

Why this?

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Perhaps the question titling this introduction to this section on *Spain and the Law of the Sea* may be answered by its sub-title: “20 years under the Law of the Sea Convention”. It is actually the origin of this scientific endeavor: to review —20 years after Spain’s ratification of LOSC¹— how Spanish practice on the law of the sea has been influenced by LOSC and, on the reverse, whether and how Spanish practice has influenced the law of the sea. But there is another compelling reason behind this array of contributions: to offer foreign governments, international organizations, the academia and those interested on the law of the sea an almost complete view of Spain at sea from a legal perspective, including a selection of the most representative literature written by Spanish authors on the subject. Unfortunately, there is no *manual* or *treatise* published by Spanish authors specifically on the law of the sea, as it exists, for example, in English, French, German or Italian.²

Being said this, of course —and as a clear disclaimer— none of the following pages can be understood as expressing the official legal position of the Kingdom of Spain in any of the questions addressed or discussed below.

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Spain is a maritime country. If geography positioned Spain between two continents separated by a narrow strait and surrounded by an ocean and two seas, historically we sailed, occupied, fished, investigated but also polluted the waters around our territory as well as long-distance seas with a non-interrupted presence of Spanish navigators during the last centuries. Politically, Spain has had a continued interest on maritime issues, legally discussed during the three international conferences sponsored by the UN —and reminded in this volume by Ambassador Yturriaga—, permanently considered before LOSC treaty-bodies —as addressed in the paper by García García-Revilla—, participated in the related agreements —addressed by Borrás— and of course revisited in the different

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¹ Spain signed LOSC on 4 December 1984 and ratified it by instrument of 20 December 1996 ([BOE No. 39](#), 14 February 1997). LOSC entered into force for Spain on 14 February 1997.

² As an example, it might be cited here the well-known work by Churchill and Lowe for Manchester University Press or the IMLI Manual for IMO in English, the recent one in French under the direction of Thouvenin and Forteau for Éditions Pedone, the one written in Italian by Scovazzi some years ago for Giuffrè or the one in German by Graf Vitzthum and later Proelß for Beck. There are some treatises written in Spanish on the law of the sea, but elaborated by Latin-American authors. The last one edited is J.R. Martínez Vargas and G. Vega Barbosa, [Tratado de Derecho del mar](#) (Valencia: Tirant 2016).

maritime strategies adopted by Spain—and traced here in the contribution by Blázquez.

The ratification of LOSC by Spain in 1997 had an impact on previous domestic legislation—Jiménez Piernas makes an appraisal on this in his contribution—and, since then, has influenced subsequent practice related, particularly, to the establishment and delimitation of Spanish maritime zones and the competences herein exerted: these are discussed in the different contributions addressing these zones—the territorial sea by Díez-Hochleitner, the contiguous zone by Andrés Sáenz de Santamaría, the islands by González, the continental shelf and its extension by Faramiñan, and the exclusive economic zone by Pastor—. On delimitations, the volume addresses both the already agreed—by Gutiérrez—and those still pending—by Orihuela—. Finally, Del Valle and López address the always conflicting particular questions around Gibraltar and the navigation through its strait, respectively.

Spain's presence in the high seas is not addressed as such in this volume, although the chapter on Fisheries by Casado Raigón discusses the case between Spain and Canada on fisheries jurisdiction in the high seas before the ICJ,³ which was fully discussed by Spanish doctrine once the ICJ rendered its decision in 1998.⁴ But the rest of Spanish main maritime interest are adequately addressed in this volume: non-living resources by Abad, marine scientific research by Conde, underwater cultural heritage by Carrera, security by Espaliú, piracy by Sobrino, migrants by García, illicit fisheries by Pons and questions of police at sea by Lirola and Jorge.

Last but not least (and, in this case, this common-place is absolutely true), the collection of essays is closed by an exceptional review of Spanish literature on the law of the sea made by three fantastic young scholars: Marta Abegón, Ana María Maestro y Beatriz Vázquez. Their very complete job traces the main publications written by Spanish scholars along the last 20 years (and even before) on different aspects of the law on the sea. Given that the collection gathers contributions which basically address the Spanish practice and avoid doctrinal or theoretical discussions about general institutions of the law of the sea, the SYbIL considered necessary to complete that more descriptive vision with a document collecting a selected and commented bibliography on the law of the sea from a Spanish perspective.

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³ *Fisheries Jurisdiction (Spain v. Canada)*, *Jurisdiction of the Court*, *Judgment of 4 December 1998*, ICJ Reports 1998, p. 432.

⁴ See *Revista Española de Derecho Internacional* (1999), with papers written by A. Fernández Tomás, F. J. Quel López, F. Jiménez García, R. Casado Raigón, J. Juste Ruiz y C. Fernández de Casadevante.

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