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**STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE ASIA-PACIFIC : DEVELOPING ENVIRONMENTAL LAW CHAMPIONS**  
*Manila, 1st - 5<sup>th</sup> June , 2015*

**SESSION 11: REGIONAL ENVIRONMENTAL LAW**  
**Case study on Trans-boundary Pollution**  
**The Singapore-Malaysia Land Reclamation Dispute, 2003**

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## Background – Singapore’s history of land reclamation

- Land reclamation has long been carried out in Singapore from colonial times
- Reclamation works over the last 30 years increased its land area from 580 to 700 sq km.

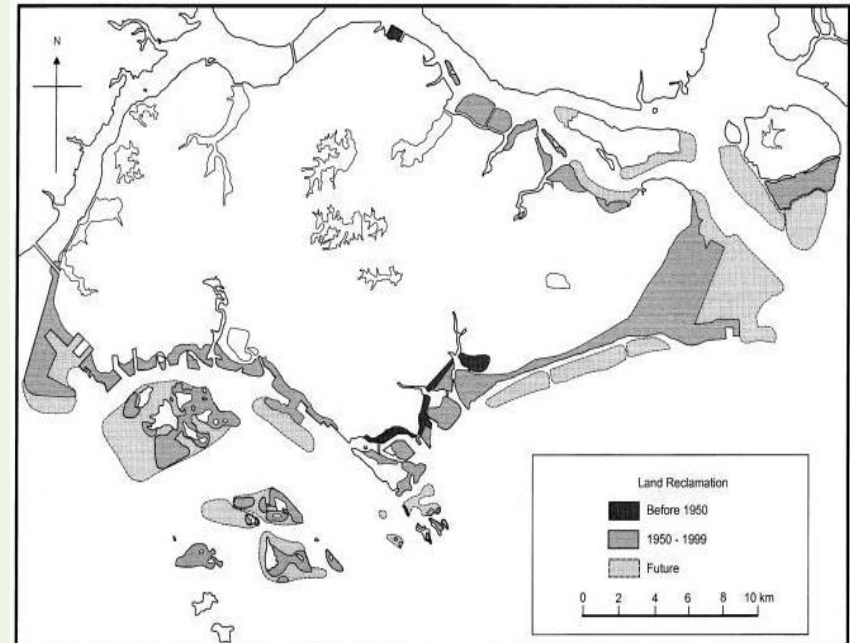


Figure R8 Reclaimed land in Singapore.

## Events leading to the dispute

- Jan 2002 – Malaysia voiced displeasure at S'pore's reclamation works at Tuas (West coast) and in April 2002, re Pulau Tekong (N-East).
- Malaysia alleged these works :
  - impinged on Malaysian territory, narrowing the waterway in Kuala Johor
  - caused pollution, damaged the marine environment & jetties
  - reduced the catch of Malaysian fishermen in the area





## SINGAPORE LAND RECLAMATION DISPUTE

- **Feb 24, 2002**

Johor complains about Singapore's land reclamation works at the Pulau Tekong area. More than 1,000 fishermen are said to have suffered losses due to the works.

- **March 5, 2002**

Johor submits report to Government on details of the effect of the Republic's land reclamation.

- **Sept 7, 2003**

Malaysia seeks international arbitration in the land reclamation dispute after a series of talks with Singapore ends in failure.

- **Oct 8, 2003**

The International Tribunal for the Law of the Sea (ITLOS) in Hamburg directs Singapore not to conduct land reclamation works that may cause irreparable damage to Malaysia's interests or serious harm to the marine environment.

- **Nov 22, 2003**

Senior officials from Malaysia and Singapore agree to the appointment of a group of independent experts to study the impact of the reclamation works.



- **Nov 8, 2004**

Independent experts submit final report to both the Singapore and Malaysia Governments.

- **Jan 13, 2005**

Malaysia and Singapore agree that they have a common interest to ensure the safety of navigation in the Straits of Johor and in protecting the environment.

- **April 24, 2005**

Malaysia's Foreign Ministry announces that both countries will sign a Settlement Agreement to end the reclamation works dispute.



## Dispute referred to International Arbitration

- Jan – April 2002 – Malaysia alleged damage from reclamation
- Singapore asked for more details but no information was provided until 4 July 2003, when Malaysia
  - invoked Art. 286 UNCLOS (refer dispute to ICJ or ITLOS)
  - asked for arbitration under Annex VII, UNCLOS
- Singapore invokes Art 283 UNCLOS - parties to a dispute are obliged to exchange views and attempt to settle through negotiation
- August & Sept 2003 - Meetings held, S'pore gave detailed presentations.
- Meetings then stalled as Malaysia wanted Singapore to stop all reclamation works in the meantime, give Malaysia full information on current and projected works, and give full compensate for damage caused.
- Spore refused, claiming that their studies showed no significant impacts on Malaysia.



## Arbitration under ITLOS

- Malaysia applies to ITLOS for arbitration and for these provisional measures:
  - i.e. Singapore to stop all reclamation works in the meantime, give Malaysia full information on current and projected works and give full compensation for damage caused.
- Malaysia appoints a judge from Bangladesh (Dr Kamal Hossain) as ad hoc judge
- S'pore appoints a judge from US (Prof Bernard Oxman) as ad hoc judge
- 5 oral hearings were held.
- 5 arbitrators are needed – only 2 appointed above, so President of ITLOS exercised his power to make the appointments of the other 3
  - Dr Christopher Pinto (Sri Lanka) as President of the Tribunal;
  - Prof Ivan Shearer (Australia) & Sir Arthur Watts (UK)



## Decision of Arbitral tribunal

- Oct 2003 – Tribunal delivered unanimous judgment:
  - Singapore need not suspend its activities
  - both parties to establish a group of independent experts to conduct a study on term of reference to be agreed between the 2 states
  - this group of experts (GOE) must decide within 1 year, the effects of S'pore's reclamation works and propose appropriate measures to deal with any adverse effects
- Both govts to appoint a liaison officer to liaise with the group of experts (2 women appointed, worked well together)
- DHI-Water & Environment (an international consulting and research group) was appointed by the 2 states to assist the GOE.
- DHI group prepared a detailed report to GOE
- Report carefully studied by GOE – GOE then sends its report to the 2 govts



## Unanimous Report of the Group of Experts- Nov 2004

- Singapore's reclamation works had not caused any serious impact
- Of the 57 impacts identified by experts, 40 could only be detected in the computer model but not in the field
- Of the remaining 17 impacts, GOE recommended mitigating measures to eliminate them

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3 rounds of negotiations followed.

The 2 govts then reached an agreement to settle the dispute.





## 26 April 2005 – Settlement Agreement signed

- 26 April 2005, both govts signed the Settlement Agreement – **dispute amicably resolved**

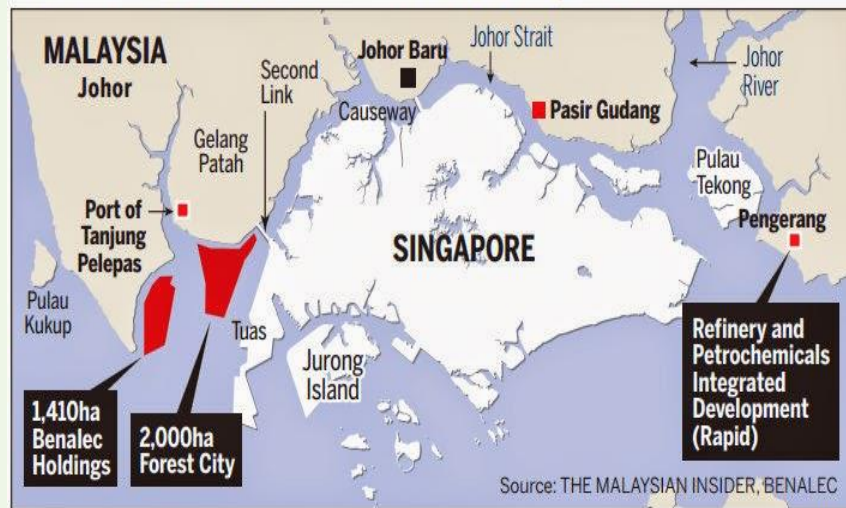
See Tommy Koh & J. Lin “The Land Reclamation Case : Thoughts and Reflections” (2006) SYBIL

- Third party processes eg submitting dispute to ITLOS or referring it to a technical team (GOE) are very useful tools
- Effective negotiators are important – they need IQ, EQ and CQ (Cultural intelligence)
- Good inter-personal dynamics between players at all levels; good rapport with all; good personal relations of the 2 agents for the govts



## Today – 2015 : Land reclamation in Johor, Malaysia

### Southern Johor reclamation projects



ST GRAPHICS

- Concern of Singapore's nature groups – damage to coasts and shorelines
- The entire area from Sungei China to the Mandai Mangroves (S'pore) is part of a Birdlife International designated Important Bird Area (IBA).
- The whole area should be viewed ecologically as one ecosystem together with Tanjung Piai and Sungei Pulai, Johor, Malaysia (Ramsar sites)

