# Beyond Territorial Disputes in the South China Sea

Legal Frameworks for the Joint Development of Hydrocarbon Resources

#### Edited by

#### Robert Beckman

Centre for International Law (CIL), National University of Singapore (NUS)

#### Ian Townsend-Gault

University of British Columbia, Canada

#### Clive Schofield

Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong, Australia

#### Tara Davenport

Centre for International Law (CIL), National University of Singapore (NUS)

#### Leonardo Bernard

Centre for International Law (CIL), National University of Singapore (NUS)

NUS CENTRE FOR INTERNATIONAL LAW

#### **Edward Elgar**

Cheltenham, UK • Northampton, MA, USA

 $\ensuremath{\mathbb{C}}$ Robert Beckman, Ian Townsend-Gault, Clive Schofield, Tara Davenport and Leonardo Bernard 2013

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical or photocopying, recording, or otherwise without the prior permission of the publisher.

Published by Edward Elgar Publishing Limited The Lypiatts 15 Lansdown Road Cheltenham Glos GL50 2JA UK

Edward Elgar Publishing, Inc. William Pratt House 9 Dewey Court Northampton Massachusetts 01060 USA

A catalogue record for this book is available from the British Library

Library of Congress Control Number: 2013930511

This book is available electronically in the ElgarOnline.com Law Subject Collection, E-ISBN 978 1 78195 594 9



ISBN 978 1 78195 593 2

Typeset by Servis Filmsetting Ltd, Stockport, Cheshire Printed and bound in Great Britain by T.J. International Ltd, Padstow

SARCHI CHAIR LAW

### Contents

	THE DISCOURSE WAS INVESTIGATED AND THE WASHINGTON TO THE		
List o	of figures	vii viii	
	List of contributors		
	Preface by Professor S Jayakumar		
	Acknowledgements		
Table	e of provisional arrangements	xviii	
Robe	oduction: why joint development in the South China Sea? ert Beckman, Clive Schofield, Ian Townsend-Gault, Tara enport and Leonardo Bernard	1	
PAR	T I UNDERSTANDING THE SOUTH CHINA SEA DISPUTES		
1	What's at stake in the South China Sea? Geographical and geopolitical considerations  Clive Schofield	11	
2	International law, UNCLOS and the South China Sea Robert Beckman	47	
PAF	RT II JOINT DEVELOPMENT: PRINCIPLES, PRE- REQUISITES AND PROVISIONS		
3	The exploration and exploitation of hydrocarbon resources in areas of overlapping claims  Tara Davenport	93	
4	Rationales for zones of co-operation  Ian Townsend-Gault	114	
5	Negotiating joint development agreements  Gavin MacLaren and Rebecca James	139	
6	Joint development agreements: legal structure and key issues	152	

# PART III JOINT DEVELOPMENTS AND OTHER PROVISIONAL ARRANGEMENTS IN ASIA

7 Implications of recent Southeast Asian State practice for the

	international law on offshore joint development  David M Ong	181
8	Joint development arrangements in Northeast Asia and the Gulf of Tonkin Vasco Becker-Weinberg	218
9	Joint development in the Timor Sea Stuart Kaye	249
10	The Australia–Papua New Guinea Torres Strait Treaty: a model for co-operative management of the South China Sea? Ben Milligan	268

## PART IV CONCLUSIONS: JOINT DEVELOPMENT IN THE SOUTH CHINA SEA

11 Factors conducive to joint development in Asia – lessons

	Robert Beckman, Clive Schofield, Ian Townsend-Gault, Tara Davenport and Leonardo Bernard	291
12	Moving forward on joint development in the South China Sea Robert Beckman, Clive Schofield, Ian Townsend-Gault,	312
	Tara Davenport and Leonardo Bernard	

Index 333