

## Gerbang Perdana<sup>(c)</sup>

In the late 3rd century, B.C., General Xiang Yu led Chu forces in an offensive against the Qin army. Having crossed the Zhang River, General Xiang famously ordered his men to destroy their boats. With no way to turn back, their resolve was strengthened, and the Chu forces won a great victory.

Two thousand years later, in the context of diplomacy, then Prime Minister of Malaysia, Dr Mahathir Mohamad turned General Xiang's logic on its head. Rather than destroy boats, Dr Mahathir launched a bridge.

In 1923, the British colonial authorities had built a causeway across the Johor Straits to link Johor Baru and Singapore. In July 1996, Dr Mahathir announced a plan to replace the causeway with a bridge.

The objective was to ease traffic congestion in Johor Baru, improve water flow in the Straits of Johor, and facilitate shipping between Pasir Gudang and Tanjung Pelepas ports. Situated to the east and west of Johor Baru respectively, the two ports are separated by the causeway.

However, the government of Singapore did not favour the proposed bridge. In August 2003, after several years of unsuccessful negotiations with Singapore, the Mahathir government decided to proceed unilaterally.

At a ceremony witnessed by Dr Mahathir, the Public Works Department awarded a RM1.1 billion (Malaysian ringgit) contract to Gerbang Perdana Sdn Bhd.<sup>1</sup> The works comprised the construction of a half-bridge and dismantling the Malaysian part of the causeway. Four months earlier, in May 2003, Gerbang Perdana had been awarded a contract for the Integrated Customs, Immigration and Quarantine (CIQ) Complex.

The design of the bridge was constrained by the limited space on the Malaysian side of the Johor Straits and connection to the new CIQ Complex. Dr Mahathir remarked, "we have to design a rather strange-looking bridge because otherwise, we cannot get the right height or inclination. If it's too steep, the lorries won't be able to pass through".

The Malaysian government described the construction as a "scenic" bridge. However, the media were quick to call it the "crooked" bridge.

Gerbang Perdana is a special purpose vehicle incorporated to build the CIQ Complex, bridge, and related works. It is owned in part by the IBEX Group of Companies led by Dato' Yahya A. Jalil through Merong

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<sup>(c)</sup> 2006, I.P.L. Png. This case is based, in part, on "KL issues Causeway statement", *Straits Times*, April 26, 2006; "No Open Tender for RM250 million CIQ flyover - Samy, Don't Run!" <http://blog.limkitsiang.com/>, April 26, 2006; <http://www.gerbangperdana.com.my/> [Accessed, May 9, 2006]. I thank Dr Cassey Lee for helpful advice and inspiring this case.

<sup>1</sup> In the Malay language, "Sdn Bhd" is an abbreviation of "Sendirian Berhad", which means "Private Limited".

Mahawangsa Sdn Bhd (60%), and also in part by DRB-Hicom Bhd, a publicly listed conglomerate (20%) and Detik Nagasari Sdn Bhd (20%).

General Xiang's order to destroy his boats changed the incentives of his soldiers. With no way of turning back, they had to fight or die. So they fought and won.

Similarly, the Mahathir government's decision to build the scenic bridge was a commitment not to turn back. There would be a bridge – even if only half a bridge. By sinking the cost of building the scenic half-bridge, the Mahathir government changed the incentives to build a full bridge.

Specifically, with work on the half-bridge fully underway, the cost/benefit equation of a full bridge would change. The relevant cost would be that of building just the Singapore portion. The key was to *sink* the cost of the Malaysian portion. With no turning back, that cost would no longer be relevant.

The benefits of the full bridge would remain the same, and hence, it would be easier to justify the full bridge, and even go so far as to pay the cost of the Singapore portion. Launching the scenic half-bridge would be a clever way to force the issue of the full bridge.

Yet, just six months later, in February 2004, the government of Dr Mahathir's successor, Datuk Seri Abdullah Badawi, decided to suspend all works on the scenic half-bridge. Why?

A detailed statement last month by Ambassador-at-large Tan Sri Ahmad Fuzi Abdul Razak of Malaysia's Ministry of Foreign Affairs explains. According to legal advice, if the Malaysian government acted unilaterally to dismantle the Malaysian portion of the causeway, it would trigger several international agreements.

Specifically, dismantling the causeway would involve re-locating water pipelines between Johor and Singapore. The pipelines are governed by the 1962 and 1965 Johor-Singapore Water Agreements and the 1965 Separation Agreement between Malaysia and Singapore. Dismantling the causeway might also cause land in Singapore used by Malaysian Railways to revert to the Singapore government.

While Malaysia could build the scenic half-bridge unilaterally, it needed Singapore's agreement to dismantle the Malaysian portion of the causeway. Without Singapore's agreement, the scenic half-bridge would be ""waiting" to be linked by Singapore at its pleasure. Such a "hanging bridge" would no doubt become a subject of ridicule".

Initially, the Malaysian government sought to negotiate with Singapore on the full bridge as a stand-alone issue. Malaysia even offered to pay the cost of the Singapore portion.

However, the Singapore government rejected the offer, and insisted on a “balance of benefits”. Singapore asked Malaysia to resume exports of sand and restore permission for Singapore air force planes to transit Malaysian air space. In exchange, it would replace its portion of the causeway with a bridge at a cost of S\$725 million.

By March 2006, Malaysian and Singapore negotiators had reached a broad understanding on an exchange of sand and airspace for the full bridge. The Abdullah Badawi government then consulted among parliamentarians belonging to its Barisan Nasional coalition.

However, key cabinet members expressed discordance. Works Minister S. Samy Vellu said that Malaysia would resume construction of the half-bridge even without Singapore’s agreement. Deputy Prime Minister Najib Razak remarked, “This is our right as a sovereign nation and nobody can question or deny our right to build the bridge.”

Shortly thereafter, in April 2006, Datuk Seri Abdullah Badawi’s government decided to cancel the scenic half-bridge and revert to the status quo of 1996. Apparently, the political cost of the sand and airspace concessions was just too high. Apparently, half a bridge was worse than no bridge.

Moreover, controversy did not end with the April 2006 announcement. The Badawi government had simply exchanged one dispute for another. Having avoided difficulties with Singapore, it now had to deal with a new issue – the appropriate amount of compensation to Gerbang Perdana for cancellation of the contract for the half-bridge.