

CHAPTER IV

ACQUISITION OF MALAYAN UNITED INDUSTRIES BHD (MUIB)

1. THE POTENTIAL TARGET-MUIB

Tan Sri Khoo Kay Peng (Khoo) Chairman of Malayan United Industry Bhd (MUIB) was said to be partly responsible for the collapse of Pan Electric in 1985. He settled this debacle by paying S\$ 36 million (RM 54 million) to the Singapore Authorities. As a result of this involvement in Pan-Electric, his image was perceived to be tarnished. It was said that Khoo also wanted to separate himself from his flagship MUIB, so that he would not be identified too closely with the company.

In 1990, Khoo formed business alliance with Ipoh Garden Bhd (IGB) and Inter-Pacific (renamed Berjaya Group in 1991) to form a super-conglomerate. Partly for this reason, Khoo reduced his stakes in MUIB to 9.96% with the sale of his shares to IGB. IGB accumulated MUIB shares up to 20% through its subsidiaries.

With combined assets of over RM 8 billion, the super-conglomerate alliance was designed to give the three firms access to a larger group of banks to finance

expansion plans on the back of a booming economy.

But the tripartite alliance fell apart due to differing business philosophies and management styles. MUIB's newly appointed Vice Chairman then, Datuk Malek Merican, an appointment apparently engineered by IGB resigned from the post within three months because of irreconcilable differences in restructuring of MUIB. This resignation might have marked the beginning of the chill between IGB and MUIB.

As part of the alliance, MUIB was among the major shareholders in IGB with 12.74% stake. But this stake was sold for RM 136 million in March 1991 to reduce bank borrowings. MUIB's gearing was substantially reduced from 59 to 25 per cent. The other reason for the sale was probably due to the breakup of the alliance.

IGB had initially sparked speculation about a hostile bid for MUIB by way of a letter dated 29th Jun. 1991. to Khoo with an ultimatum to buy back its 84.3 million shares in MUIB by 3rd July. 1991. The stake which made up 13% of MUIB's paid up capitals of RM 648.4 million was the last remnants of a failed tripartite alliance. Khoo refused to purchase the stake at what he considered an inflated price of RM 2.71 a share, setting the stage for IGB to unload the shares to other parties.

By this time Khoo knew it was common knowledge that MUIB was ripe for the taking. Between Sept 90 to Feb 91, Khoo went on a buying spree of MUIB's shares on the open market to shore up his stakes to 14.6%.

2. THE PREDATOR-BERJAYA GROUP.

On 24th Aug 1991, Tan Sri Vincent Tan Chee Yioun (Tan) of Berjaya Group, the third leg of the tripartite alliance announced that he had through his subsidiaries accumulated 30.8% of MUIB's 648,438,135 shares.

Tan's companies acquired much of the stake through arrangements that do not obligate them to pay for the shares until their shareholders and Malayasia's Foreign Investment Committee (FIC) approve the purchases. The arrangements would allow Tan to keep the shares from falling into MUIB's hands. This is also to maintain the threat of a takeover or a greenmail exercise and to postpone full payment for the shares.

The announcement issued by Tan's Berjaya Group also indicated that Bank Negara had approved¹ his purchase of MUIB shares to as much as nearly 33%, just shy of trigger point at which Malaysian companies are required

¹ Malaysian Law stipulate that corporate investors must receive the central bank's approval to buy more than 5% of a domestic financial institution. The law also states that investors legally are permitted to hold no more than 20% in a domestic financial concern and the Finance Minister is empower to make exception to that rule. MUIB is a company with manufacturing, hotel, insurance, and property interests owns a commercial bank and a finance company.

to make a general offer for the remaining shares.¹ The financial authorities are prepared to let Tan battle MUIB's reclusive Executive Chairman Khoo for control of the company. The jewels in MUIB's crown were MUIB's wholly owned MUI Bank Bhd and MUI Finance.

Altogether, Tan's companies had committed well over RM 515 million for their MUIB holdings. Tan called this acquisition of MUIB shares a "strategic stake" and merely for investment purposes only. Tan, who is closely connected to Malaysia's top politicians, was reported to have secured about RM 500 million in standby credit line from an international bank for the takeover bid. But most observers expected Tan would have to line up credit facilities of about RM 1.2 billion if he intended to proceed with a general offer.² His total debts at this point would amount to over 1.5 billion. There he paused.

1 Security commission Rule on Takeover and mergers 1987 states that any person who acquire whether by a series of transactions over a period of time or not, shares which (taken together with shares held or acquired by person acting in concert with him) carry more than 33% of the voting rights of a company shall within a reasonable period of time extend an offer to the other shareholders.

2 MUIB has a paid up capital of 648 million shares of RM 1 each. Assuming that Tan already controls 33% of the group, he would have to bid for the remaining 67% of MUIB shares amounting to 434 million shares. At the rumoured general offer price of RM 2.71 per share, the remaining stake would cost RM 1.18 billion.

Observers speculated that he dared not go for a general offer because he had no means of raising that kind of money nor any wish to take a gamble of that stake.

Tan might have got himself locked into a precarious corner. His cost of acquiring the MUIB block was approximately RM 2.72 a share, a good 24 Sen higher than prevailing market prices. Selling it then would invite losses up to RM 48 million.

Apparently, Tan had negotiated with Khoo to be given board representation on MUIB. However, Khoo deemed Tan as hostile raider and rejected outright. Representation on MUIB's board was vital for Berjaya Group if it hoped to include MUIB's profit on to its balance sheet.

3. THE CORPORATE MANOUVRES

On 9th Sept 91, MUIB's 69% subsidiary, Malayan United Manufacturing Bhd (MUMB) announced that it had applied to the Finance Ministry, through Bank Negara Malaysia to voluntary takeover Berjaya at a cost of RM 1.60 a share. This announcement was seen as a counter attack move by Khoo to thwart a hostile (deemed) takeover bid by Tan who had announced earlier that he had a cumulative 30.8% shares in MUIB. Tan was in a

vulnerable position, together with his allies, they control close to 33% of Berjaya, leaving 67% for grabs.

If Khoo's perception of Berjaya's intentions be true, then what he was doing was putting up the classic "Pacman's defence"¹. This strategy was commonly used by many US companies in the late 1980s to deny or deter predator groups from taking over their companies.

A standoff situation developed. Khoo claimed he had 51% support from MUIB shareholders. Obviously, Tan did not believe. If Khoo really had 51% support, Tan would be in trouble. Khoo could deny Tan board representation as well as not declare dividends. The holding costs would cripple Tan. He would have to sell the MUIB shares at a loss.

To Tan's perception, Khoo might not have even 30%. The possible option likely for Tan would be to go to court to invoke an extraordinary general meeting to find out who exactly had beneficial interests in MUIB. If he could show that he had more shares than Khoo, then he could throw Khoo out. He would win without having to go for a general offer.

¹ The term Pacman's defence is derived from a popular videogame called Pacman whereby the prey becomes the aggressor and pounces on its predator when the latter has failed to swallow it earlier.

To thwart Tan's attempt, Khoo has at least four lines of defence to keep Tan at bay.

- 1.) To restructure MUIB group of companies so as to streamline the group's operation thus strengthen Khoo's holding in the group.
- 2.) To reduce MUIB shareholding in MUMB so that it becomes an associate company. This will enable MUMB to pick up MUIB shares now that it is no longer a subsidiary of MUIB. As an associate, MUMB is free to vote at any Extraordinary General Meeting (EGM), should there be a need to do so.
- 3.) The use of "scorch earth" policy whereby MUIB divests control of all its public-listed subsidiaries, leaving behind a shell for the predator. Thus, should Tan win in his battle for control of MUIB, he would only be getting a shell company.
- 4.) The use of Pacman defence where he turned around and attacked his would be predator by using MUMB to take over Berjaya. This was to keep Tan off-balanced and pre-occupied with the defence of his own flagship. The ultimate objective was either to keep Tan so pre-occupied that caused him to abandon his

bid for control of MUIB or to buy time to enable him to shore up his defences for MUIB and to work out fresh strategies.

If Tan did not have majority of Berjaya shares he might have to do a fair bit of stock-taking at his own backyard. A complete takeover of Berjaya at RM 1.60 per share would cost RM 573.8 million based on its paid up capital of 358.6 million which is comparatively low compared with a take over of MUIB which is capitalised at RM 1.711 billion. This voluntary takeover was expected to be within reach of MUMB.

In a move to consolidate his position in MUIB, Khoo resigned his chairmanship of Pan Malaysia Rubber Industries Bhd (PMRI), an associate company of MUIB. In his stead, Mohd Ibrahim Mohd Zain, chairman of Bank Kerjasama Rakyat Malaysia and a close associate of the then Deputy Prime Minister, Ghafar Baba was appointed. In the light of the Khoo-Tan struggle, it was widely believed that Khoo resigned from his position on the board of PMRI because he would have been barred from voting on any related issue because of his conflict of interests.¹ Ibrahim's appointment was widely seen as a

¹ In a proxy fight, Tan could take an injunction against Khoo, barring him from voting in any of his MUIB cross holdings.

move by Khoo to ensure a "friendly" party, not barred from voting firmly ensconced at PMRI helm. By March 1992, the whole process of consolidation was completed.

Two possibilities could be cited for the above manoeuvres. First, Khoo might want to consolidate his position in a listed vehicle away from the attention of Tan. Second, Ibrahim was perceived to be acting in concert with Khoo to reduce MUIB's apparent control in PMRI.

What about Tan's options ? He too had several options at his disposal should he decide to make a bid for MUIB and at the same time, prevent Khoo from swallowing his Berjaya flagship.

- 1.) To render useless Khoo's Pacman's defence, Tan could increase his stake in Berjaya to 51% and reject outright the former's bid for Berjaya.
- 2.) Tan with his group's 30.8% in MUIB could requisite for an EGM to remove Khoo as chairman. One reason for the EGM could be the unusual manner in which MUIB has relinquish control of MUMB by reducing its stake from 69% to 40%.
- 3.) A proxy battle against Khoo would reveal to Tan the

extent of Khoo's support in MUIB.

Most analysts felt that speed is the key factor in the fight for control of MUIB. If Tan was serious in his bid for MUIB, he should have moved fast to requisite an EGM to remove Khoo.

Meanwhile, it was reported that another suitor emerged. HICOM Holding Bhd and Edaran Otomobil Nasional Bhd (EON) had been looking for a bank or finance company to supplement its motor manufacturing operations. Both the companies were said to have negotiated with MUIB. But the deal fell through because the price was considered to be too prohibitive by the new suitor.

On 13th Sep. 1991, only four days after Khoo's announcement of takeover, Tan stunned his would-be predator by disclosing that his stakes in Berjaya had risen to 51.03% from 32.8% and was going for general offer at RM 1.38 per Berjaya Group share. In view of this, Tan was required under Rule 34 of Guidelines on Takeover and Merger of Security Commission to make a general offer for the remaining shares. He has yet to get approval from the authorities for his offer. The lower bid of RM 1.38 Berjaya shares (MUIB's was RM 1.60) reflected his strong grip on Berjaya Group. With this, it seemed to make a mockery of MUMB's earlier offer.

However, on the same day, Khoo came right back to insist that he still intended to buy at least 38% of Berjaya shares by offering one new MUMB share and RM 1.50 in cash for every two Berjaya Group shares. Each new 50 Sen MUMB share will be underwritten by Malaysia International Merchant Bankers Bhd for cash at RM1.60. This offer will be made not later than Oct 31 and will remain open for acceptance for 21 days.

Khoo had through MUMB obtained approval from government regulators for the partial offer. The offer was conditional upon MUMB getting at least a 38% stake in Berjaya. But the approval was granted with minor amendment. Malaysia's Panel on Takeovers and Mergers has ordered MUMB to execute the partial offer for 36.3 million shares at RM 1.60 each in cash term, 10 Sen up from the original proposal. This partial offer was probably the first in Malaysia's corporate history.

Given that MUMB's price was higher, it was likely that shareholders would opt for Khoo partial offer. The offer by Khoo was puzzling and made observers wonder why Khoo was pushing ahead on what seemed to be a lost course. MUMB's decision to proceed with its partial takeover of the Berjaya was probably aimed at keeping Tan on his toes. If Tan has 51% and MUMB succeeded in its bid for 38% it mean 89% of Berjaya shares would be

locked in and was no longer available to public. If Khoo was serious in his offer, it would buy another 2% bringing the free float to less than 10%, that would automatically delist the counter and Berjaya group could become private. Tan would suffer when bank might press hard on him since most of his shares were pledged with the banks as collateral.

However, although MUMB's takeover bid for Berjaya appeared to be foiled, MUMB could have achieved its purpose ie. it was designed to put pressure on Berjaya, then it was successful in easing its pressure on MUIB itself. It may have achieved this in a roundabout way by making Tan pay a price even before he launched a bid for MUIB, as he had to raise his stake in Berjaya to 51% to win majority control and thus tightly secure his home turf. To achieve this, Tan bought an additional 65.44 million share in Berjaya at price range between RM 1.35 and RM 1.38 or a total of RM 90 million.

Tan held a seemingly unassailable 51.03% stake but was expected to be diluted when Berjaya Group's issued capital expands to RM 504.6 million following the completion of its special bumiputra and irredeemable convertible unsecured loan stock exercise. Tan would have to raise another RM 53 million, sending him deeper in debt to maintain his Berjaya Group stake at 51% or

risk seeing the additional shares falling into hostile hands.

Partial offer of MUIB also restricted the Berjaya Group and its members from making any acquisitions or divestment of a "material" nature during the offer period. This put a momentarily stop to the proposal of its subsidiary Berjaya Leisure Bhd to divest its gambling stakes (Sports Toto). Khoo's strategy seemed to bury Tan in debts.

But Khoo was unlikely to obtain full acceptance for his partial offer because several parties friendly to Tan were not willing to sell their shares in Berjaya. Also, Tan has been buying up Berjaya shares on the open market and may have already pushed his stake in the group up to 62%.

There was doubt about MUIB's credibility. Some observers wonder if MUIB was really serious or just wasting time, or hoping that Tan will tire and backoff or come to the negotiating table.

At this point, Tan was deemed overborrowed. The interest rates were rising and stock market was bearish. Its implication, the banks might pull the rug from under Tan's feet.

Berjaya Group too admitted the gearing position, but they said it was perfectly serviceable. Earning, apparently, easily exceeded interest expense.

The standoff continued and benefitted Khoo because MUIB's avowed intention to buy 38% of Berjaya was just an intention. They only have to pay if they get 38%. But this intention was doubtful. At this point of time, Khoo had not spend any money but he tied Berjaya's hand and kept Tan in debts. Khoo's strategies frustrated Tan's every move and brought pressure to the banks holding his shares. Khoo claimed that he could easily outwit Tan because MUIB was less geared than Berjaya. An out-and-out raid might cost Tan up to RM 1.8 billion far more that analysts think MUIB was worth. In any case, most people think that Khoo could muster up to 51% support in MUIB, making it pointless for Tan to carry on beating on MUIB's doors. Tan was under great pressure because of Khoo's uncompromising moves and of his heavy debt burdens. For once, the hunter know how it was to be hunted.

In a move to reduce debt and to allay his bankers' fear, Tan announced in late Sept 1991 the sale of Sports Toto to Far East Assets (FEA) for RM 600 million. This sale was one of the conditions set by Bank Negara for approving the acquisition of more than 20% equity in

finance company.¹ This deal may take a few months and its purpose was to finance the acquisition of MUIB shares.

On 21th Nov. 1991, Tan announced that it divested its more than 20% in Hong Kong based Semi-Tech, a fast-rising maker and retailer of consumer electronic and durable goods. This sale brought him cash amounting to RM 290 million and recorded a extraordinary gain of about RM 45 million. With the sales of Sports Toto and Semi-Tech, gearing had been brought to a manageable levels and placed Tan on a more solid financial footing to resume battle with Khoo.

On 29th Nov. 1991 MUMB applied to Panel on Takeovers and Mergers to withdraw its 38% voluntary partial takeover of Berjaya. It cited the authority had revised its offer substantially insisting MUIB to come up with a cash alternative or in new MUMB shares. The revision would make the deal commercially Impracticable which would see MUMB having to fork over almost twice the amount of cash for the same 38% in Berjaya. If shareholder insisted on MUMB shares, then MUMB would be

1 Central Bank's ruling states that gaming operators should have no link to banking and finance. MUIB owns a commercial bank and a finance company.

ripe for a reverse takeover from Tan. MUMB would have to issue 136 million new MUMB shares for that 38% Berjaya stake, pushing its paid up capital to RM 280 million from RM 144 million before the offer. That would dilute MUIB's stake in the subsidiary to 35% from 69% if it acceded to Panel's revision. Other reasons for the withdrawal was the emergence of white knights or new predators. Khoo might have realised that obtaining 38% of Berjaya was near impossible. Tan was said to have had 62% of his flagship almost 2 months ago.

4 THE WHITE KNIGHT

Just when Khoo appeared to have subsided the threat from his chief tormentor Tan, another more credible predator could be on the verge of seizing control of MUIB. The appearance of a new contender increased the prospect that two or more parties will team up to wrest control of MUIB from its founder Khoo.

MBf Holdings Bhd, one of the country's largest groups of diversified financial companies, has been having secret discussions with (a reluctant) Khoo and (an enthusiastic) Tan about a takeover that would be a face saving alternative to Tan. Tan was believed to be eager to sell his 30.8% stake in MUIB and welcomed MBf's intervention.

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In an effort to keep some part of his flagship company, Khoo, for first time was said to offer to sell MUI Bank to anyone except Tan. But MBf was aiming to takeover all or most of Khoo's companies. Khoo, faced with such influential and financially strong predators, was thought to be about to relinquish control of his empire with a right price. Khoo was said to be under great pressures from Central Bank officials and senior government officials to relinquish his MUI Bank and MUI Finance because the authorities wanted a man at the helm of the financial services to be more at home. He was said to be abroad most of the time.

On 14th Jan. 1992, MBf issued a statement that seemed to clinch MBf-MUIB deal. It said that it had obtained permission from the Ministry of Finance to acquire up to 33% of MUIB. MBf managing director, Tan Sri Loy Hean Heong (Loy) said that negotiation was on "hold" pending Khoo's return from abroad and everything seemed to hinge on the right price. However, a week later MUIB issued a denial which was regarded as controversial.

What ever it was, MBf was serious about its bid because Loy wanted a commercial bank to complement his financial stable and it was the only horse that was missing. In fact, MBf was so serious that, a special

task force was apparently set up to look into its bid.

Observers had wondered if Khoo would sell the entire group or just try to hive off MUIB's financial services only. The latter did not appear attractive to MBf Holdings.

However, analysts commented, Khoo was unlikely to sell even at RM 3.50, a price considered "fair" by Loy. Market price of MUIB then was around RM 2.65 a share. Khoo's asking price, according to news reports was RM 4.00 which would make the 33% block worth RM 855 million. Apparently, Loy was put off by the price. The other factor was MBf too had relatively high debts. Bankers and financial analysts were skeptical about Loy's financial ability to mount a successful takeover.

On 25th Mar. 1993, MBf issued a letter to Kuala Lumpur Stock Exchange stating its intention to abandon the acquisition of MUIB.

5. PREDATOR'S EXIT

Twenty two months into the tussle, on 18th May. 1993, Tan announced that he had sold his combined 29% stake in MUIB and walked out of the costly no-win situation. Given the circumstances of Tan's exit,

however, it was difficult to say who win. Khoo retained his grip over his massive conglomerate but Tan did not do badly either, he walked away with RM 30 million gain after holding cost. Tan's pragmatism made him realise that it was better for him to just get out of MUIB.

6. THE "WINNER" OF JEWELS IN MUIB'S CROWN

Has Tan's exit ended the MUIB saga ? Not really. The unfathomable mystery made one wonder which parties bought over the 29.3% or 190 million shares from Tan. Whoever the buyer, it did clear the way for the disposal of MUIB's financial services.

MUIB was never a stock market darling, often dubbed a slumbering giant and did not attract the fancy of analysts and investors. Most people do not like their management style. The recommendation of broking houses was to sell when its price dropped below RM 3.00 was proven wrong. Tan had managed to offload small blocks of about 5% each to foreign institutions and various other parties.

Before the sale, rumours had it that Hong Leong Group (HLG) chieftain Quek Leng Chan (Quek) was in the long running takeover battle for MUIB. When Quek second abortive attempt to wrest management control of Ban Hin

Lee Bank Bhd (BHL) had refueled speculation of the group's imminent take over of MUI Bank and MUI Finance.

Quek's quest to add a commercial bank to the sprawling HLG was understandable. A commercial bank would fit in nicely with HLG stated plans to become a financial supermarket. BHL represented HLG first steps towards that goal. With his failure to wrest control of BHL, it was expected that Quek would take over MUIB's financial services. Quek would not want to buy a substantial stake in MUIB if his ultimate aim was not to get the financial services into HLG.

On 11th Nov. 1993 MUIB announced that it had proposed to dispose of its 99.91% stake in MUI Bank and 100% stake in MUI Finance to Hong Leong Credit Bhd and Bedford Bhd (both are subsidiaries of HLG) respectively for a total of RM 1.1 billion cash. The sale would also result in an ordinary gain of RM 614 million which is bigger than the paid up capital and probably the largest in Malaysian history. The HLG's move to acquire MUI Bank instead of BHL also viewed as a wise move as buyers of listed banks or finance companies would have to pay a higher premium compared with unlisted financial institution. It was construed the acquisition would be "worth the money paid for" on a long term basis.

Observers said that the divestment of MUI Bank and MUI Finance from MUIB was a "good deal" or win-win for all parties involved. MUIB has obtained a good price for its financial services while HLG had finally got a bank. The allure of both the MUI Bank and MUI Finance was that they were eminently listable.

Will the sale of MUI Bank and MUI Finance mark the end of MUIB saga ? It could be the beginning of another intriguing series of corporate takeovers because MUIB is now another potential target with its billion ringgit cash!

Table 4.0

CHRONOLOGY OF EVENTS

1. 29th Jun. 1991 * IGB sparked speculation about a hostile bid for MUIB by presenting Khoo with an ultimatum to buy back its 84.3 million shares in MUIB.
2. 24th Aug. 1991 * Berjaya Group announced that the group had accumulated 30.8% of MUIB shares.
3. 9th Sept. 1991 * MUIB's 69% subsidiary, MUMB announced that it had applied to the authority to voluntary takeover Berjaya Group.
4. 13th Sept. 1991 * Tan disclosed that his stakes in Berjaya had risen to 51.03% from 32.8%. He was making a general offer for the remaining shares at RM 1.38 a share.
* Announcement of MUIB for the partial takeover of 38% of Berjaya by offering one new MUMB share and RM 1.60 in cash for every two Berjaya share.
5. 21th Nov. 1991 * Divestment of Semi-Tech by Tan and announcement of extra ordinary gain of RM 45 million. A strategy to reduce debts.
6. 29th Nov. 1991 * Announcement of MUMB's withdrawal of its 38% voluntary partial takeover of Berjaya Group.
7. 14th Jan. 1992 * MBf issued a statement that MBf-MUIB deal was clinched and approval was obtained from the authorities.
8. 25th Mar. 1992 * Announcement by MBf to withdraw its intention to acquire MUIB.

9. 18th May. 1993 * Berjaya Group announced that its MUIB stakes had been sold and RM 30 million gained after holding cost.
10. 11th Nov. 1993 * The sale agreement for the divestment of MUI Bank and MUI Finance by MUIB to Hong Leong Group at a cost of RM 1.1 billion was signed.