TRANSBOUNDARY RESOURCE EXPLOITATION AND ENVIRONMENTAL RESPONSIBILITY
Indeterminacy in International Resource Disputes

1. Pedra Branca/ Pulau Batu Puteh (*Malaysia v Singapore*)
   - Pedra Branca to Singapore
   - Middle Rocks to Malaysia,
   - But left South Ledge to whichever party has territorial sovereignty
Sketch-map No. 2. Location of Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge

This sketch-map has been prepared for illustrative purposes. The symbols showing these maritime features indicate only their location, and not their physical characteristics or geographical and legal status.

Mercator Projection (01N)
WGS 84
1 : 500 000

MALAYSIA (Johor)
SINGAPORE
INDONESIA (Pulau Batam)
INDONESIA (Pulau Bintan)

North Channel
Middle Channel
Pedra Branca/Pulau Batu Puteh
Middle Rocks
South Ledge
South Channel
Strait of Singapore
2. Maritime Delimitation & Territorial Questions (Qatar v. Bahrain)
   - Qatar awarded Zubarah and Janan
   - Bahrain awarded Hawar Islands and Qit’at Jaradah.
   - But “the single maritime boundary that divides the various maritime zones of Qatar and Bahrain shall be drawn as indicated ...” .... “in the southern part, from the point of intersection of the respective maritime limits of Saudi Arabia on the one hand and of Bahrain and Qatar on the other, WHICH CANNOT BE FIXED”

The vessels of both countries enjoy rights of innocent passage according to customary international law.
3. Gabcikovo-Nagymaros (Slovakia v. Hungary)

4. Gut Dam Case (US v. Canada)

5. Gulf of Main case (US v. Canada)

6. Colombia v. Nicaragua
Reasons for Indeterminacy

* 1. Neighborliness
* 2. Technology
* 3. Peace Promotion
* 4. Unsuitability of Adversarial Winner-Takes-All for trans-boundary resource disputes
What Can Be Done?
Figure 2. Global map of giant oil and gas fields. Green represents oil fields, and red represents gas fields.
Co-operation

- Joint development
- Unitization
Figure 2: Abu Musa Island
Other Examples From Our Region

- Sudan – Saudi Arabia
- Qatar - Bahrain
Features of Joint Devpt.

- Joint Supervisory Commission (state reps)
- Joint Operating Committee (technical team)
- Single or multiple operating companies
What Law – Public of Private?

* Public (International Law)

* Law of the Sea Convention Parts V (articles 55-75) and VI (articles 76-85). –on co-operation, conservation, management and optimum utilization of living and non-living resources

* Trail Smelter Arbitration
Problems With Public International Law

- State or sovereign Immunity
- Jurisdiction by consent
- Inadequacy of Compensation
Private (International) Law

- Causation
- Proper Forum
- Possible immunity (eg for NOC)
- Costs
Way Forward

- Special Fund
- Insertion of environmental responsibility provisions in joint development agreements
- Standing for private people from either jurisdiction