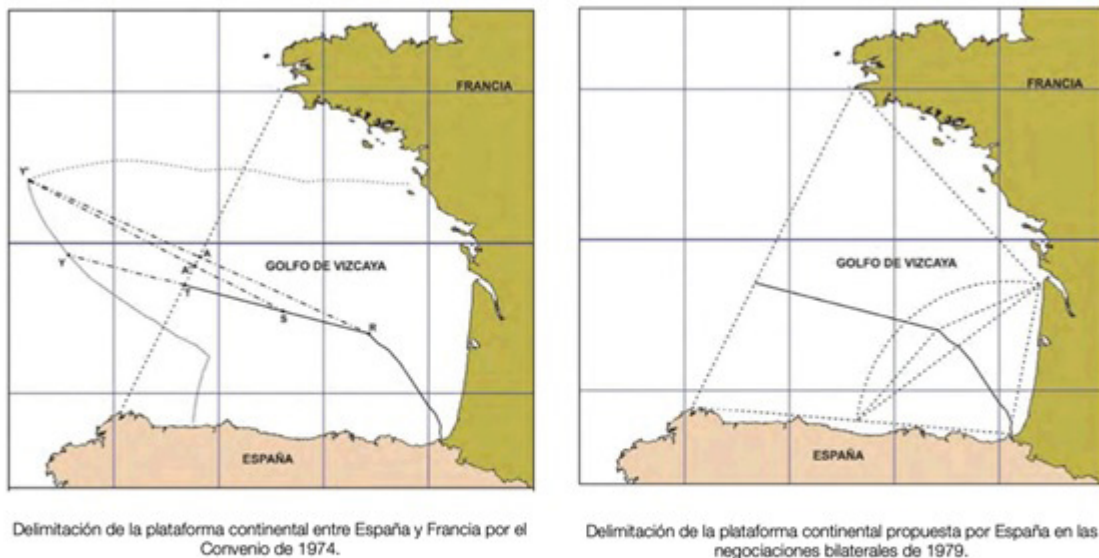
34 Joint submission to the Commission on the Limits of the Continental Shelf in accordance with article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982 with respect to the Celtic Sea and the Bay of Biscay Area https://www.un.org/Depts/los/clcs_new/submissions_files/frgbireso6/presentacion_conjunta_resumen_espanol.pdf

35 Commission on the Limits of the Continental Shelf. *Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission, 2 March 2009*. <https://digitallibrary.un.org/record/655321>

36 Summary of the recommendations of the Limits Commission in regard to the submission made by France, Ireland, Spain and the United Kingdom on 19 May 2006. https://www.un.org/depts/los/clcs_new/submissions_files/frgbireso6/fisu_clcs_recommendations_summary2009.pdf

In September 2023, however, delimitation of the areas corresponding to each of the four states is still pending, to be reached by negotiation between the parties. In this case, Spanish maritime space is only adjacent to French maritime space, so negotiations are held at bilateral level with France. However, these negotiations have failed to make progress since 2012. In this particular area there is a previous agreement, the 1974 Bay of Biscay Delimitation Convention between Spain and France³⁷, considered by certain jurists as disadvantageous for Spain and more favourable to France because it does not respect the Principle of equidistance³⁸.

In 1979, on the definition of the Exclusive Economic Zones by both states up to 200 nautical miles, negotiations for a new delimitation began but failed. CLCS recommendations of 2009 reopened the issue between the two countries, but France's proclamation of an Exclusive Economic Zone in the Mediterranean in 2012³⁹ prompted Spain to make a formal protest by note verbale to the United Nations and negotiations were terminated⁴⁰.



Fuente: Lacleta Muñoz, J.M. / Almazán Gárate, J.L. / Estepa Montero, M. 2007. El régimen jurídico de los espacios marinos en Derecho español e internacional. Universidad Politécnica de Madrid, E.T.S. de Ingenieros de Caminos Canales y Puertos, Madrid p. 120.

Given the limited economic activity so far in the potential hydrocarbon reservoir in the area, the question arises as to why the French government proclaimed its

37 Instrument of Ratification of the Convention between Spain and France on the Delimitation of the Territorial Sea and the Contiguous Zone in the Bay of Biscay (Gulf of Gascony), in Paris on 29 January 1974. https://www.boe.es/diario_boe/txt.php?id=BOE-A-1975-14263

38 Gutierrez Castillo. *España y sus fronteras en el mar: Estudio de la delimitación de sus espacios marinos*, Dykison, Madrid 2004.

39 Décret n° 2012-1148 du 12 octobre 2012 portant création d'une zone économique exclusive au large des côtes du territoire de la République en Méditerranée <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000026483528>

40 Note Verbale of 23 October 2012, communicated to the UN Secretary General on 27 March 2013; https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn94_2013_esp_f.pdf

Exclusive Economic Zone in the Mediterranean while negotiations were underway to extend the continental shelf in the Atlantic. There are two hypotheses about the motivations behind these actions. Some argue that France could have tried to link the two negotiations in a comprehensive approach to obtain a more favourable outcome⁴¹. Others suggest that Spain, by withdrawing from the negotiating table, sought to link the two disputes in an attempt to achieve mutual concessions in both situations and facilitate a global agreement between the two countries⁴². This stagnation may be due to a lack of industry pressure to develop subsea exploitation projects in these areas, the potential benefits of which seem to be uncertain. The absence of business urgency may delay delimitation in this case. In any case, these strategies have not led to significant diplomatic progress, and in the present day of 2023, the possibility of resolving maritime border disputes between France and Spain seems as distant as it did a decade ago.

Finally, France's proclamation of a great power naval policy, announced in a speech by French President Nicolas Sarkozy in Le Havre in 2009, should also be taken into consideration⁴³. For the time being, France has opted for a strategy that allows for the legal coexistence of conflicting claims to the same maritime space, at least in the short term, as long as economic interests do not require immediate delimitation. This strategy entailed an inflexible attitude in negotiations that has been maintained to this day.

3.4.2. *Presentation for Galicia 2009*

In this case Spain submitted an individual application⁴⁴ and not jointly with Portugal as the latter had decided to submit a single application for the extension of its platform in all eligible areas. The oral presentation by the diplomatic delegation took place on 13 April 2010. The Spanish working group was also advised by Portuguese Commission member Fernando Maia Pimentel when preparing the application⁴⁵.

41 Gutiérrez Castillo, V. L. 2014, La zona económica exclusiva francesa en el Mediterráneo, in Sobrino Heredia, J.M. (dir.), *La contribución de la convención de las Naciones Unidas sobre el derecho del mar a la buena gobernanza de los mares y océanos*, Vol. II, Editoriale Scientifica, Naples.

42 Ros, N., Au-delà de la borne 602: la frontière maritime entre l'Espagne et la France en mer Méditerranée, *Journal du Droit international Clunet*, 4, 2014.

43 Livre bleu, Stratégie nationale pour la mer et les océans. Paris, Premier Ministre, 2009; <https://temis.documentation.developpement-durable.gouv.fr/recherche.html>

44 Partial submission concerning the limits of the Spanish Continental Shelf in the area of Galicia, in accordance with article 76 and Annex 2 of the United Nations Convention on the Law of the Sea. Spanish Executive Summary 2009. https://www.un.org/Depts/los/clcs_new/submissions_files/esp47_09/esp_2009_summary_esp.pdf

45 Partial submission concerning the limits of the Spanish Continental Shelf in the area of Galicia, in accordance with article 76 and Annex 2 of the United Nations Convention on the Law of the Sea. Spanish Executive Summary 2009. https://www.un.org/Depts/los/clcs_new/submissions_files/esp47_09/esp_2009_summary_esp.pdf

Both Portugal's request⁴⁶ and Spain's request⁴⁷ were submitted on 11 May 2009 and both states informed the Commission, in various notes verbales, of the absence of territorial disputes in the affected area in order to avoid a possible inhibition by the CLCS. However, on 16 May 2009, Morocco did express, also by note verbale⁴⁸, its disagreement with Portugal's request because the claimed area overlapped with areas under its interest; in this case, Morocco did not make any statement on Spain's request.

Collaboration between Spain and Portugal in their respective applications was particularly close, although Spain carried out the bulk of the scientific and technical surveys and then shared them with the Portuguese authorities. Unfortunately, however, this time there was no prior base agreement between the two countries similar to the one reached in the joint application with France, Ireland and the United Kingdom. The lack of a common basis resulted in an exchange of notes verbales initiated by Spain in 2013, in which it did not accept the projection of the Exclusive Economic Zone of the Salvage Islands claimed by Portugal on the grounds that they are uninhabited islets and therefore not entitled to it, a position formally defined by Spain since 1978 and repeatedly expressed to Portugal. In any case, the note verbale did not introduce any change with respect to the position defined by the Spanish government on the extension of the Portuguese continental shelf in 2009 and was more a note to avoid possible future accusations of acquiescence on this issue⁴⁹.

In its initial examination of the Spanish application, the CLCS determined that the first requirement had been met by accrediting proof of membership. To date (September 2023), the CLCS has not yet issued its recommendations on either the Spanish or the Portuguese application, but both are under assessment. Unfortunately, the work of the Sub-Commission in charge of examining applications was affected by the interruptions caused by the COVID-19 pandemic in 2020 and 2021, and it was unable to hold the planned meetings due to the lack of the necessary quorum. However, in the past, the CLCS has made positive assessments of those submissions that establish the continuity of the continental slope between states with adjacent coasts and rejected all those where such continuity is not demonstrated in accordance with the methodology established by article 76 of UNCLOS, so expectations that its recommendations will be favourable to both Spanish and Portuguese claims are good.

46 Commission on the Limits of the Continental Shelf (CLCS), Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submissions to the Commission; Submission by the Portuguese Republic https://www.un.org/Depts/los/clcs_new/submissions_files/submission_prt_44_2009.htm

47 Commission on the Limits of the Continental Shelf (CLCS), Outer limits of the continental shelf beyond 200 nautical miles from the baselines, Submissions to the Commission, Submission by the Kingdom of Spain https://www.un.org/Depts/los/clcs_new/submissions_files/submission_esp_47_2009.htm

48 Note verbale from the Kingdom of Morocco to the Secretary-General of the United Nations regarding Portugal's submission on the extension of its continental shelf, 16 May 2009 https://www.un.org/Depts/los/clcs_new/submissions_files/prt44_09/mar_re_prt2009e.pdf

49 García Pérez, Rafael. Op. cit. *La ampliación de la plataforma continental de España*. p. 102.

3.4.3. *Presentation for the Canary Islands 2014*

On 11 May 2009, just two days before the deadline set until 13 May 2009 for the submission of applications, Spain decided to make a Preliminary Submission and Description of the State of Readiness, in accordance with decision SPLOS/183⁵⁰ on the extension of the Spanish continental shelf⁵¹. At the same application, it undertook to present its proposal for extension within five years, which was actually submitted in 2014. It should be noted that Spain was not the only state to submit a preliminary request at this time⁵²: the CLCS received as many as 42 requests in the last weeks of April and early May 2009. Other states, such as Morocco, which ratified UNCLOS at a later date (in 2007) retained the ten-year deadline from ratification for submitting applications. Thus, Morocco submitted a preliminary request on 3 August 2015⁵³ and on 20 June 2017, just before the expiry of its deadline, and informed the CLCS by note verbale of its intention to submit a more detailed request in the future⁵⁴; something that as of September 2023 has not yet happened.

In any case, the Spanish application was formally submitted on 17 December 2014⁵⁵ and the oral presentation took place on 26 August 2015. Just three days later, on 29 August 2015, Morocco expressed its disagreement with Spain's request in a note verbale, also taking the opportunity to express its disagreement with previous requests submitted by Portugal, Mauritania and Cape Verde⁵⁶. As previously mentioned, one of the CLCS requirements for the assessment of a submission is to demonstrate that there are no territorial disputes with other coastal countries in the vicinity of the maritime region under analysis, which the Moroccan note verbale put at risk. It is essential to make it clear that the presentation does not anticipate or prejudge issues

50 SPLOS/183, Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfil the requirements of article 4 of annex 2 to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, para. (a) <https://digitallibrary.un.org/record/630975?ln=es>

51 Partial submission of data and information on the limits of the Spanish Continental Shelf West of the Canary Islands, in accordance with Part VI and Annex 2 of the United Nations Convention on the Law of the Sea of 2014 https://www.un.org/Depts/los/clcs_new/submissions_files/esp77_14/esp_2014_es.pdf

52 Preliminary information indicative of the outer limits of the continental shelf beyond 200 nautical miles, DOALOS, last update 10 March 2022 https://www.un.org/depts/los/clcs_new/commission_preliminary.htm

53 Preliminary application from Morocco, July 2015 https://www.un.org/depts/los/clcs_new/submissions_files/preliminary/Mor2015_preliminaryinfo.pdf

54 Note verbale from Morocco to the UN Secretary-General regarding Decision SPLOS/183 of 20 June 2017: https://www.un.org/depts/los/clcs_new/submissions_files/preliminary/1680858.pdf

55 Part I Executive Summary of the Partial Submission of Data and Information on the Limits of the Spanish Continental Shelf West of the Canary Islands, pursuant to Part VI and Annex 2 of the United Nations Convention on the Law of the Sea https://www.un.org/depts/los/clcs_new/submissions_files/esp77_14/esp_2014_es.pdf

56 Note verbale on the Spanish submission for the extension of its continental shelf in the Canary Islands from Morocco to the UN Secretary-General of 10 March 2015 https://www.un.org/depts/los/clcs_new/submissions_files/esp77_14/mor_re_esp77.pdf

related to the delimitation of borders between nations. These two criteria were verified in the proposal submitted by Spain concerning the area west of the Canary Islands, similar to previous occasions.

However, in this case, the Spanish proposal identifies two overlapping areas with the possible extensions of the continental shelves of neighbouring countries and territories. This led to an exchange of written communications with Morocco and Portugal: while Morocco's communications were aimed at avoiding acquiescence to the Spanish request, Portugal's simply corroborated that there was no conflict⁵⁷. These communications did not question the fulfilment of the legal requirements established by the Spanish submission, nor did they prevent the Commission from carrying out its assessment process, so the Spanish submission was finally accepted for processing, finding that there were no disputes.

In any case, for the time being and presumably due to its workload, the CLCS has not accepted the application for consideration and at present, as of September 2023, it is still on the waiting list to be assessed. Taking into account the above processes, we should expect a resolution in 2024 or 2025.

4. Conclusion

Spain has embarked on a significant process to extend its continental shelf in the Atlantic, submitting three applications to the United Nations Limits Commission. This is an outstanding achievement that reflects the high level of technical and scientific development demonstrated by Spanish public institutions in a technically and chronologically demanding task.

However, it is crucial to understand that this is only the beginning of a complex and lengthy process. The UN Limits Commission has issued recommendations for the first submission, focusing on the Celtic Sea and Bay of Biscay. This phase has triggered negotiations with France, as Spain will only be able to establish the outer boundary in a definitive and binding manner after accepting the recommendations and publishing the coordinates in the Official State Gazette, which will then be deposited with the UN Secretary-General.

The delimitation process will face additional challenges as Spain will have to formally negotiate with France, Morocco and Portugal in areas of overlapping rights. Although all three submissions were made on the condition that future delimitation would be negotiated, formal negotiations have yet to take place.

⁵⁷ Note verbale on the preliminary submission of Morocco's request to extend its continental shelf beyond 200 nautical miles of 2015 from the Kingdom of Morocco to the UN Secretary-General https://www.un.org/Depts/los/clcs_new/submissions_files/prt44_09/1513044E.pdf

As already mentioned, the first recommendation has opened negotiations with France, but these have been suspended for the time being and are not expected to be resumed soon. Regarding the second recommendation, which concerns Portugal, it is expected to be easier to negotiate due to the good relationship between the two countries, although complications could arise over the Salvage Islands. Recommendations for the third request, related to the Canary Islands, have not yet been received, and further complications are anticipated in the negotiations with Morocco.

Bibliography

Official documents and regulations of the United Nations

Agreement within the framework of the United Nations Convention on the Law of the Sea on the conservation and sustainable use of the marine biological diversity of areas beyond national jurisdiction <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/177/31/PDF/N2317731.pdf?OpenElement>

United Nations General Assembly, *Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction*, 3 April 2023; https://www.un.org/bbnj/sites/www.un.org/bbnj/files/bbnj5-provisional_list_of_participants_as_of_3_april_2023.pdf

United Nations General Assembly, *Resolution 2340 (XXII)* of 1 December 1967, [Examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind]. GAOR. New York, 1968 <https://digitallibrary.un.org/record/659850?ln=en>

United Nations General Assembly. *Resolution 386*, 4 November 1950, A/RES/386 (V) (1950) <https://digitallibrary.un.org/record/209546?ln=en>

United Nations General Assembly. *Resolution 39*, 12 December 1946 [Relations of Members of the United Nations with Spain] A/RES/39(I) <https://digitallibrary.un.org/record/209755>

Commission on the Limits of the Continental Shelf. *Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission, 2 March 2009*. <https://digitallibrary.un.org/record/655321>

Commission on the Limits of the Continental Shelf (CLCS), Outer limits of the continental shelf beyond 200 nautical miles from the baselines, Submissions to the Commission, Submission by the Kingdom of Spain https://www.un.org/Depts/los/clcs_new/submissions_files/submission_esp_47_2009.htm

- Commission on the Limits of the Continental Shelf (CLCS), Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submissions to the Commission: Submission by the Portuguese Republic https://www.un.org/Depts/los/clcs_new/submissions_files/submission_prt_44_2009.htm
- United Nations Security Council. *Resolution 4 (1946) [The Spanish Question]*, 29 April 1946, S/RES/4 (1946) <https://www.refworld.org/docid/3boofi370.html>
- 1982 United Nations Convention on the Law of the Sea https://www.un.org/depts/los/convention_agreements/texts/unclos/convemar_es.pdf
- United Nations Convention on the Law of the Sea signed in Montego Bay (Jamaica) on 10 December 1982. https://www.un.org/depts/los/convention_agreements/texts/unclos/convemar_es.pdf
- Decision SPLOS/72 of 29 May 2001 *regarding the date of commencement of the 10-year period for making submissions to the Commission on the Limits of the Continental Shelf set out in article 4 of Annex 2 of UNCLOS*. <https://digitallibrary.un.org/record/441543?ln=es>
- Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, *Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf adopted by the Commission on 13 May 1999 at its fifth session*; New York 1999. <https://digitallibrary.un.org/record/276889?ln=en>
- Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, *Training Manual for delineation of the outer limits of the continental shelf beyond 200 nautical miles and for preparation of submissions to the Commission on the Limits of the Continental Shelf*; New York, 2006. <https://digitallibrary.un.org/record/700597?ln=es>
- File R2072/3E/18472/9333 - First Conference for the Codification of International Law, convened at The Hague, the 5th March 1930 - Representation of Spain <https://archives.unigeveva.org/n7g7-ht8y-m6f5>
- Limits Commission Regulations published on 18 April 2008. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/No8/309/26/PDF/No830926.pdf?OpenElement>
- Summary of the recommendations of the Limits Commission in regard to the submission made by France, Ireland, Spain and the United Kingdom on 19 May 2006. https://www.un.org/depts/los/clcs_new/submissions_files/frgbireso6/fisu_clcs_recommendations_summary2009.pdf
- SPLOS/183, Decision regarding the workload of the Commission on the Limits of the Continental Shelf and the ability of States, particularly developing States, to fulfil the requirements of article 4 of annex 2 to the United Nations Convention on the Law of the Sea, as well as the decision contained in SPLOS/72, para. (a) <https://digitallibrary.un.org/record/630975?ln=es>

Submissions, through the Secretary-General of the United Nations, to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea of 10 December 1982; last updated 17/08/2023 https://www.un.org/Depts/los/clcs_new/commission_submissions.htm

U.N. Doc A/CONF.39/27 (1969), 1155 U.N.T.S. 331, entered into force January 27, 1980. https://www.oas.org/36ag/espanol/doc_referencia/convencion_viena.pdf

U.N. Doc. AQ/C, PV.1515 of 1 November 1967. General Assembly Official Records (GAOR). New York, 1968. https://www.un.org/depts/los/convention_agreements/texts/pardo_ga1967.pdf

Reports from International Organisations

World Bank, Total fisheries production (metric tons). Data from 2016, the latest year with available data. https://data.worldbank.org/indicator/ER.FSH.PROD.MT?end=2016&most_recent_value_desc=true&start=1960&view=chart&year_high_desc=true

Official documents and regulations of the Kingdom of Spain

Official Gazette of the Parliament 29 April 2022, 122/000216 Proposed Bill amending Act 22/1973, of 21 July, on Mining. https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-238-1-CI.PDF

Instrument of ratification of the United Nations Convention on the Law of the Sea, at Montego Bay on 10 December 1982. <https://www.boe.es/buscar/doc.php?id=BOE-A-1997-3296>

Instrument of Ratification of the Convention between Spain and France on the Delimitation of the Territorial Sea and the Contiguous Zone in the Bay of Biscay (Gulf of Gascony), in Paris on 29 January 1974. https://www.boe.es/diario_boe/txt.php?id=BOE-A-1975-14263

Act 10/1977 of 4 January 1977 on the Territorial Sea. <https://www.boe.es/buscar/doc.php?id=BOE-A-1977-465>

Act 14/2014 of 24 July 2014 on Maritime Navigation (LENMAR). <https://www.boe.es/buscar/act.php?id=BOE-A-2014-7877>

Act 15/1978 of 20 February 1978 on the Spanish EEZ. <https://www.boe.es/buscar/act.php?id=BOE-A-1978-5340>

Act 27/1992 of 24 November 1992 on State Ports and the Merchant Navy. <https://www.boe.es/buscar/doc.php?id=BOE-A-1992-26146>

- Act 44/2010 of 30 December on Canary Islands waters. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2010-20140
- Act 7/2021 of 20 May on climate change and energy transition. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-8447
- Coastal Act 22/1988 of 28 July 1988 <https://www.boe.es/buscar/act.php?id=BOE-A-1988-18762>
- Note Verbale of 23 October 2012, communicated to the UN Secretary General on 27 March 2013; https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/DEPOSIT/communicationsredeposit/mzn94_2013_esp_f.pdf
- Part I Executive Summary of the Partial Submission of Data and Information on the Limits of the Spanish Continental Shelf West of the Canary Islands, pursuant to Part VI and Annex 2 of the United Nations Convention on the Law of the Sea https://www.un.org/depts/los/clcs_new/submissions_files/esp77_14/esp_2014_es.pdf
- Joint submission to the Commission on the Limits of the Continental Shelf in accordance with article 76, paragraph 8 of the United Nations Convention on the Law of the Sea 1982 with respect to the Celtic Sea and Bay of Biscay area, ISBN 84-7840-633-6 Spain. https://www.un.org/Depts/los/clcs_new/submissions_files/frgbires06/presentacion_conjunta_resumen_espanol.pdf
- Partial submission of data and information on the limits of the Spanish Continental Shelf West of the Canary Islands, in accordance with Part VI and Annex 2 of the United Nations Convention on the Law of the Sea of 2014 https://www.un.org/Depts/los/clcs_new/submissions_files/esp77_14/esp_2014_es.pdf
- Partial submission concerning the limits of the Spanish Continental Shelf in the area of Galicia, in accordance with article 76 and Annex 2 of the United Nations Convention on the Law of the Sea. Spanish Executive Summary 2009. https://www.un.org/Depts/los/clcs_new/submissions_files/esp47_09/esp_2009_summary_esp.pdf
- Preliminary information indicative of the outer limits of the continental shelf beyond 200 nautical miles, DOALOS, last update 10 March 2022 https://www.un.org/depts/los/clcs_new/commission_preliminary.htm
- Royal Decree 218/2022 of 29 March 2022 <https://www.boe.es/buscar/doc.php?id=BOE-A-2022-6050#:~:text=A-2022-6050->
- Royal Decree 2510/1977 of 5 August 1977 on the drawing of straight baselines in implementing Act 20/1967 of 8 April 1967 on the extension of Spanish waters under Spanish jurisdiction to 12 miles for fishing purposes. <https://www.boe.es/buscar/doc.php?id=BOE-A-1977-23967>
- State Secretariat for Energy; *Balance Energético de España 1990-2019*, published on 1 September 2023. https://energia.gob.es/balances/Balances/balancedeenergeticoanual/Balance-Energetico-Espana-2021_vo.pdf

Note from the Government of Spain to the UN Secretary-General concerning the convening of a General Conference on the Law of the Sea. In YTURRIAGA, José Antonio de: “La actual revisión del Derecho del Mar: Una perspectiva española. Textos y Documentos”. Institute of Political Studies. Madrid, 1974. Vol. II(2), pp. 357-358.

Note verbale on the Spanish submission for the extension of its continental shelf in the Canary Islands by the Kingdom of Morocco to the UN Secretary-General of 10 March 2015 https://www.un.org/depts/los/clcs_new/submissions_files/esp77_14/mor_re_esp77.pdf

Treaty between the Kingdom of Spain and the Portuguese Republic establishing the closure line of the mouths of the Minho and Guadiana rivers and delimiting the international sections of both rivers, signed at Vila Real on 30 May 2017, published in the BOE (Official State Gazette). https://www.boe.es/diario_boe/txt.php?id=BOE-A-2018-11228

Official documents and regulations of other states

Declaration of Santiago, 18 August 1952 <https://www4.congreso.gob.pe/comisiones/2008/seguimiento-demandaperuana/documentos/DeclaraciondeSantiago1952.pdf>

Décret n° 2012-1148 du 12 octobre 2012 portant création d’une zone économique exclusive au large des côtes du territoire de la République en Méditerranée <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000026483528>

Livre bleu, Stratégie nationale pour la mer et les océans. Paris, Premier Ministre, 2009; <https://temis.documentation.developpement-durable.gouv.fr/recherche.html>

Note verbale from Morocco to the UN Secretary-General regarding Decision SPLOS/183: https://www.un.org/depts/los/clcs_new/submissions_files/preliminary/1680858.pdf

Note verbale on Portugal’s submission on the extension of the continental shelf by the Kingdom of Morocco to the UN Secretary-General, 16 May 2009 https://www.un.org/Depts/los/clcs_new/submissions_files/prt44_09/mar_re_prt2009e.pdf

Note verbale on the preliminary submission of Morocco’s request to extend its continental shelf beyond 200 nautical miles in 2015 by the Kingdom of Morocco to the UN Secretary-General https://www.un.org/Depts/los/clcs_new/submissions_files/prt44_09/1513044E.pdf

Preliminary application from Morocco, July 2015 https://www.un.org/depts/los/clcs_new/submissions_files/preliminary/Mor2015_preliminaryinfo.pdf

Books

- Francis, N.N.St., The Continental Shelf Commission, in Nordquist, M.; Moore, J. (eds.), *Oceans Policy: New Institutions, Challenges and Opportunities*, Martinus Nijhoff - Brill, Leiden 1999, pp. 141-146, p. 143.
- García Pérez, Rafael. *La ampliación de la plataforma continental de España*. 1st ed. (2023), Aranzadi.
- Gutiérrez Castillo, La zona económica exclusiva francesa en el Mediterráneo, in Sobrino Heredia, J.M. (dir.), *La contribución de la convención de las Naciones Unidas sobre el derecho del mar a la buena gobernanza de los mares y océanos*, Vol. II, Editoriale Scientifica, Naples 2014.
- Gutierrez Castillo. *España y sus fronteras en el mar: Estudio de la delimitación de sus espacios marinos*, Dykison, Madrid 2004.
- Glennys J. Young; Spain and the Early Cold War: The “Isolation Paradigm” Revisited. *Journal of Cold War Studies* 2022; 24 (3): 43-79. Massachusetts Institute of Technology Press Direct https://doi.org/10.1162/jcws_a_01088
- Graciansky, P.D & Poag, C. *Geologic history of Goban Spur, Northwest Europe continental margin* 1985. http://deepseadrilling.org/80/volume/dsdp8opt2_58.pdf
- Hein, R.J.; Mizell, K.; Koschinsky, A.; Conrad, T.A., Deep-ocean mineral deposits as a source of critical metals for high- and green- technology applications: Comparison with land-based resources, *Ore Geology Reviews*, vol. 51 (2013), pp. 1-14, p.11; <https://www.sciencedirect.com/science/article/abs/pii/S016913681200234X>
- Houston, John. A, The United Nations and Spain, *The Journal of Politics*, Vol. 14, No. 4. 1952, page 683-709, The University of Chicago Press <https://www.jstor.org/stable/2126447>
- Jiménez García-Carriazo, Ángeles. *La ampliación de la plataforma continental más allá de las doscientas millas marinas. Especial referencia a España*. 2018. First Edition. Dykinson, S.L. <https://www.jstor.org/stable/j.ctv301h2c>
- Magnússon, B.M., *The continental shelf beyond 200 nautical miles: delineation, delimitation and dispute settlement* Brill, Nijhoff, Leiden 2015.
- Hydrographic Institute of the Navy Report, year 2012. *Plan de Investigación Científica de la ZEE*; Ministry of Defence, Madrid 2013. <https://publicaciones.defensa.gob.es/media/downloadable/files/links/P/D/PDF430.pdf>
- Pereira, Juan Carlos. *Política Exterior de España. De 1800 hasta hoy*. 2nd ed. 2017. Madrid, Ariel.
- Somoza, L. & Medialdea, T. *La ampliación de la plataforma continental en España*; coord. by Rafael García Pérez, Paulo Neves Coelho, Teresa Ferreira Rodrigues, 2017, ISBN 9789898647986.

- Somoza, L., Medialdea, T., Rengel, T., León, R.; Vázquez, T.; Bohoyo, F.; González, F. J., *Extensión de la Plataforma Continental española en el Golfo de Vizcaya y Mar Céltico con arreglo al artículo 76 de la Convención de las Naciones Unidas sobre el Derecho del Mar (1982)*. 6th Symposium on the Iberian Atlantic Margin, Oviedo, 1-5 December 2009; <http://www.repositorio.ieo.es/e-ieo/handle/10508/3202>
- Somoza, L. *España amplía sus fronteras en el mar*, XX Semana de Estudios del Mar, Fundación ASES MAR 2012.
- Suarez, S.V., Bogdany, A. von; Wolfrum, R; *Commission on the Limits of the Continental Shelf*, (eds.), A/RES/55/7, New York, 30 October 2000. *Max Planck Yearbook of United Nations Law*, Vol. 14 (2010), pp. 131-168, p. 138.
- Yturriaga Barberán, Jose Antonio. *La Conferencia de Derecho del Mar vista desde dentro por un diplomático español*. 1st ed. 2022. Madrid, Publications Ministry of Foreign Affairs, European Union and Cooperation
- Ziskind, Jonathan, International Law and Ancient Sources: Grotius and Selden *The Review of Politics*, Vol. 35, No. 4 (Cambridge: University Press, 1973): 537-559. <https://www.jstor.org/stable/1406000>

Articles

- Blasiak, R; Jouffray J.B.; Wabnitz, C; Sundström, E; Österbloma, H; Corporate control and global governance of marine genetic resources, *Science Advances*, vol.4 (6) (2018).
- De Santo, E.M. Militarized marine protected areas in overseas territories: conserving biodiversity, geopolitical positioning, and securing resources in the 21st century. (2020), *Ocean Coast. Manag.*, p.184. <https://doi.org/10.1016/j.ocecoaman.2019.105006>
- Europapress*, El Gobierno anuncia que desmantelará definitivamente el almacén de gas Castor y aprobará el proyecto en pocas semanas, 29 January 2019 <https://www.europapress.es/sociedad/medio-ambiente-00647/noticia-gobierno-anuncia-desmantelara-definitivamente-almacen-gas-castor-aprobara-proyecto-pocas-semanas-20190129124405.html>
- Puche Riar, O; Navarro Come, J; Una historia de la exploración y producción de hidrocarburos en España; (2019) INHIGEO, SEDPGYM https://www.researchgate.net/profile/Jorge-Navarro-3/publication/340399397_Una_historia_de_la_exploracion_y_produccion_de_hidrocarburos_en_Espana/links/5e8727d292851c2f527841ba/Una-historia-de-la-exploracion-y-produccion-de-hidrocarburos-en-Espana.pdf
- Ros, N., Au-delà de la borne 602: la frontière maritime entre l'Espagne et la France en mer Méditerranée, *Journal du Droit international Clunet*, 4, 2014.

Websites

Marine Traffic <https://www.marinetraffic.com>

Article received: 09 October 2023

Article accepted: 30 January 2024
