



MARITIME DISPUTES AND INTERNATIONAL LAW

**DISPUTED WATERS AND SEABED RESOURCES
IN ASIA AND EUROPE**

Constantinos Yiallourides



Maritime Disputes and International Law

The settlement of the maritime boundary disputes between China and Japan in the East China Sea, and between Greece and Turkey in the Aegean Sea, is politically deadlocked. While diplomatic settlement efforts have been ongoing for the past several decades, neither side in each case appears prepared to back down from its respective maritime and territorial claims. Several incidents at sea have occurred, prompting diplomatic protests, military standoffs, and even exchange of fire. The existing status quo is inherently unstable and does not favour either side to the extent that it holds hostage the multiple benefits that could otherwise be generated from the exploitation of the seabed energy and mineral resources in the disputed waters, creating an urgent need for a meaningful discussion on finding a practical way forward. This monograph undertakes a comprehensive analysis of these disputes based on the rules and principles of international law, critically evaluating possible institutional designs of inter-State cooperation over seabed activities in disputed maritime areas and makes recommendations for the prospect of realising joint development regimes in the East China Sea and the Aegean to coordinate the exploration for and exploitation of resources without having resorted previously to boundary delimitation settlement.

Dr Constantinos Yiallourides is the Arthur Watts Research Fellow in Public International Law at the British Institute of International and Comparative Law, specialising in maritime and territorial disputes. He advises States, international organisations and other entities on matters of international law.

Maritime Disputes and International Law

Disputed Waters and Seabed Resources in Asia and Europe

Constantinos Yiallourides

 **Routledge**
Taylor & Francis Group
LONDON AND NEW YORK

First published 2019
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

and by Routledge
52 Vanderbilt Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

© 2019 Constantinos Yiallourides

The right of Constantinos Yiallourides to be identified as author of this work has been asserted by him in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

Trademark notice: Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

British Library Cataloguing-in-Publication Data

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

Library of Congress Cataloging-in-Publication Data

Names: Yiallourides, Constantinos, author.

Title: Maritime disputes and international law: disputed waters and seabed resources in Asia and Europe / Constantinos Yiallourides.

Description: Abingdon, Oxon [UK]; New York, NY: Routledge, 2019. | Includes index.

Identifiers: LCCN 2019006234 (print) | LCCN 2019006602 (ebook) | ISBN 9781351240536 (ebk) | ISBN 9780815375203 (hbk)

Subjects: LCSH: Maritime boundaries—Aegean Sea. | Maritime boundaries—East China Sea. | Continental shelf—Law and legislation—Aegean Sea. | Continental shelf—Law and legislation—East China Sea. | Territorial waters—Aegean Sea. | Territorial waters—East China Sea. | Economic zones (Law of the sea) | Boundary disputes.

Classification: LCC KZA1686 (ebook) | LCC KZA1686 .Y53 2019 (print) | DDC 341.4/48—dc23

LC record available at <https://lcn.loc.gov/2019006234>

ISBN: 978-0-8153-7520-3 (hbk)

ISBN: 978-1-351-24053-6 (ebk)

Typeset in Galliard
by codeMantra

To my family, for all the reasons

Contents

[*List of figures*](#)

[*List of cases*](#)

[*Preface*](#)

[*Acknowledgements*](#)

[*Abbreviations*](#)

1 Introduction

[*Background to this book*](#)

[*International cooperation over seabed activities: Why now?*](#)

[*Goals of this book*](#)

[*Structure of this book*](#)

2 The international law of maritime boundary delimitation

[*Introduction*](#)

[*The role of seabed activities in the development of the law of the sea*](#)

[*Assessing the efforts to codify the law of maritime delimitation*](#)

[*The 1958 United Nations Conference on the Law of the Sea*](#)

[*The Third United Nations Conference on the Law of the Sea \(1973–1982\)*](#)

[*Maritime boundary delimitation before international courts and tribunals*](#)

[*Introduction*](#)

[*The equitable principles/relevant circumstances method*](#)

[*Moving towards a more certain delimitation methodology: the increasing importance of equidistance*](#)

[*Drawing a single EEZ and continental shelf boundary*](#)

[*The prominence of geography*](#)

[*Relevant circumstances when drawing a single EEZ/continental shelf boundary*](#)

[*Conclusion*](#)

3 The Aegean Sea maritime delimitation dispute

[*Introduction*](#)

[*Geographical characteristics*](#)

[*Maritime claims and applicable law*](#)

[*Territorial sea claims*](#)

[*Continental shelf claims*](#)

[EEZ claims](#)
[Method of delimitation advanced by Greece](#)
[Method of delimitation advanced by Turkey](#)
[Questions of maritime delimitation in the Aegean Sea](#)
[Zone-generating capacity of islands](#)
[‘Rocks’](#)
[‘Cannot sustain human habitation or economic life of their own’](#)
[The role and effect of islands in maritime boundary delimitation](#)
[Introduction](#)
[Discernible principles or approaches](#)
[Discounting islands as base points](#)
[Granting islands reduced effect](#)
[Island enclaves](#)
[Combination of approaches](#)
[Implications for the Aegean Sea](#)
[Seabed resources in the Aegean Sea](#)
[Conclusion](#)

4 The East China Sea maritime delimitation dispute

[Introduction](#)
[Geographical and geomorphological characteristics](#)
[Maritime claims and applicable law](#)
[China](#)
[Taiwan](#)
[Japan](#)
[South Korea](#)
[Delimitation questions in the East China Sea](#)
[China’s outer continental shelf submission to the CLCS](#)
[The role of geology and geomorphology in maritime boundary delimitation](#)
[Jurisprudence](#)
[State practice](#)
[Timor Sea](#)
[Japan’s practice towards South Korea](#)
[Senkaku/Diaoyu islands and Article 121\(3\) of UNCLOS](#)
[Introduction](#)
[Application of Article 121\(3\) of UNCLOS to Senkaku/Diaoyu islands](#)
[Effect of Senkaku/Diaoyu islands on maritime boundary delimitation](#)
[Oil and gas development in the East China Sea](#)
[Conclusion](#)

5 Unilateral seabed activities in disputed waters

[Introduction](#)
[Maritime spaces under overlapping ‘sovereign rights’](#)
[Rights and obligations of States pending resolution of overlapping claims](#)

[Obligation to make every effort to conclude provisional arrangements](#)

[Obligation to make every effort not to aggravate the dispute](#)

[Lessons to be learned](#)

[Objective criteria are useful but much depends on the context](#)

[More scope for unilateralism](#)

[Meaningful responses against unilateral petroleum activities](#)

[Impact on energy investments](#)

[Conclusion](#)

6 Joint development of seabed resources in disputed maritime areas

[Introduction](#)

[The basic concept of joint development](#)

[Joint development and cross-border unitisation](#)

[The functional character of joint development](#)

[The legal foundations of joint development](#)

[EEZ and continental shelf rights](#)

[Joint development in the law of the sea](#)

[Joint development and customary international law](#)

[Joint development in State practice](#)

[Single state authority](#)

[Joint authority](#)

[Compulsory joint venture](#)

[Conclusion](#)

7 Beyond delimitation questions in the East China Sea and the Aegean

[Introduction](#)

[Negotiating joint development in the East China Sea and the Aegean](#)

[Recognition of the prima facie validity of competing claims](#)

[Political will](#)

[Determining the zone of cooperation](#)

[A joint development zone in the Aegean](#)

[Choice of legal framework applicable to the joint development zone: options](#)

[Single state model](#)

[Joint authority model](#)

[Preferable approach: 'divide and manage'](#)

[Institutional set-up](#)

[Key objectives of the joint commission](#)

[Orderly and timely exploration and exploitation of petroleum](#)

[Prevent or mitigate conflicts between petroleum activities and other marine uses](#)

[Protection and preservation of the marine environment](#)

8 Conclusion

[Bibliography](#)

[Index](#)