No. 83
TERRITORIAL SEA AND
CONTINENTAL SHELF
BOUNDARIES:
FRANCE-SPAIN
(BAY OF BISCAY)
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LIMITS IN THE SEAS

No. 83

Territorial Sea and Continental Shelf Boundaries:

FRANCE-SPAIN

February 12, 1979
INTRODUCTION

The Governments of the French Republic and the Spanish State negotiated two agreements relative to the delimitation of their territorial sea, contiguous zone, and continental shelf boundaries in the Bay of Biscay. The conventions entered into force on April 5, 1975. A Franco-Spanish maritime boundary in the Mediterranean Sea has not been negotiated.

The text of the territorial sea and contiguous zone convention is as follows:

CONVENTION

Between France and Spain on delimitation of the territorial sea and contiguous zone in the Bay of Biscay.

The President of the French Republic, and

The Chief of the Spanish State,

Desiring to delimit the French territorial sea and the Spanish territorial sea and contiguous zone;

Bearing in mind the Convention of July 14, 1959 between France and Spain on fisheries in the Bidassoa River and Cape Higuer Bay;

Have resolved to conclude a Convention and to this end have appointed the following plenipotentiaries:

For the President of the French Republic: For the Chief of the Spanish State:

Jean-Pierre Cabouat, Minister Antonio Poch, Minister Plenipotentiary;

Plenipotentiary;

who, after exchanging their full powers which were acknowledged to be in due and proper form, agreed to the following provisions:

Article 1

This Convention applies to the Bay of Biscay north of Cape Higuer Bay and up to a limit of 12 miles from the French and Spanish baselines.

Article 2

1. In the area defined in Article 1, the boundary line of the French territorial sea with regard
both to the Spanish territorial sea and contiguous zone consists of two geodetic lines defined as follows:

(a) The first geodetic line follows the meridian passing through point M, midpoint of line AD which joins Cape Higuer (Erdico Point) in Spain to the point of Saint Anne, or Tombeau, in France.

This line starts at point M and continues northward to point P, six miles distant from point M.

(b) The second geodetic line follows the Great Circle arc joining point P to point Q, 12 miles equidistant from the French and Spanish base lines.

2. The dividing line is indicated, in conformity with the criteria and data given above, on French marine chart No. 174 published in 1973, attached to this Convention.

**Article 3**

Line MP limits the French and Spanish territorial seas. Line PQ limits both the French territorial sea and the Spanish contiguous zone and the continental shelf underlying that zone. In the event that Spain extends the breadth of its territorial sea to 12 miles, line MPQ would become the dividing line between the two States' territorial seas.

**Article 4**

1. The reference markers for identifying the points mentioned in Article 2(1,a) of this Convention are those established in application of the Convention of July 14, 1959 between France and Spain concerning fisheries in the Bidassoa River and Cape Higuer Bay.

2. The reference markers for identification of the points designated in this Convention by the letters P and Q shall be established.

**Article 5**

This Convention shall be ratified and the ratification instruments shall be exchanged at Madrid. It shall enter into force on the date that the instruments of ratification are exchanged.

In witness whereof the respective plenipotentiaries have signed this Convention.

Done at Paris on January 29, 1974 in two copies, each in French and Spanish, both texts being equally authentic.

For the Spanish State: For the French Republic:
Between the Government of the French and Republic and the Government of the Spanish State on the delimitation of the continental shelves of the two states in the Bay of Biscay

The Government of the French Republic and The Government of the Spanish State,

Taking into consideration the Convention on the Continental Shelf, done at Geneva on April 29, 1958,

Having resolved to establish the dividing line between the portions of the continental shelf in the Bay of Biscay over which the two States exercise their respective sovereign rights for purposes of exploration and exploitation of their natural resources,

Have agreed on the following provisions:

Article 1

This Convention applies to the Bay of Biscay beyond the 12-mile limit, from the French and Spanish base line up to a line joining Cape Ortegal in Spain to Pointe du Raz in France.

Article 2

1. The dividing line between the two States’ continental shelves is the line joining points Q, R, and T.

(a) Point Q is the point defined in Article 2(1,a) of the Convention of January 29, 1974 between France and Spain on the delimitation of the territorial sea and contiguous zone in the Bay of Biscay.

The coordinates of point Q, according to the most recent surveys, are as follows:

Latitude: 43º35'43"N.
Longitude: 1º48'08"W. (GR)

(b) Up to point R, defined below, the line QR is, in principle, the line whose points are all equidistant from the French and Spanish baselines. In application of the foregoing, line QR consists of the geodetic lines following the great-circle arcs joining the points having the following coordinates:
(c) Point T is defined by the following coordinates:
Latitude: 45°28'30"N.
Longitude: 6°41'14"W.

Line RT is the geodetic line following the great-circle arc joining points R and T.

2. The dividing line is indicated, in conformity with the criteria and data given above, on French marine chart No. 5381 published in 1972, attached to this Convention (Annex 1).

Article 3

1. The contracting parties agree to apply the supplementary procedures provided in Annex II for the awarding of rights to prospect for and exploit natural resources in the zone defined by the geodetic lines joining the points having the following coordinates:

<table>
<thead>
<tr>
<th>Latitude N</th>
<th>Longitude W (GR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Z1</td>
<td>45°30'00&quot;</td>
</tr>
<tr>
<td>Z2</td>
<td>45°30'00&quot;</td>
</tr>
<tr>
<td>Z3</td>
<td>45°00'00&quot;</td>
</tr>
<tr>
<td>Z4</td>
<td>45°00'00&quot;</td>
</tr>
</tbody>
</table>

2. The boundaries of this zone are indicated on the marine chart referred to in Article 2(2) of this Convention.
Article 4

1. If a deposit of a natural resource lies across the continental shelves’ dividing line, and if the portion of the deposit on one side of the dividing line is wholly or partially exploitable by means of installations located on the other side of the line, the Contracting Parties, acting in conjunction with the holders of the exploitation rights, if such exist, shall seek an agreement on terms for exploiting the deposit so that such exploitation may be as profitable as possible and in such manner that each of the Parties shall preserve all its rights over the natural resources of its continental shelf. This procedure is particularly applicable if the method for exploiting the portion of the deposit located on one side of the dividing line affects conditions for exploiting the other portion of the deposit.

2. In the event that the natural resources of a deposit lying across the dividing line have already been exploited, the Contracting Parties, acting in conjunction with the holders of exploitation rights, if such exist, shall seek an agreement on appropriate compensation.

Article 5

1. The Contracting parties shall seek to settle any disagreement arising with regard to interpretation or application of this Convention as quickly as possible, through diplomatic channels.

2. In the event that a disagreement is not settled within four months of notification by one Contracting Party of its intention to initiate the procedure referred to in the preceding paragraph, it shall be submitted to an arbitral court by request of either party.

3. The arbitral court shall be constituted in each instance as follows: Each Party shall appoint an arbiter and these two arbiters shall jointly appoint a third, who is not a national of either Party; the third arbiter shall preside over the arbitral court. If the arbiters are not appointed within two months following notification by one Contracting State of its intention to refer the matter to the court, or if the arbiters appointed by the two Parties do not reach an agreement, within one month of the appointment of the second of them, on the appointment of the third arbiter, either Party may request the President of the International Court of Justice to make the necessary appointments. If the President of the Court is a national of either Party, or is unable to act for any reason, the Vice President of the Court shall make the appointments. If the President is also a national of one of the two Parties, or is unable to act for any reason, the Court’s senior judge who is not a national of either Party shall make the appointments.

4. Each Contracting Party shall cover its arbiter’s costs and one-half of all other costs. The arbitral court shall establish its own rules of procedure if the Parties do not establish them within two months following the appointment of the second arbiter.

5. The arbitral court shall adopt decisions by majority vote. These decisions shall be binding upon the Parties.
6. The arbitral court may adopt precautionary measures at the request of either Party.

Article 6

None of the provisions of this Convention shall affect the rules governing superjacent waters and air space.

Article 7

The Contracting Parties shall attempt to prevent the explorations of the continental shelf of the Bay of Biscay and the exploitation of its natural resources from threatening the ecological balance and legitimate uses of the marine environment, and shall consult with each other to this end.

Article 8

In the event that a multilateral treaty which modifies the Convention on the Continental Shelf done at Geneva on April 29, 1958 and which would be capable of affecting the provisions of this Convention enters into force between the Contracting Parties, they shall consult with each other immediately with a view to agreeing on such amendments to the provisions of this Convention as appear necessary.

Article 9

Each Contracting Party shall notify the other of completion of the constitutional procedures necessary for the Convention's entry into force. The Convention shall enter into force upon the date of the final notification.

In witness whereof, the undersigned plenipotentiaries, duly authorized for this purpose by their respective Governments, have signed this Convention.

Done at Paris on January 29, 1974 in two copies, each in French and Spanish, both texts being equally authentic.

For the Government of the French Republic: J.P. Cabouat

For the Government of the Spanish State: A. Poch

ANNEX II

Provisions applicable to the zone defined in Article 3 of this Convention

1. The Contracting Parties encourage exploitation of the zone conducive to equal distribution of its resources.
2. Consistent with this principle, each Contracting Party, acting in accordance with its mining regulations, undertakes to encourage agreements between companies applying for prospecting rights in the zone in order to permit companies having the nationality of the other Party to participate in such prospecting on an equal partnership basis, with financing of operations proportional to each company’s interest.

3. To this end, any application for prospecting rights in one Contracting Party’s sector must be communicated to the other Party. The latter Party shall have six months in which to designate one or more companies of its nationality to participate in the rights-awarding procedure with the other applicants.

4. If the applicant companies do not reach an agreement within one year following their designation, the Contracting Party with jurisdiction over the sector in question shall consult with the other Contracting Party before making any decision to award rights.

5. Companies holding prospecting and exploitation rights and linked by partnership agreements concerning the zone must notify the Parties of any changes they may make in these agreements. In this instance, and at the request of one of them, the parties would confer in order to examine the significance of the change and its effects on the objective referred to in Paragraph 1 of this Annex.

6. Any draft amendment of the rights granted by one Contracting Party for prospecting and exploitation of its sector of the zone shall be communicated to the other Contracting Party, which shall have three months in which to submit comments and proposals, if it so desires. In the event of disagreement on the proposed amendment, the Parties may have recourse to the procedures provided for in Article 5 of this Convention.

7. The Contracting Parties shall agree on appropriate procedures for encouraging the partnership agreements referred to in Paragraph 2 above, and also on the system for exporting to one Party the products obtained from the exploitation in the other Party’s sector by the company or companies designated by the first Party.

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Paris, January 2, 1974

To His Excellency Antonio Poch, Minister Plenipotentiary, Head of the Spanish Delegation in the negotiations on the delimitation of the Spanish and French continental shelves, Madrid.

Your Excellency:

Article 2(b) of the Convention signed on this date by the Government of the Spanish State
and the Government of the French Republic on the delimitation of the continental shelves of the two States in the Bay of Biscay stipulates that "line QR is, in principle, the line whose points are all equidistant from the French and Spanish baselines." It is in application of this principle that the same article of the Convention lists the coordinates of a certain number of points located along this equidistant line between points Q and R.

In the course of our negotiations we acknowledged that the geodetic and cartographic data and techniques utilized to establish the points listed in Article 2(b) of the Convention might be improved in the future. We nevertheless agreed that, even should this occur, and subject to a later agreement between the parties on a different solution, the dividing line between the Spanish and French continental shelves between points Q and R would continue to be determined by the geodetic lines following the great-circle arcs joining the points whose coordinates are listed in the Convention.

If the foregoing meets with your approval, I propose that this note and your reply constitute an Agreement between our two Governments on the interpretation of Article 2(b) of the Convention. This Agreement shall take effect from the date of your reply.

Accept, Excellency, the assurances of my very distinguished consideration.

J.-P. Cabouat
Minister Plenipotentiary, Head of the French Delegation in the negotiations on the delimitation of the French and Spanish continental shelves

Paris, January 29, 1974

To Mr. J.-P. Cabouat, Head of the French Delegation in the negotiations on the delimitation of the French and Spanish continental shelves, Ministry of Foreign Affairs, Paris.
Excellency:

I have the honor to acknowledge receipt of your note of this date, the translation which reads as follows:

[The three substantive paragraphs of this note are the same as those of the French note, dated January 29, 1974, translated above.]

I have the honor to inform you that the Spanish Government is in agreement with the foregoing.

Accept, Excellency, the assurance of my very high consideration.

Antonio Poch y Gutierrez de Caviedes
The Franco-Spanish territorial sea and contiguous zone convention delimits the boundary between the French 12-mile territorial sea and the Spanish 6-mile territorial sea and 12-mile contiguous zone. The territorial sea and contiguous zone boundary in the Bay of Biscay extends for a distance of 12.4 miles from the land frontier terminus, at the mouth of the Bidassoa estuary.

This point of origin (M) for the maritime boundary is the midpoint of a negotiated closing line across the Bidassoa estuary mouth. The boundary extends due north for 6 miles from the midpoint M to point P. Point P is six miles from M but approximately 5.4 miles from the respective national baselines. An island exists on the Spanish side and a drying reef on the French side, both of which lie seaward of point M.

The boundary then extends north-northwestward to point Q (43°35′43″N; 1°48′08″W), which is 12 miles from the nearest points on the respective baselines. The convention, in Article 3, provides for these two segments to become the territorial sea limit of both states "in the event Spain extends its [territorial sea] limits." Law 15/1978 of February 20, 1978, in force February 23, 1978, creates a system of Spanish straight baselines, a 12-mile territorial sea, and a 200-mile economic zone. As a consequence, the line M - P - Q now comprises, in its entirety, the limits between the national territorial sea claims.

The convention on the continental shelf establishes a continental shelf boundary which extends from the territorial sea and contiguous zone boundary terminus, point Q, to point T situated on the negotiated construction line connecting Pointe du Raz (France) and Cabo Ortegal (Spain). The lengths of the specific boundary segments are as follows:

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1 All distance and area measurements are in nautical miles.
2 The Spanish territorial sea baseline will be the subject of a future issue of Limits in the Seas. Segment M - P measures 6 miles and P - Q, 6.4 miles for a total length of 12.4 miles.
3 The United States recognizes a 3-mile maximum breadth for the territorial sea. It has agreed, however, to accept a limit of 12 miles within the framework of a comprehensive and generally acceptable Law of the Sea treaty. In the territorial sea area, the two states would be deemed to be adjacent to each other. The negotiated boundary, which is not a true equidistant boundary, because every point on the line is not equidistant from the respective baselines, has nevertheless been developed on the basis of the technique.
The Bay of Biscay comprises a broad "U-shaped" intrusion of the Atlantic Ocean into the European Continent. The Spanish shore line (baseline) extends approximately east-west from the terminus of the land boundary to form the southern limit of the Bay. For the purposes of the continental shelf delimitation, Cabo Ortegal was selected to be the western terminus of the Spanish baseline on the Bay of Biscay.

The French coastline (baseline), in contrast, projects generally northward from the land boundary to the latitude of Pointe de la Negade. Here the coast's general direction turns sharply to the northwest. For the purposes of the delimitation, the terminus of the French coastline to the east and northeast of the Bay of Biscay was agreed to be Pointe du Raz. The straight construction line connecting Cabo Ortegal and Pointe du Raz defines the agreed outer, or western, limit of the continental shelf of the Bay of Biscay.\(^4\) The distance between the two terminal points (on the Clarke spheroid of 1866) measures 288.474 miles.\(^5\)

By agreement, for purposes of the delimitation, the French and Spanish delegations developed "artificial coastal lines" to represent their countries' respective coastal lengths.

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\(^4\) The convention notes that "straight lines" are geodetic lines. However, the text utilizes the terms "geodetic line" and "Great Circle" interchangeably. A Great Circle is a line on a sphere created by passing a plane through two specific points on the surface and the center of the sphere. A geodetic line is constructed in the same manner but on a spheroid.

\(^5\) All measurements in this analysis are measured on the Clarke spheroid of 1866. Different parameters probably were used by the negotiators and slight differences are likely to occur, as a consequence, in distance and area measurements.
The Spanish "artificial coast line" connects the terminus of the land frontier with Cabo Ortegal. The French "artificial coast line" extends from the same origin point in straight lines to Pointe de la Negade and thence to Pointe du Raz.

For analysis, the continental shelf delimitation may be divided into two sections. The first extends between points Q and Q_{13}, the second is between Q_{13} and T.

The Franco-Spanish continental shelf boundary from point Q to point Q_{13} has been developed on the basis of equidistance. The various intermediate turning points are situated equidistant from the nearest points on the normal baselines of the two states. The development of this equidistant line utilized the French normal baseline northward to Cap Ferret and the Spanish normal baseline westward to Cabo del Ajo. The length of national baselines utilized are virtually identical, i.e., a point of equilibrium has been attained. Point Q_{13} is situated approximately 68.4 miles from the respective baselines. The depth of water at the point is approximately 1,776 fathoms (3,229 meters).

The second section of the Franco-Spanish continental shelf boundary was negotiated according to equitable principles relating to the ratio of the artificial coastlines of the two states.

The two states agreed to continue the equidistant boundary, with particular modifications, to designate point R. To determine point R, point X was determined by marking the equivalent distance of the French "artificial coastline" from point M to Pointe de la Negade on the Spanish "artificial coast line", i.e., M to Pointe de la Negade = M to X. Point R, it was agreed, would be equidistant from Pointe de Negade and from X. The location of R appears to be a compromise; it is situated approximately halfway between the two proposed intersections.

The Spanish proposed the continued use of equidistance as the delimitation methodology to the point in the Bay of Biscay where the equidistant boundary would intersect the arc of the circle with the radius of M - X. The French negotiators preferred that equidistance cease where the equidistant line intersected the straight line joining Pointe de la Negade with point X.

After establishing point R, the shelf area remaining to be defined within the lines Cabo Ortegal - Pointe du Raz - Pointe de la Negade - R - X - Cabo Ortegal. The area measures approximately 35,670 square miles. Point T was then selected on the construction line between Cabo Ortegal and Pointe du Raz so as to apportion the continental shelf according to the ratio of "unused" "artificial coast lines", i.e., the distance between point X and Cabo Ortegal versus the distance between Pointe de la Negade and Pointe du Raz. The former has been computed to be 138.332 miles; the latter to be 213.217 miles. The ratio of these lengths is approximately 1:1.541.

Applying this ratio to the total area, Spain should have been allocated a continental shelf
area of approximately 14,000 square miles and France, approximately 21,000 square miles. Measurement of the areas on the chart by a digitizer computes areas of 13,561 square miles under Spanish jurisdiction and 22,109 square miles under French jurisdiction. As noted above, the calculations using differing charts, datums, and spheroids may result in slight discrepancies.

It is obvious, however, that the outer area of the Bay of Biscay continental shelf, as divided by the line R - T, allocates the residual shelf according to the proportion of the national "artificial coast lines" which was not utilized in the development of the line M - R. It should be recalled, however, that the location of R also represents a negotiated compromise. While the point is approximately equidistant (92.295 miles) from X and from Pointe de la Negade, R is closer to other points on the normal baselines of the two states.

The "inner" areas allocated to the two states by the boundary between M and R measure approximately 5,303 square miles for Spain and 4,354 square miles for France. Thus the total maritime allocations (seaward of the artificial shore lines) would be 26,463 square miles for France and 18,864 square miles for Spain. This ratio is approximately 1.4:1.

The final point T is situated 114.878 miles from Cabo Ortegal and 173.596 miles from Pointe du Raz.

The convention creates in Article 3 a joint or common development zone which straddles the shelf boundary in the segment RT. The coordinates of this rectangle are given in Article 3, while the development plan is detailed in Annex II. The area of the joint zone measures 814 square miles.

The Exchange of Notes attached to the Convention states that, in the future, more precise locations may be determined for the baselines of the two states. Nevertheless, the present agreement will be retained. However, in Article 8, the parties have agreed if a multilateral treaty ... which would be capable of affecting the provisions of this Convention enters into force between the Contracting Powers, they will consult with each other immediately with a view to agreeing on such amendments to the provisions of this Convention as appear necessary.

It is assumed that these provisions would not affect the existing boundary alignment (other than, perhaps, to require an extension to the limit of 200-mile zones). Both France and Spain, of course, have enabling legislation for 200-mile zones at present.