

# Contents

<b>1</b>	<b>Introduction</b>	<b>1</b>
<b>2</b>	<b>The Concept and Purpose of Joint Development of Hydrocarbon Deposits</b>	<b>5</b>
2.1	The Concept of Joint Development	5
2.2	The Purpose of Joint Development	8
2.2.1	Characteristics of Hydrocarbon Deposits	8
2.2.2	Exploration and Exploitation Activities of Offshore Mineral Resources	9
2.2.3	From the Rule of Capture to Efficient Development	10
2.2.4	Distinction Between Unitization and Joint Development	18
2.3	The Role of Private Entities	21
<b>3</b>	<b>Joint Development Agreements in International Law in General</b>	<b>23</b>
3.1	Sovereignty, Sovereign Rights and Jurisdiction of Coastal States	23
3.1.1	Maritime Areas Within and Beyond National Jurisdiction	23
3.1.2	Mineral Resources in the EEZ, the Continental Shelf and the Area	25
3.1.3	In the EEZ	26
3.1.4	On the Continental Shelf	29
3.2	Power to Negotiate and Enter into Joint Development Agreements	35
3.2.1	Agreements Signed Before or After Maritime Delimitation	35
3.2.2	Relevant Principles of the Law of Treaties	36

3.2.3	Joint Development Agreements and Third States . . . .	38
3.2.4	State Succession in Joint Development Agreements . . . . .	39
3.3	Attempts to Propose Rules on Common Mineral Resources and to Standardize State Practice . . . . .	41
3.3.1	The Work of the International Law Commission on Shared Natural Resources . . . . .	41
3.3.2	A Need for a Model Agreement? . . . . .	43
<b>4</b>	<b>Mineral Resources Clauses in Delimitation Treaties and Joint Development Agreements . . . . .</b>	<b>49</b>
4.1	Outline of State Practice . . . . .	49
4.1.1	Maritime Delimitation Agreements . . . . .	49
4.1.2	Relevance of Mineral Resources Clauses . . . . .	58
4.1.3	Obligation to Include Mineral Resources Clauses . . . .	58
4.1.4	Non-compliance with Mineral Resources Clauses . . . .	59
4.1.5	States' Obligation in the Absence of Mineral Resources Clauses . . . . .	61
<b>5</b>	<b>Joint Development Agreements in Cases of Transboundary Hydrocarbon Deposits . . . . .</b>	<b>69</b>
5.1	Basis for Joint Development After the Delimitation of Maritime Boundaries . . . . .	69
5.2	States' Obligations Regarding Transboundary Hydrocarbon Deposits . . . . .	72
5.3	Rights and Freedoms of Other States . . . . .	73
5.4	Legal Regime of Offshore Installations and Structures . . . . .	74
5.4.1	Installations and Structures Within and Beyond National Jurisdiction . . . . .	74
5.4.2	Classification of Oil Rigs . . . . .	76
5.4.3	Construction and Operation . . . . .	80
5.4.4	Removal and Decommissioning . . . . .	82
5.5	States' Responsibility for Pollution from Seabed Activities Subject to National Jurisdiction . . . . .	88
<b>6</b>	<b>Joint Development Agreements in Areas of Overlapping Claims: Legal Regime . . . . .</b>	<b>93</b>
6.1	Economic Activities in Disputed Maritime Areas . . . . .	93
6.2	Provisional Arrangements of a Practical Nature (Article 83(3) of UNCLOS) . . . . .	95
6.2.1	Relevant Aspects . . . . .	95
6.2.2	Rights and Duties of Claiming States . . . . .	102
6.2.3	Rights and Duties of Other States . . . . .	102
6.2.4	Settlement of Disputes (Part XV of UNCLOS) . . . . .	103

6.3	Identifying the Joint Development Area . . . . .	104
6.4	Protection and Preservation of the Marine Environment in Disputed Maritime Areas . . . . .	111
6.4.1	Pollution from Seabed Activities . . . . .	111
6.4.2	Obligation to not Cause Transboundary Harm or Damage . . . . .	116
6.5	Essential Legal and Functional Aspects of Joint Development . . . . .	120
6.5.1	State Participation in Exploration and Exploitation Activities. . . . .	120
6.5.2	Creation of Joint Entities . . . . .	123
6.5.3	Access to Operations . . . . .	126
6.5.4	Safeguard of Pre-existing Rights . . . . .	128
6.5.5	Taxation, Sharing of Costs and Revenues . . . . .	129
6.5.6	Employment, Health and Safety . . . . .	132
6.5.7	Protection and Preservation of the Marine Environment . . . . .	133
6.5.8	Applicable Law and Settlement of Disputes with and Between Operators . . . . .	137
<b>7</b>	<b>Joint Development Agreements in Areas of Overlapping Claims: State Practice . . . . .</b>	<b>141</b>
7.1	Introduction . . . . .	141
7.2	The Asia-Pacific Region . . . . .	144
7.2.1	A Case-Study . . . . .	144
7.2.2	The Timor Sea . . . . .	146
7.2.3	The Northeast China Sea . . . . .	151
7.2.4	The Southeast China Sea . . . . .	155
7.3	Lessons Learned . . . . .	163
<b>8</b>	<b>The Role of Mineral Resources in Maritime Delimitation . . . . .</b>	<b>167</b>
8.1	The EEZ and Continental Shelf Boundaries . . . . .	167
8.2	Consideration of Special or Relevant Circumstances . . . . .	175
8.2.1	Concept . . . . .	175
8.2.2	Mineral Resources . . . . .	177
<b>9</b>	<b>Resources that Lie Between the Continental Shelf and the Area (Article 142 of UNCLOS) . . . . .</b>	<b>187</b>
9.1	The Common Heritage of Mankind . . . . .	187
9.2	Delimitation and Use of the Area . . . . .	190
9.3	Cooperation Between Coastal States and the Authority . . . . .	192
9.4	Due Regard and the Duty of Information . . . . .	194

9.5	Sharing the Common Resources of the Area and the Continental Shelf . . . . .	196
9.6	Protection of the Marine Environment from Pollution Caused by Activities in the Area . . . . .	199
<b>10</b>	<b>Conclusions and Outlook . . . . .</b>	<b>201</b>
10.1	Main Conclusions . . . . .	201
10.2	Outlook for the Progress of Joint Development in the Law of the Sea . . . . .	205
	<b>List of Documents . . . . .</b>	<b>207</b>
	<b>Bibliography . . . . .</b>	<b>225</b>
	<b>About the International Max Planck Research School of Maritime Affairs at the University of Hamburg . . . . .</b>	<b>249</b>

Joint Development of Hydrocarbon Deposits in the Law  
of the Sea

Becker-Weinberg, V.

2014, XIV, 250 p., Softcover

ISBN: 978-3-662-43569-4