TEAM V2511, MEMORIAL FOR RESPONDENT

LAWASIA INTERNATIONAL ARBITRATION MOOT

10TH - 13TH OCTOBER 2025

ASIAN INTERNATIONAL ARBITRATION CENTRE

In Proceeding Between

CALYX DREAMBOT INC

(Claimant)

V.

RIVUS MICROELECTRONICS GROUP

(Respondent)

2024

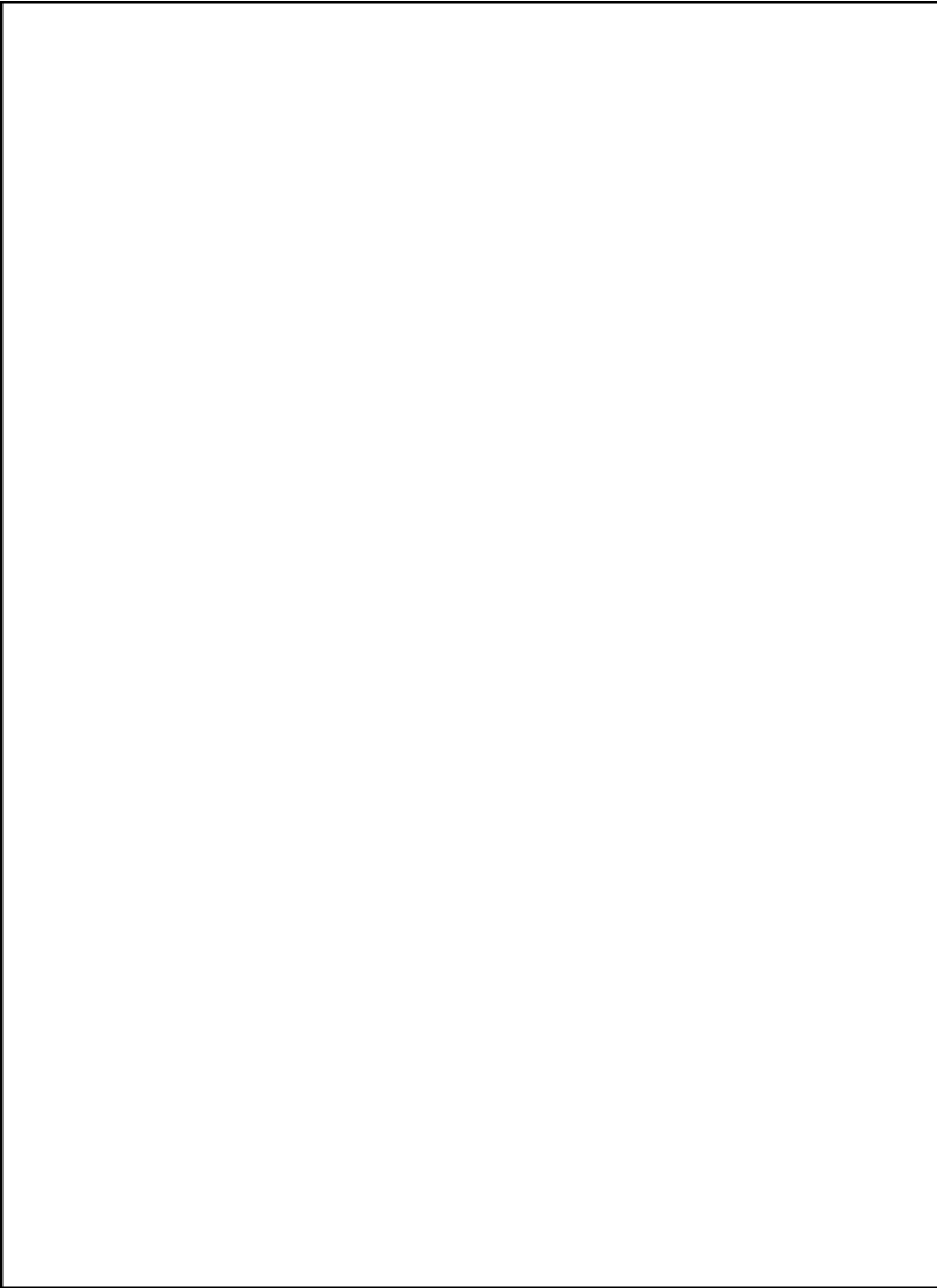

TABLE OF CONTENTS

TABLE OF CONTENTS……………………………………………………………………….……………1

TABLE OF AUTHORITIES

I. CASES……………………………………………………………………………….……2

II. BOOKS, ARTICLES, AND REPORTS……………………………………………...5

LIST OF ABBREVIATION……………………………………………………………….……………7

INTRODUCTION………………………………………………………………………………...…11

STATEMENT OF FACTS……………………………………………………………………………13

ARGUMENTS……………………………………………………….....……………………………16

1. PART 1: JURISDICTION

A. THE TRIBUNAL HAS NO JURISDICTION *RATIONAE MATERIAE* OVER THE CASE…………………………………………………………………………………16

i. Respondent as a state organ entitled to invoke sovereign immunity

*a. Respondent carries out sovereign functions by implementing state-led initiatives to develop northern Aurion and receives capital injections directly from Aurion Government Treasury…………..………………………….***16**

*b. Respondent is able to invoke sovereign immunity, even within its own territory and in the context of Arbitration………………..…………..…………***20**

ii. Waiver of immunity must be expressed while no valid waiver or exception to immunity has been made………………………………………..………..22

B. CLAIMANT'S INITIATION OF ARBITRATION WAS PREMATURE…………24

i. The preconditions of Negotiation has not been fulfilled………………………………………………………...…………….25

ii. No legal proceeding with respect to the JVA may be taken with absent ministerial consent…………………………………………………………..27

iii. The fine is not arbitrable under the JVA and must first be challenged domestically…………………………………………………………………..28

2. PART 2: MERITS

C. RESPONDENT DID NOT FUNDAMENTALLY BREACH CLAUSE 4.2(f)

i. Respondent's Conduct does not Constitute a Violation of Applicable Labour Standards Under International and Domestic Law……………..…………30

*a. Informed Consent (involuntariness)...***30**

*b. Coercion or Menace of Penalty Has Not Established…………………..….***31**

ii. Any Irregularities Identified Do Not Amount to a Fundamental Breach Within the Meaning of Article 7.3.1 of the UNIDROIT Principles……….…33

D. ABSENCE OF ATTRIBUTABILITY OF THIRD-PARTY CONDUCT TO RESPONDENT

***i. There is an Operational Separation Between Respondent and Contractors*…38**

***ii. Claimant contributed to the fault created by a third party contractor*……..…..39**

E. CLAIMANT'S TERMINATION WAS PRODUCERALLY DEFECTIVE UNDER ARTICLE 10.2 OF THE JVA

***i. Claimant's Termination Constitutes Bad Faith and a Strategic Abuse of Rights*……………………………………………………………………….….41**

PRAYER FOR RELIEF………………………………………………………………………………45

TABLE OF AUTHORITIES

I. CASES

II.

No.	Cited as	Full Citation
1.	Tecmed v Mexico	Tecnicas Medioambientales Tecmed SA v Mexico, ICSID Case No ARB(AF)/00/2, Award (29 May 2003)
2.	Bosnia v Serbia (Genocide Convention) [2007] ICJ Rep 43.	Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro) (Judgment) [2007] ICJ Rep 43
3.	Germany v Italy (Jurisdictional Immunities) [2012] ICJ Rep 99.	Jurisdictional Immunities of the State (Germany v Italy: Greece Intervening) (Judgment) [2012] ICJ Rep 99
4.	Sierra Leone v SL Mining	Republic of Sierra Leone v SL Mining Ltd [2021] EWHC 286 (Comm)
5.	Bayindir v Pakistan	Bayindir Insaat Turizm Ticaret Ve Sanayi AŞ v Islamic Republic of Pakistan (ICSID Case No ARB/03/29, Decision on Jurisdiction, 14 November 2005)
6.	Mihaly v Sri Lanka	Mihaly International Corp v Democratic Socialist Republic of Sri Lanka, ICSID Case No ARB/00/2, Award (15 March 2002)

7.	SGS v Pakistan	*SGS Société Générale de Surveillance S.A. v Islamic Republic of Pakistan*, ICSID Case No ARB/01/13, Decision on Jurisdiction (6 August 2003)
8.	Sierra Leone v. SL Mining Ltd	*Republic of Sierra Leone v SL Mining Ltd [2021] EWHC 286 (Comm)*
9.	Emirates Trading Agency LLC v Prime Mineral Exports Pte Ltd	*Emirates Trading Agency LLC v Prime Mineral Exports Private Ltd [2014] EWHC 2104 (Comm)*
10.	Ohpen Operations UK Ltd v Invesco Fund Managers Ltd	*Ohpen Operations UK Ltd v Invesco Fund Managers Ltd [2019] EWHC 2246 (TCC)*
11.	International Research Corp v Lufthansa Systems	International Research Corp PLC v Lufthansa Systems Asia Pacific Pte Ltd and another [2012] SGCA 48
12.	BBA v. BAZ	*BBA and others v BAZ* [2020] SGCA 53
13.	BG Group Plc v Republic of Argentina	*BG Group plc v Republic of Argentina 572 US 25 (2014)*

14.	ICC Case No 9984, Final Award	ICC Case No 9984, Final Award (cited in Dyala Jimenez-Figueres, ‘Multi-tiered Dispute Resolution Clauses in ICC Arbitration’ (2003) 14 ICC Bull 71, 86–87)
15.	ICC Case No. 8891	*ICC Case No 8891*, Final Award (1 January 1998), published in *Journal du Droit International* (Clunet) 2000, 1076
16.	ICC Case No. 10888	*ICC Case No 10888, Final Award (2001), published in ICC International Court of Arbitration Bulletin Vol 12 No 1 (Spring 2001)*
17.	Guaracachi America Inc. and Rurelec PLC v. Bolivia	Guaracachi America Inc and Rurelec PLC v Plurinational State of Bolivia, PCA Case No 2011-17, Award (31 January 2014)
18.	Phoenix Action v. Czech Republic	*Phoenix Action Ltd v Czech Republic*, ICSID Case No ARB/06/5, Award (15 April 2009)
19.	Generation Ukraine Inc v Ukraine	Generation Ukraine Inc v Ukraine, ICSID Case No ARB/00/9, Award (16 September 2003)
20.	Société Nationale des Pétroles du Congo v. Total Fina Elf (2003)	*Société Nationale des Pétroles du Congo and Republic of Congo v Total Fina Elf E&P Congo*, Paris Court of Appeal, Judgment (29 April 2003), published in *Revue Camerounaise de l'Arbitrage* No 23 (Oct–Dec 2003) 20
21.	Ahmadou Sadio Diallo	Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Preliminary Objections) [2007] ICJ Rep 582

22.	HICEE v. Slovak Republic	HICEE BV v Slovak Republic, PCA Case No 2009-11, Partial Award (23 May 2011)
23.	Yaung Chi Oo v. Myanmar	Yaung Chi Oo Trading Pte Ltd v Government of the Union of Myanmar, ASEAN I.D. Case No ARB/01/1, Award (31 March 2003)
24.	Jan de Nul NV v Arab Republic of Egypt	Jan de Nul NV and Dredging International NV v Arab Republic of Egypt, ICSID Case No ARB/04/13, Award (6 November 2008) paras 170–173
25.	Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines	Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines, ICSID Case No ARB/03/25, Award (16 August 2007) para 400

II. BOOKS, ARTICLES AND REPORTS

No.	Cited as	Full Citation
26.	Reece Thomas, 'Enforcing Against State Assets'	Enforcing Against State Assets: The case for Restricting Private Creditor Enforcement and How Judges in England Have Used "Context" When Applying the "Commercial Purposes" Test." Journal of International and Comparative Law. Vol. 2, No. 1 (2015)
27.	ILC, 'Draft Articles on Responsibility of States'	United Nations International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries' in Yearbook of the International Law Commission 2001, vol II, pt 2

28.	ILC, 'Commentaries to the Draft Articles on Jurisdictional Immunities'	United Nations International Law Commission, 'Commentaries to the Draft Articles on Jurisdictional Immunities of States and Their Property' in Yearbook of the International Law Commission 1991, vol II, pt 2
29.	Wex, 'Sovereign Immunity'.	Wex, 'Sovereign Immunity' (Legal Information Institute, Cornell Law School)
30.	Webb, 'The United Nations Convention on Jurisdictional Immunities'	Webb P, 'The United Nations Convention on Jurisdictional Immunities of States and Their Property' (United Nations Audiovisual Library of International Law, 2019)
31.	Fox and Webb, 'Law of State Immunity'	Hazel Fox and Philippa Webb, 'The Law of State Immunity' (3rd edn, OUP 2013)
32.	UNCSI	United Nations Convention on Jurisdictional Immunities of States and Their Property, UN Doc A/RES/59/38
33.	Blackaby and others, 'Redfern and Hunter'	Nigel Blackaby, Constantine Partasides, Alan Redfern and Martin Hunter, Redfern and Hunter on International Arbitration (7th edn, OUP 2023)
34.	UNIDROIT Principles	UNIDROIT, 'Principles of International Commercial Contracts' (2016)

LIST OF ABBREVIATIONS

No.	Cited as	Full Citation
1.	Problem	LAWASIA 2025 Moot Problem
2.	Exhibit	LAWASIA 2025 Moot Problem's Exhibits
3.	AIAC Rules	Arbitration Rules of Asian International Arbitration Centre 2023
4.	CDI/Claimant	Calyx Dreambot Inc
5.	RMG/Respondent	Rivus Microelectronic Group
6.	ASI	Aurion Semiconductor Inc
7.	BWS	Beta Workforce Solutions
8.	USD	United States Dollars
9.	JVA	Joint Venture Agreement between Calyx Dreambot Inc and Rivus Microelectronic Group
10.	SPV	Specific Purpose Vehicle
11.	IIC	Independent Investigative Committee
12.	JPMT	Joint Project Management Team
13.	SOE	State-Owned Enterprise
14.	ARSIWA	Responsibility of States for Internationally Wrongful Acts 2001
15	UNCSI	United Nations Convention on the Jurisdictional Immunities of States and Their Property 2004
16	ICSID	International Centre for the Settlement of Investment Disputes
17	ICSID Convention	Convention on the Settlement of Investment Disputes between States and Nationals of Other States 2006
18	UNIDROIT	International Institute for the Unification of Private Law

19	UNIDROIT Principles	UNIDROIT Principles of International Commercial Contracts 2016
20	IIC	Independent Investigative Committee
21	ILO Convention No. 29	International Labour Organization Forced Labor Convention No. 29 (1930)
22	CEACR	Committee of Experts on the Application of Conventions and Recommendations
23	ICC	International Chamber of Commerce

INTRODUCTION

1. This Statement of Claim ("**Claim"**) is submitted on behalf of the Claimant, Calyx Dreambot Inc ("**CDI**" or "**Claimant**") pursuant to Rule 1 read with Rule 2 of the Arbitration Rules of Asian International Arbitration Centre 2023 taking effect as from 24 August 2023 (the "**AIAC Rules**") against Rivus Microelectronic Group ("**RMG**" or "**Respondent**") (collectively, the "**Parties**").
2. This dispute arises out of the Joint Venture Agreement dated 20 December 2022 (hereinafter referred to as the "**JVA**") where the Parties agreed to establish and operate Aurion Semiconductor Inc (hereinafter referred to as "**ASI**") as their special purpose vehicle ("**SPV"**) - following its termination by CDI due to RMG's breach to the JVA based onArticle 8.1 of the JVA, i.e., to Clauses 4.2(f), 4.2(e), and 6.2 of the JVA.
3. In summary, RMG has failed to perform its contractual obligation in ensuring full compliance with applicable labour and employment laws as well as international standards. This led to the suspension of ASI's operating license for 3 weeks, which further led to the raise of contractual penalties, governmental fine, loss of revenue, loss of contracts, and damaged reputation. All of these losses were consequently borne by CDI, as the aggrieved party.

THE PARTIES

<u>The Claimant</u>

4. The Claimant, CDI, is incorporated under the laws of Veridia, having its registered office at 37 Everoak Lane, Lysoria, Veridia, 71504. Claimant is the largest semiconductor manufacturing firm in Veridia.
5. The Respondent is not aware of any information regarding the appointed legal counsels or representatives of the Claimant. For the purposes of communicating matters regarding the arbitration, the following contact information is provided to the best of the Respondent's knowledge:

    Daryl (daryl@jpmt.com) - CDI Lead Representative to ASI

    David (david@rmg.com)

    Kelvin (kelvin@rmg.com)

Stephanie (stephanie@rmg.com)

6. In addition to the information above, all correspondence and communication regarding the arbitration shall be sent to the following representative of Claimant:

   Al Emret (alemret@cdi.com)

The Respondent

7. The Respondent, RMG, is incorporated under the laws of Aurion, having its registered office at Hall 12, Great Aurion Avenue, Aurion Central Administrative Region, Capital of Aurion, 48210
8. For the purpose of this arbitration and related matters, Respondent is represented by **Surya Baras & Partners**, to whom all communications and correspondence should be addressed:

   SURYA BARAS & PARTNERS

   IDX Tower, Level 12 Unit 1224G, Jenderal Sudirman Street, South Jakarta 12190, Indonesia

   Attn:

   Boas Daniel R. (boas.daniel@ui.ac.id)

   Rashiq Akbar (rashiq.akbar@ui.ac.id)

   Keisha Dayang S. (keisha.dayang@ui.ac.id)
9. For the purpose of this arbitration and related matters, Claimant is represented by **Surya Baras & Partners Law Firm**

STATEMENT OF FACTS

1. On 20 December 2022, the Claimant, Calyx Dreambot Inc. ("**CDI**"), a corporation incorporated in the Republic of Veridia and a leading semiconductor manufacturer, entered into a Joint Venture Agreement ("**JVA**") with the Respondent, Rivus
2. Microelectronics Group ("**RMG**"), a government-linked company incorporated in the Republic of Aurion.
3. The purpose of the JVA was to establish Aurion Semiconductor Inc. ("**ASI**") as a Special Purpose Vehicle ("**SPV**") to construct and operate a semiconductor fabrication facility in Northern Aurion.
4. The JVA provided that CDI would hold a 51% shareholding in ASI, while RMG would hold 49%. Governance of ASI was to be managed by a Board of Directors composed equally by representatives from both CDI and RMG, with CDI's Chief Executive Officer to serve as Chairperson. Day-to-day oversight and implementation responsibilities were delegated to a Joint Project Management Team ("**JPMT**") composed of representatives from both parties.
5. Under the JVA, CDI was to inject an initial capital investment of USD 1.2 billion to fund the facility's construction, equipment procurement, and operational setup, and was also responsible for providing technological expertise and training. RMG was obligated to procure the land, secure all relevant regulatory approvals, manage workforce recruitment, and ensure compliance with local labour and employment laws.
6. On 26 February 2023, CDI issued a formal Project Acceleration Memo to the JPMT, instructing that the construction of the ASI facility be completed within 15 months, setting a new target of 26 May 2024. The memo cited commercial imperatives and contractual commitments to CDI's buyers as justification for this timeline, despite industry standards suggesting a typical construction period of 24 to 36 months.
7. The acceleration directive included specific instructions to double manpower allocations, extend work shifts, and engage third-party labour suppliers. The directive also emphasised the need to maintain cost-efficiency due to budget constraints.
8. Following these instructions, CDI's Chief Executive Officer sent a follow-up email on 20 September 2023 reiterating the urgency of worker mobilisation and instructing RMG and

JPMT members to “minimise labour costs wherever feasible.” RMG, acting on this directive, recommended a list of local labour suppliers. After deliberation, the JPMT approved the selection of Beta Workforce Solutions (“**BWS**”), a manpower agency that offered competitive rates and had experience handling large-scale industrial projects. CDI raised no objections to the appointment of BWS.

9. On 2 October 2023, ASI executed a Service Agreement with BWS for the supply and management of 1,200 operational workers. BWS was contractually responsible for recruitment, deployment, onboarding, accommodation, and ensuring compliance with regulatory requirements.
10. CDI was actively involved in shaping the recruitment specifications and provided BWS with RMG’s earlier campaign materials to guide the process.
11. By 20 May 2024, the facility was operational within the targeted 15-month timeline. ASI commenced production and began shipping to CDI’s former Seratious clients, achieving early commercial success. However, on 13 September 2024, an investigative report surfaced online alleging exploitative labour practices at ASI’s facility. The report, while originating from a questionable source, alleged excessive working hours, poor dormitory conditions, and passport withholding by BWS.
12. On 17 September 2024, the government of Seratious issued a formal warning, threatening a complete import ban on semiconductor goods from Aurion unless immediate corrective actions were taken.
13. In response, the Aurion government established an Independent Investigative Committee (“**IIC**”) composed of government officials, human rights representatives, and compliance experts. The IIC conducted surprise inspections, employee interviews, and audit reviews. In its 30 September 2024 report, the IIC found certain irregularities, including underreported overtime and overcrowded but temporary worker accommodations. However, it did not find conclusive evidence of forced labour, bonded labour, or modern slavery. The IIC recommended improved monitoring and compliance documentation.
14. Despite these findings, the Ministry of Trade and Industry of Aurion suspended ASI’s operating license on 2 October 2024, citing documentation deficiencies. The license was reinstated on 23 October 2024 after ASI submitted a revised workforce audit.

15. Subsequently, on 16 December 2024, the Ministry imposed a USD 500 million fine on ASI based on newly obtained timesheet records allegedly showing an additional 10,000 hours of unreported overtime. ASI's request for transparency on the source and authenticity of these documents was denied on grounds of confidentiality and national interest.
16. On 24 December 2024, CDI issued a unilateral notice of termination of the JVA, citing breach of contract, reputational harm, and loss of trust in RMG. On 28 December 2024, CDI demanded that RMG pay the USD 500 million fine imposed on ASI. RMG rejected this demand, noting that CDI had actively directed the cost-saving and recruitment strategy and had approved all major decisions related to workforce engagement. CDI's subsequent WhatsApp messages to RMG officials received no response, and tensions between the parties escalated.
17. On 6 January 2025, CDI filed a Notice of Arbitration at the Asian International Arbitration Centre, seeking damages totalling USD 742.5 million. These include USD 500 million in regulatory fines, USD 27.5 million in revenue losses during the license suspension, USD 15 million in penalties from buyers, and USD 200 million in estimated reputational harm and lost contracts. CDI contends that RMG breached the JVA by failing to ensure legal compliance in labour practices.
18. RMG denies the allegations and has raised preliminary objections to jurisdiction. RMG asserts that it is entitled to sovereign immunity as a state-linked entity and that it has not waived such immunity. RMG also contends that CDI failed to comply with Clause 10.2 of the JVA, which requires ministerial consent prior to commencing arbitration. RMG further argues that CDI's pressure to minimise labour costs and expedite operations materially contributed to the alleged regulatory violations and that CDI's termination of the JVA was made in bad faith, primarily to avoid reputational fallout and financial liability.
19. The arbitral tribunal has been constituted pursuant to Clause 11 of the JVA, and proceedings are currently ongoing.

ARGUMENTS

JURISDICTION

A. THE TRIBUNAL HAS NO JURISDICTION *RATIONAE MATERIAE* OVER THE CASE

1. In this Statement of Defense, Respondent is able to say that Respondent is acting on behalf of its capacity as a state. To support this statement, the Respondent proposes the Tribunal to recognize Respondent's right to sovereign immunity for the following reasons: (**i**) Respondent qualifies as a State Entity exercising governmental authority; (**ii**) Second, waiver of immunity must be expressed; and no valid waiver or exception to immunity has been made; (**iii**) Third, Respondent retains its immunity even within its own territory and in the context of arbitration.

i. Respondent as a state organ entitled to invoke sovereign immunity.

a. Respondent carries out sovereign functions by implementing state-led initiatives to develop northern Aurion and receives capital injections directly from Aurion Government Treasury.

2. Although sovereign immunity is not applicable towards commercial activity, some jurisdictions evaluate the scope of the activity based on its nature[1], not just its form. With this perspective, activities done by a State-Owned Enterprise ("**SOE**") based on public policy shall not be considered 'commercial'. It would be unfair to consider an SOE as a commercial entity if it is heavily influenced by state control and/or direction in conducting its activities or even when it's being fully funded by the state.
3. The fact that the Respondent had obtained capital injections from the state, operated in accordance with the Ministry of Economy's policies, and had its board of directors appointed from among cabinet ministers is evident from the statements made in the case:

[1] Reece Thomas, 'Enforcing Against State Assets' P. 17

"Although RMG is technically a separate entity, it was widely known in Aurion as President Ho's pet project, where there have been reports that capital requirements of RMG were provided using public funds from the Government Treasury.[2]"

"Leadership structure and decision-making within RMG was heavily influenced and usually mirrors the internal policies laid down by the Ministry of Economy."

"... the data lodged at the Aurion Companies Commission, where it is disclosed that the board of directors too comprises Aurion's Cabinet Ministers.[3]"

4. This position is reinforced by Tecmed v Mexico:

   "*Any and all State actions conforming to such criteria should relate not only to the guidelines, directives or requirements issued, or the resolutions approved thereunder, but also to the goals underlying such regulations.[4]*"

5. Fairness requires that conduct be judged by its underlying goals and functions, not merely by its formal designation[5]. By the same logic, an SOE cannot be artificially treated as a private commercial actor when, in substance, its conduct is sovereign in nature.
6. Article 4 of the Articles on the Responsibility of States for Internationally Wrongful Acts ("**ARSIWA**") further states that:

   (1) "The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State."

   (2) "An organ includes any person or entity which has that status in accordance with the internal law of the State."[6]

7. Respondent satisfies the criteria of ARSIWA Article 4. First, as an entity established under Aurion law[7], it qualifies as a State organ, pursuant to Article 4(2). Second, by being structurally integrated into the State's administration[8], Respondent carries out functions

[2] Problem, 27
[3] *Ibid,* 28
[4] Tecmed v Mexico, 154.
[5] *Ibid.*
[6] ILC, 'Draft Articles on Responsibility of States' art 4.
[7] Problem, 28
[8] *Ibid.*

attributable to the State of Aurion under Article 4(1). Consequently, its conduct, whether in economic or administrative matters, is to be regarded as the conduct of the State itself under international law.

8. Further support can be found in the Commentaries on Article 2 of the UN Convention on Jurisdictional Immunities of States and Their Property ("**UNCSI**") which stipulates:
    a. *"The term 'commercial transaction' does not cover transactions where the state is pursuing public policy objectives through a commercial format."*
    b. *"Defendant States should be given an opportunity to prove that, in their practice, a given contract or transaction should be treated as non-commercial because its purpose is clearly public and supported by raison d'État."*[9]

   Ultimately, the initial objectives behind Respondent's scope of work are heavily state-related, automatically dismissing any intention of operating as a private entity.

9. Even if Respondent is not considered a formal organ of the state under Article 4 of ARSIWA, Article 5 further clarifies that:

> *"The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, provided the person or entity is acting in that capacity in the particular instance."*[10]

10. Respondent's role in carrying out state-led economic policies[11], especially in national infrastructure, regional development, and promoting the semiconductor sector globally, clearly falls within the scope of governmental authority as stated in Article 5 of ARSIWA. With that being said, its actions in this capacity are attributable to the State.

11. ARSIWA's legal effect is proven by its acceptance and consistent application across jurisdictions. It is considered to be a reflection of customary international law and is widely used among courts and tribunals as an authoritative guidance, its repeated use and lack of objection by states shows that it carries normative authority in international law. Such evidence can be shown in Bosnia and Herzegovina v. Serbia and Montenegro Case Judgement :

---

[9] ILC, 'Commentaries to the Draft Articles on Jurisdictional Immunities' art 2.
[10] *Ibid,* Article 5.
[11] Problem, 28

"*one of the cornerstones of the law of State responsibility, that the conduct of any State organ is to be considered an act of the State under international law, and therefore gives rise to the responsibility of the State if it constitutes a breach of an international obligation of the State. This rule, which is one of customary international law, is reflected in Article 4 of the ILC Articles on State Responsibility*[12]*"*

12. The tribunals in Bosnia and Herzegovina v. Serbia and Montenegro Case used ARSIWA as the ground of customary international law, by citing specifically on Article 4 of ARSIWA and concluding that every act of state organ is considered to be an act of state[13].
13. With that being said, seeing the sovereign character of the Respondent's activities and how it is grounded in the legal and institutional framework of the State of Aurion, it is clear that the Respondent cannot be reduced to a mere commercial actor. Hence, the Tribunal shall recognize that the Respondent's actions are attributable to the State of Aurion.
14. Claimant previously submits that state immunity heavily gravitate towards the prevention of assets execution by another state, hence, there is no purpose of invoking immunity in the first place. Even so, it is proven that immunity against enforcement is irrelevant to be discussed when the first step of state immunity application, namely the immunity against jurisdiction, is not solved yet[14]. This is supported by the statements of Hazel Fox and Philippa Web in Oxford's "The Law of State Immunity" that *"Independence provides a justification for the absolute rule of immunity, and remains a justification for the restrictive rule which restrains the forum State from adjudicating acts in the exercise of sovereign power, jure imperii of another State.*[15]*"*
15. This emphasized on how state immunity is inseparable from both immunity against jurisdiction and enforcement, which is then followed with:

"Adjudication jurisdiction relates to the court's inquiry into the claim and adjudication by means of a judgment or declaration of rights and obligations; it extends

[12] Bosnia v Serbia (Genocide Convention) [2007] ICJ Rep 43,   385.
[13] *Ibid.*
[14] Fox and Webb, 'Law of State Immunity' Page 26
[15] *Ibid*

to interlocutory proceedings, appeal, and recognition (the grant of exequatur) of foreign judgments given against States.[16]"

Hencewhy, the latter cannot be enforced if the former has not yet been fulfilled.

16. To conclude, with how Respondent is acting on behalf of state and public interest, there is no express waiver towards state immunity, as well as how arbitration cannot fall under the scope of Judicial Court to be enjoyed immunity from, Respondent cannot be subjected towards the proceeding of this Arbitration.

b. Respondent is able to invoke sovereign immunity, even within its own territory and in the context of Arbitration

17. Respondent's actions, being attributable to the State under international law, further reinforce Respondent's entitlement to sovereign immunity. Once conduct is recognized as inseparable from the exercise of sovereign authority, it follows that such acts cannot be tried without the State's express consent.
18. Sovereign immunity is a common law doctrine under which a sovereign (e.g., a federal or state government) cannot be sued without its consent[17]. This doctrine is reflected within the principle of sovereign equality among states and customary international law as well as the UNCSI. UNCSI is recognized as a customary international Law, as reflected by Philippa Webb:

   "Certain of its provisions have been held by international and national courts to reflect customary international law.[18]"

19. UNCSI has also provided a legal ground for State Immunity as to what stated in Article 5 of the UNCSI:

   "A State enjoys immunity, in respect of itself and its property, from the jurisdiction of the courts of another State…"

20. As mentioned in Hazel Fox & Philippa Webb's "The Law of State Immunity", The doctrine of sovereign immunity has two related aspects, Jurisdictional immunity, which prevents

[16] *Ibid,* Page 23
[17] Wex, 'Sovereign Immunity'
[18] Webb, 'The United Nations Convention on Jurisdictional Immunities'

legal proceedings from being brought or continued against a State, and Immunity from enforcement, which protects a State's assets from being seized without its consent[19].

21. Some might argue that State immunity does not apply to activities of a commercial nature[20]. However, whether an act is sovereign (acta jure imperii) or commercial (acta jure gestionis) is subject to contextual and factual analysis, as what is shown in Germany v Italy (Jurisdictional Immunities) Judgment:

    "The terms 'jure imperii' and 'jure gestionis' refer to whether acts fall under sovereign power or private/commercial activities… This distinction is significant for determining whether a State is entitled to immunity.[21]"

22. In this case, Respondent's actions clearly fall under the sovereign authority of the State of Aurion. Respondent was acting on behalf of the State as public policy objectives, under the direction and supervision of State Officials, namely their President and the Ministry of Economy[22]. Furthermore, there is no evidence of either an express or implied waiver of immunity.

23. Even if Respondent's immunity seeks to be set aside on the basis that proceedings are seated within Respondent's own territory, such argument still won't prevail. Alternative dispute resolution proceedings do not qualify as an exercise of jurisdiction by a "court of another State" under the UNCSI. This is based on how Article 2(a) of the UNCSI defines "court" as:

    "any organ of a State, however named, entitled to exercise judicial functions.[23]"

24. Arbitral tribunals, being subject of private agreement and not state institutions, do not fall under this definition nor can be considered equal with Judicial Court. As such, the immunities referenced in Article 5 of the UNCSI, which protect a state from the jurisdiction of courts of other states, are not triggered merely by arbitration:

    "A State enjoys immunity, in respect of itself and its property, from the jurisdiction of the courts of another State subject to the provisions of the present Convention.[24]"

25. To conclude, the Respondent's actions have the characteristics of a sovereign and non-commercial activity[25]. Evident from how it is financially supported by the state and its

---

[19] Fox and Webb, 'Law of State Immunity' p 23
[20] Germany v Italy (Jurisdictional Immunities) [2012] ICJ Rep 99, 60
[21] *Ibid*
[22] Problem, 28
[23] UNCSI, art 2(a)
[24] *Ibid*, art.5
[25] ILC, 'Draft Articles on Responsibility of States' art 4.

purposes are aimed at fulfilling public policy objectives instead of generating profit, such as supporting economic and infrastructure development that serve the state and public interest[26]. In regards to it, the Respondent has proper justification to invoke sovereign immunity, even within its own territory.

ii. Waiver of immunity must be expressed while no valid waiver or exception to immunity has been made.

---

26. Under Article 7 of the UNCSI, the waiver of a State's sovereign immunity from jurisdiction is subject to strict and explicit requirements. The Convention recognizes that a State cannot be deemed to have waived its immunity merely by implication or through vague contractual arrangements. Rather, Article 7(1) clearly stipulates that such waiver must be premised upon the State's express consent, which may only be demonstrated through specific legal instruments, namely: (a) an international agreement; (b) a written contractual provision; or (c) a declaration before the court or a written communication in the context of a particular proceeding.
27. Applying this standard to the present case, it is evident that no valid waiver of sovereign immunity has been established. First, Respondent has not entered into any international agreement containing an express waiver of immunity from jurisdiction. Second, the JVA and related contractual instruments are devoid of any written clause that subjects Respondent to the jurisdiction of foreign courts or tribunals, nor do they contain explicit language of waiver. Third, Respondent has not made any declaration before this Tribunal that could be interpreted as an unequivocal renunciation of its immunity. Consequently, Respondent retains its entitlement to invoke sovereign immunity notwithstanding the inclusion of an arbitration clause in a commercial contract.

28. It is also crucial to emphasize that Claimant's assertion that the mere inclusion of a choice-of-law clause amounts to a waiver of immunity is legally unsound. Article 7(2) UNCSI expressly forecloses such reasoning, providing that: "agreement by a State for the application of the law of another State shall not be interpreted as consent to the exercise of

[26] Problem, 28

jurisdiction by the courts of that other State." Thus, an agreement to the application of foreign law cannot, by itself, be interpreted as a waiver of immunity. To construe otherwise would contravene the plain meaning of the Convention, which seeks to protect the sovereign equality of States and prevent inadvertent erosions of immunity through interpretive overreach.

29. Moreover, although the text of Article 7 UNCSI refers specifically to "a proceeding before a court of another State," the underlying principle is not confined to litigation before national courts, but extends equally to other fora exercising adjudicatory functions, including arbitral tribunals. Both courts and arbitral tribunals constitute mechanisms for the exercise of jurisdiction over a sovereign State, and the rationale of Article 7—requiring a clear and express waiver before jurisdiction can be asserted—applies with equal force in arbitration. Indeed, arbitral practice and commentary recognize that arbitration, by its very nature, entails an exercise of jurisdiction that directly engages sovereign immunity. To deny the applicability of Article 7 to arbitral proceedings would create an artificial dichotomy inconsistent with the object and purpose of the Convention, which is to codify and develop customary international law principles governing jurisdictional immunities across all adjudicatory settings.

30. Furthermore, international law draws a fundamental distinction between immunity from jurisdiction and immunity from execution. Even if a State consents to arbitrate disputes, this consent is generally understood to amount only to a waiver of immunity from jurisdiction, not from execution of any resulting arbitral award. This principle is consistently recognized in arbitral scholarship and practice, as reflected in 11.157 of Redfern and Hunter on International Arbitration, which underscores that a waiver of immunity from jurisdiction does not automatically extend to enforcement measures. A separate, clear, and explicit waiver of execution immunity is required. Absent such waiver, enforcement actions against sovereign assets remain barred.

31. The requirement of explicitness in waiver has been reaffirmed in both treaty law and arbitral jurisprudence. Waiver of immunity must be clear, unequivocal, and deliberate, leaving no room for inference or assumption. In the absence of such express provisions, the presumption of immunity continues to operate in favor of the State. In this case, the JVA

contains no clause that could be reasonably construed as an express waiver of sovereign immunity, whether in respect of jurisdiction or execution. Therefore, Respondent remains fully entitled, both under conventional international law and general principles of sovereign immunity, to invoke and maintain its immunity before this Tribunal.

B. CLAIMANT'S INITIATION OF ARBITRATION WAS PREMATURE

32. Furthermore, Respondent respectfully submits that the requirement of ministerial consent under Clause 10.2 of the JVA is not a mere procedural formality that could be perfected at a later stage. Instead, it constitutes a jurisdictional precondition to arbitration. Absent such consent, no valid arbitration agreement can be said to exist at the time of initiation.
33. This interpretation is supported by Article 16(1) of the UNCITRAL Model Law, which emphasizes that a tribunal may only exercise jurisdiction where the arbitration agreement has been validly invoked. Where the parties expressly conditioned arbitration upon prior ministerial consent, the absence of such approval vitiates jurisdiction ab initio. The principle is further reinforced by Article 25(1) of the ICSID Convention, which, by analogy, underscores that jurisdiction rests on written consent of the parties and cannot be retroactively cured. Ministerial consent in the present case serves the same function: it is constitutive of the arbitration agreement itself, not a step that may be fulfilled subsequently.
34. Jurisprudence has consistently confirmed this approach. In SGS v. Pakistan (ICSID Case No. ARB/01/13), the tribunal held that pre-arbitration conditions, including governmental approvals, are integral to the parties' consent and thus determinative of jurisdiction.
35. Accordingly, Claimant's attempt to initiate arbitration without prior ministerial consent is fatally flawed. Such defect cannot be remedied by a subsequent grant of approval, as jurisdiction must exist at the time proceedings are commenced, not created *ex post facto*.
36. Respondent are entitled to consider the proceeding to be premature due to several reasons:

i. The preconditions of Negotiation has not been fulfilled

---

37. Claimant's initiation of arbitration is procedurally defective. By disregarding the negotiation stage expressly required as a precondition in the JVA, Claimant failed to satisfy a fundamental step designed to ensure good faith dispute resolution. As a result, the present arbitration must be regarded as premature and inadmissible[27].
38. This statement had previously been reflected through Republic of Sierra Leone v SL Mining Ltd case:

    "The issue was alleged prematurity: the claim, though otherwise arbitrable, was said to have been brought six weeks too early. If there were no jurisdiction, the arbitrators could not stay or adjourn the proceedings; the claim would simply fall outside their jurisdiction.[28]"
39. Article 10.1 of the JVA clearly establishes a procedural precondition to arbitration. It states:

    "Parties agree to regulate their own affairs and resolve any dispute arising from or connected to this Agreement amicably through negotiations between an appointed representative of each of the Party which shall commence within fourteen (14) days from the date on which either Party has served written notice...[29]"

    This clause mandates that any disputes must first go through negotiation. Arbitration may not be initiated unless this negotiation process has been conducted in good faith.
40. According to the UNIDROIT Principles Article 4.1(2), while party intention can be interpreted, in the absence of a clear pattern of conduct, a contract shall be interpreted according to the meaning that reasonable persons would give to it:

    "(2) If such an intention cannot be established, the contract shall be interpreted according to the meaning that reasonable persons of the same kind as the parties would give to it in the same circumstances.[30]"
41. This entails reliance on the ordinary wording of the contract, since the language of the agreement is the most objective reference point absent a demonstrable pattern of conduct.

---

[27] Sierra Leone v SL Mining 8
[28] *Ibid*
[29] Exhibit 4, Art 10.1
[30] UNIDROIT Principles, art 4.1(2)

42. In this case, the claimant seeks to argue that negotiation was intended through informal messages (such as WhatsApp[31]), but such communication does not fulfill the requirement of "written notice" under Article 10.1 of the JVA[32]. Moreover, even if such notice were valid (*quod non*), the message alone cannot be construed as a genuine or lawful initiation of negotiation. The respondent can reasonably argue that there was no prior pattern of brief or one-minute negotiations, and therefore the formal procedural requirement was never properly initiated[33].
43. As shown in *Bayindir v. Pakistan*, where the tribunal held that:

> *"all of its claims... can only be assessed in the light of the contract's terms and taking into account their actual application in fact,[34]"*

such claims are only recognized where there is a prior pattern of conduct supporting them. In the absence of such a pattern, the "actual application in practice" demonstrates that an informal communication, such as a WhatsApp message, cannot constitute valid negotiation under the JVA.

44. Claimant's arbitration notice was served on 6 January 2025, only 13 days after the JVA was terminated on 24 December 2024[35]. Under Article 10.1, a party must serve written notice and then allow a 14-day period for negotiation to begin[36]. Therefore, even assuming that Claimant's actions could be interpreted as a written notice, the timeline itself makes it impossible to satisfy the procedural requirement. As a result, no negotiation ever legally existed under the JVA.
45. Bypassing the negotiation phase undermines the parties' autonomy and the procedural structure set out in the JVA[37]. Arbitral tribunals have consistently found that when negotiation is a mandatory step in a dispute resolution clause, failure to comply makes the arbitration premature. For example, in ICC Case No. 9984, tribunals held that failure to exhaust contractual negotiation phases deprived them of jurisdiction[38].

---

[31] Exhibit 11
[32] Exhibit 4, Art 10.1
[33] Bayindir v Pakistan, 156
[34] *Ibid*
[35] Problem, 62
[36] Exhibit 4, Art 10.1
[37] Sierra Leone v SL Mining 8
[38] ICC Case No 9984, Final Award (1999).

46. Failure to comply with the JVA's preconditions renders the initiation of arbitration premature and beyond the Tribunal's jurisdiction.

ii. No legal proceeding with respect to the JVA may be taken with absent ministerial consent.

---

47. Article 10.2 of the JVA adds another procedural barrier, requiring state approval before any legal proceedings can take place. It provides:

> *"Any proceedings, claims, or suits in relation to any dispute or controversy, arising out of or in connection with this Agreement shall NOT be commenced before first obtaining the consent of the Minister in charge of economic policy, foreign investments and trade of Aurion.[39]"*

48. Given that the conduct in issue is inherently procedural, its absence is not a trivial irregularity but rather a fatal formal defect[40]. With the process being formally defective, it renders the legitimacy of the process.
49. In line with ICSID precedent[41], such state-consent clauses are treated as mandatory preconditions to jurisdiction. In Mihaly v. Sri Lanka (ICSID ARB/00/2), the tribunal declined jurisdiction due to the absence of formal consent from the host state[42]. Claimant's Notice of Arbitration dated 6 January 2025 did not include ministerial consent or communication with the relevant Ministry. As Article 10.2 requires explicit consent, Claimant cannot claim implied or assumed approval.
50. This interpretation is supported by Redfern & Hunter, ¶¶ 8.52, which notes that contractual conditions such as cooling-off periods are frequently treated as jurisdictional prerequisite in international arbitration[43]:

> *"Other tribunals have held that conditions to access arbitration under a BIT, such as consultation periods, are jurisdictional prerequisites."*

---

[39] Exhibit 4, Art 10.2
[40] Mihaly v Sri Lanka 24
[41] *Ibid*
[42] *Ibid* 61
[43] Blackaby and others, 'Redfern and Hunter' 8.52

51. In Guaracachi America Inc. and Rurelec PLC v. Bolivia, the tribunal rejected claims for failing to observe a six-month negotiation period[44], demonstrating that tribunals treat contractual prerequisites with strict attention[45].

iii. The fine is not arbitrable under the JVA and must first be challenged domestically

---

52. The fine imposed on Respondent arises from Aurion's sovereign authority to enforce labor laws, not from any breach of the JVA. As such, its validity or amount is beyond the scope of the arbitration clause.

53. This is evident from Clause 11 of the JVA, which limits arbitration to:

> *"Any dispute relating to any matter arising out of and connected with this Agreement.[46]"*

54. As the fine was imposed by national regulators, it must first be challenged through the relevant administrative or judicial procedures under Aurionian law. Based on Generation Ukraine v Ukraine, if an investor is fined by a regulator, and they don't even attempt to challenge it under national law, an ICSID tribunal may conclude that the claim is premature or unconvincing, because the alleged expropriation/treaty breach could have been corrected domestically:

> "*...an international tribunal may deem that the failure to seek redress from national authorities disqualifies the international claim, not because there is a requirement of exhaustion of local remedies but because the very reality of conduct tantamount to expropriation is doubtful in the absence of a reasonable—not necessarily exhaustive—effort by the investor to obtain correction*[47]"

There is no indication that such domestic remedies have been done. The proper forum for disputing the fine's legality lies in domestic institutions, not in arbitration under the JVA.

55. Moreover, the record indicates that the IIC's investigative report did not find Respondent guilty of using forced labor; it merely recommended continued monitoring and improvement. As Exhibit 10, 5.1 states:

---

[44] Guaracachi America Inc. and Rurelec PLC v. Bolivia 385
[45] lackaby and others, 'Redfern and Hunter' 8.52
[46] Exhibit 4, 11
[47] Generation Ukraine Inc v Ukraine, 20.30.

"The findings of the investigation point to areas of concern... However, there is no conclusive evidence to categorize these practices as modern slavery or forced labor.[48]"

56. The essence of prematurity is shown through how the IIC urged improvements in compliance but did not recommend termination of the JVA. Rather, it emphasized that:

    "the IIC urges the Ministry of Trade and Industry… to implement the recommendations without delay… while upholding Aurion's reputation as a fair and lawful business environment.[49]"

57. Thus, Claimant's termination of the JVA was not only premature by not following the preconditions mentioned above in order to initiate arbitration, but contrary to the regulator's intention to preserve the investment and rehabilitate compliance as well.

---

[48] Exhibit 10, 5.1

[49] *Ibid*

ARGUMENTS

MERIT

58. Respondent respectfully submits that no breach of Clause 4.2(f) of the JVA has occurred due to several reasons. (**C**) First, Respondent has complied with the applicable standards of international and domestic labour law. Second, even if minor irregularities were observed, these do not rise to the level of a fundamental non-performance under Article 7.3.1 of the UNIDROIT Principles.

C. RESPONDENT DID NOT FUNDAMENTALLY BREACH CLAUSE 4.2(f)

i. Respondent's Conduct does not Constitute a Violation of Applicable Labour Standards Under International and Domestic Law

59. Pursuant to Claimant's submission, Under ILO Forced Labour Convention No. 29 (1930), forced labour must satisfy two elements: (**a**) involuntariness, and (**b**) coercion by threat of penalty. The Committee of Experts and the ILO's 2012 Indicators of Forced Labour reaffirm that both elements are cumulative and conjunctive, meaning that failure to establish either defeats the claim.
60. Respondent submits that when assessed against this legal standard, Claimant's allegations fail. Neither the element of involuntariness nor the element of coercion is substantiated in the record.

a. *Informed Consent (involuntariness)*

61. Claimant asserts that Respondent's practices deprived workers of free and informed consent. Respectfully, this assertion cannot withstand scrutiny.
62. First, consent at recruitment remained intact. Written contracts were provided, terms were disclosed, and the essential nature of the work was not misrepresented. Minor adjustments or misunderstandings in onboarding cannot legally vitiate consent, unless they amount to fraud

or deception on material aspects of employment. Claimant has not produced credible evidence of such deception.

63. Second, workers retained the ability to exit their employment. The critical question under ILO jurisprudence is whether workers were prevented from leaving. The record indicates otherwise: resignations were processed, contracts not renewed, and separations occurred in practice. Absent proof that exit was systematically denied, voluntariness remains legally valid.
64. Third, there is no evidence of debt bondage. The most common form of involuntariness arises from recruitment fees or debt-laden contracts. Yet, Claimant has not shown Respondent imposed recruitment charges or engineered indebtedness. Where relocation costs or advances were offered, these were ordinary, recoverable expenses consistent with domestic labour law, not instruments of coercion.
65. Fourth, passport handling, relied on heavily by Claimant, does not equate to compulsion in law. The ILO has clarified that retention of documents may raise concerns but is not determinative unless it is used to deny workers the capacity to exit. In this case, documents were held temporarily for visa processing, accessible upon request, and returned at separation. Such practice cannot be transmuted into forced labour absent evidence of intentional denial of access.
66. Finally, housing conditions, while potentially subject to welfare regulation, do not themselves negate consent. Overcrowded dormitories, even if suboptimal, are not evidence that workers were compelled to remain in employment. Unless housing is deliberately used as a tool of control, it is a compliance matter, not an element of forced labour.
67. In sum, the first element of the ILO test has not been met. Consent, both at the point of entry and throughout the employment relationship was preserved in substance and in law.

b. Coercion or Menace of Penalty Has Not Established

68. The Respondent submits that the evidentiary record does not establish the second essential element of forced labour under ILO Convention No. 29, Article 2(1)—namely, the existence of a "menace of penalty" sufficient to compel work. In particular, the allegation of "passport confiscation" cannot, in law or fact, be characterised as coercive conduct attributable to the Respondent.

69. First, under ILO's 2012 Indicators of Forced Labour and the jurisprudence of the CEACR, retention of identity documents per se is not determinative of coercion; the decisive question is whether such retention is used as a means to restrict a worker's freedom of movement or to compel continued service. The CEACR has clarified in its 2007 General Survey that the temporary safekeeping of passports particularly where undertaken to facilitate lawful immigration processing and in accordance with local administrative regulations—does not automatically satisfy the coercion criterion.
70. Second, in this case, the retention of passports was undertaken solely to ensure compliance with Aurion's Immigration and Labour Registration Act and related Ministry of Immigration directives, which require employers or authorised labour agencies to maintain physical custody of foreign worker passports during the visa endorsement process to prevent loss or tampering. Workers were informed of this administrative requirement in writing prior to deployment, and at all times retained the right to request immediate return of their documents for personal use or travel. There is no credible evidence that any such request was denied, nor that the possession of passports was conditioned upon continued acceptance of work assignments.
71. Third, the handling of passports was operationally delegated to BWS, an independent, licensed labour recruitment agency engaged under Clause 3.3 of the JVA and contractually mandated to comply with all applicable labour and immigration regulations. Pursuant to Clause 7.2 of the Labour Supply Agreement between BWS and ASI, BWS bore sole responsibility for document custody during the visa compliance period. The Respondent neither directed nor supervised this process and cannot be held vicariously liable absent proof that it instructed, endorsed, or knowingly tolerated the use of passport retention for coercive purposes.
72. Finally, there is no evidence of a causal nexus between passport custody and any worker's decision to remain in employment. The IIC inspection reports do not record instances of threats, refusal of return upon request, or linkage between passport possession and wage deductions, dismissal threats, or housing access. Without such nexus, the retention falls within lawful administrative safekeeping rather than "menace of penalty" under ILO standards.

73. Accordingly, the Respondent submits that the alleged passport confiscation was a lawful, regulatory-compliant administrative measure, consistent with domestic immigration law and international labour norms, and wholly insufficient to satisfy the coercion requirement under ILO Convention No. 29.

ii. ***Any Irregularities Identified Do Not Amount to a Fundamental Breach Within the Meaning of Article 7.3.1 of the UNIDROIT Principles***

---

74. Respondent submits that Claimant's anticipated reliance on Article 7.1.6(4) of the UNIDROIT Principles (nothing in this Article prevents a party from exercising a right to terminate the contract or to withhold performance or request interest on money due) cannot cure its failure to comply with Article 10.2 of the JVA.
75. Properly construed in its textual setting and in light of general principles of contract interpretation, Article 7.1.6(4) preserves substantive remedies where the preconditions for those remedies are otherwise satisfied, it does not authorize a party to bypass procedural conditions the parties expressly made a precondition to dispute resolution, here the requirement of ministerial consent.[50] To hold otherwise would collapse the long-standing distinction between the existence of a remedy and the manner in which that remedy may lawfully be invoked.[51]
76. The starting point is the text and system of the UNIDROIT Principles, whereas Article 7.1.6 forms part of Section 7.1, which regulates the creditor's responses to non-performance in the performance phase (withholding, suspension, cure, additional period).[52]
77. Paragraph (4) is a saving clause that ensures the interim measures in Article 7.1.6 do not prejudice a party's ability to pursue other substantive remedies elsewhere in Chapter 7, such as termination under Article 7.3.1 and damages under 7.4. It does not speak to, and cannot

---

[50] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331 arts 26–27

[51] International Centre for Settlement of Investment Disputes, *ICSID Convention on the Settlement of Investment Disputes between States and Nationals of Other States* (adopted 18 March 1965, entered into force 14 October 1966) 575 UNTS 159

[52] Asian International Arbitration Centre, *AIAC Arbitration Rules 2023* (effective 24 August 2023).

be read to override, contract-specific procedural gateways to dispute resolution.[53] This narrow, systemic reading is the one consistently adopted in leading commentary.[54] Bonell explains that paragraph (4) "safeguards the availability of substantive remedies beyond the temporary suspension regime," while emphasizing that the Principles "do not derogate from procedures and conditions the parties have stipulated in their contract."[55]

78. Vogenauer similarly treats paragraph (4) as preserving the catalogue of remedies, not as a vehicle for disapplying agreed procedural architecture.[56] Read against that backdrop, Article 7.1.6(4) confirms what a party may ultimately seek, not how or when it may seize a tribunal.[57]

79. Contract interpretation principles embedded in the UNIDROIT Principles reinforce the same conclusion. Article 4.1 requires interpretation according to the parties' common intention, that the Article 4.3 calls for regard to the contract as a whole and to its purpose, and the canon of *effet utile* favours constructions that give operative effect to each clause.[58]

80. Article 10.2 of the JVA is drafted in mandatory, objective terms and assigns an external decision maker, the Ministry of Trade and Industry, as a gatekeeper.[59] The commercial and regulatory purpose of that clause is to ensure sovereign oversight before disputes proceed to arbitration in a sensitive, licensed sector. A reading of Article 7.1.6(4) that allows Claimant to sidestep Article 10.2 would deprive the ministerial-consent clause of any practical function, contrary to effet utile and to the harmonising approach urged by Farnsworth that courts prefer constructions that reconcile provisions and give each operative effect rather than ones that annul express obligations.[60] The only interpretation faithful to the JVA and to UNIDROIT's interpretive rules is that Article 7.1.6(4) coexists with Article 10.2:

---

[53] United Nations Convention against Transnational Organized Crime (Palermo Convention) (adopted 15 November 2000, entered into force 29 September 2003) 2225 UNTS 209, art 5(1)

[54] *State Responsibility for Modern Slavery: Uncovering and Bridging the Gap* (2022) *International & Comparative Law Quarterly*

[55] *Estimating Forced Labour: From a Legal Category to a Statistical Category for International Political Campaigns* (2024) *International Statistical ReviewEstimating Forced Labour: From a Legal Category to a Statistical Category for International Political Campaigns* (2024) *International Statistical Review*

[56] *The Role of the ILO in Resolving Violence Against Indonesian Crew on Fishing Vessels* (2021) *Fiat Justisia: Jurnal Ilmu Hukum*

[57] *Ibid.*

[58] *Translating the Standard of Effective Control into a System of Effective Accountability: How Liability Should Be Apportioned for Violations of Human Rights by Member State Troop Contingents Serving as United Nations Peacekeepers' (2010) Harvard International Law Journal Vol 51 No 1, pp 113–192*

[59] *Ibid*

[60] *Forced Labour: Exploitation and Labour in International Law, in The Law and Slavery*

termination remains available once the contractually agreed conditions to reach the forum and to crystallise the remedy have been satisfied.

81. Arbitral and judicial jurisprudence draws the same line between remedy and procedural admissibility. Common-law courts routinely enforce escalation and pre-arbitration requirements expressed in imperative language. In *Emirates Trading Agency LLC v Prime Mineral Exports Pte Ltd* [2014] EWHC 2104 (Comm),[61] the High Court enforced a mandatory pre-litigation discussion clause, staying proceedings until compliance; in *Ohpen Operations UK Ltd v Invesco Fund Managers Ltd* [2019] EWHC 2246 (TCC),[62] a mandatory mediation step was likewise enforced.[63] The Singapore Court of Appeal has characterised non-compliance with pre-arbitration steps as a question of admissibility for the arbitral tribunal to police, but still one that must be respected (*International Research Corp v Lufthansa Systems* [2012] SGCA 48; *BBA v BAZ* [2020] SGCA 53).[64] And the U.S. Supreme Court in *BG Group plc v Republic of Argentina*, 572 U.S. 25 (2014),[65] recognised that where parties or instruments condition recourse to arbitration on prior steps, those steps are to be given effect, with arbitrators determining whether they have been met or excused.[66] The thread through these authorities is constant: a party's possession of a substantive right (to arbitrate, to terminate) does not nullify agreed procedural gateways.[67] It must either comply with them or prove a recognised excuse.[68]

82. That separation also follows from UNIDROIT's own architecture. Article 1.5 gives primacy to party autonomy, that the Principles apply as gap-fillers "unless the parties expressly exclude or modify" them.[69] A tailor-made escalation clause with an external regulatory filter is precisely the sort of negotiated procedure Article 1.5 respects. Articles 5.1.3 (co-operation) and 1.7 (good faith) further require parties to exercise remedies in a manner

[61] *RaFoLa: A Rationale-Annotated Corpus for Detecting Indicators of Forced Labour* (2022)
[62] *State Responsibility for Modern Slavery: Uncovering and Bridging the Gap* (2022) *International & Comparative Law Quarterly*
[63] *RaFoLa: A Rationale-Annotated Corpus for Detecting Indicators of Forced Labour* (2022)
[64] *State Responsibility for Modern Slavery: Uncovering and Bridging the Gap* (2022) *International & Comparative Law Quarterly*
[65] 'Alienation of Labour Regulations in the Job Creation Law With International Human Rights' (2023) *ADLIYA: Jurnal Hukum dan Kemanusiaan*
[66] Ibid
[67] *Protection of Migrant Workers in Suriname: How do Indonesian Representatives Implement International Labour Organization Conventions?* (2021)
[68] *RaFoLa: A Rationale-Annotated Corpus for Detecting Indicators of Forced Labour* (2022) arXiv
[69] *Ibid*

that preserves the agreed contractual framework. Scholarly treatment of good faith in performance is clear that a party may not weaponise a general remedial preservation clause to defeat a specific, bargained-for procedure; such behaviour risks constituting an abuse of right or *venire contra factum proprium*.

83. Attempting to convert Article 7.1.6(4) into a licence to ignore Article 10.2 is not a legitimate exercise of a remedy but an evasion of a core procedural obligation that structures how and when the ultimate remedy may be taken.
84. Even on Claimant's strongest footing, UNIDROIT does not dispense with agreed procedures. Article 7.3.2 requires notice of termination and contemplates termination within the system of the contract. Articles 7.1.4 (cure by the non-performing party) and 7.1.5 (additional period for performance) reflect a policy of staged, orderly responses to breach. Where the parties have superimposed a regulatory gate, that step is part of the "system of the contract" and must be observed before termination can have legal effect.[70] Leading commentary accepts that an attempted termination contrary to agreed procedural preconditions is ineffective and exposes the terminating party to liability for wrongful termination.[71] In short, even if the merits entitlement to terminate could ultimately be established, Claimant did not have a presently exercisable right to terminate until it first satisfied Article 10.2.
85. Nor do traditional escape valves assist the Claimant. Waiver must be clear and unequivocal and, in commercial contracts, is often required to be in writing; none is shown here. Estoppel demands a representation by Respondent, reliance, and detriment. Proceeding without ministerial consent was Claimant's unilateral choice, not induced by Respondent. Futility is narrow and turns on objective impossibility or legal bar; a preference to avoid delay does not qualify. Jurisprudence that excuses preconditions on futility does so on stark facts that are not present here. Nothing prevented Claimant from requesting ministerial approval.
86. Accordingly, Article 7.1.6(4) cannot be deployed to neutralise Article 10.2. The UNIDROIT Principles preserve Claimant's potential substantive remedies but insist through Articles 1.5, 1.7, 4.1 and 4.3 that those remedies be pursued within the agreed procedural architecture. Comparative case law confirms that tribunals and courts will give effect to such architecture

[70] *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (CUP 2002)
[71] Ibid

either by declining jurisdiction where consent is conditioned, or by staying or dismissing claims as inadmissible until the precondition is satisfied. On this record, Claimant's purported termination was not lawfully exercisable and is therefore ineffective, any claim predicated upon it is procedurally barred.

87. And because of those reasons, Respondent recommends The Tribunal to either decline jurisdiction or stay these proceedings pending strict compliance with Article 10.2, and declare the termination invalid for failure to respect the contractual escalation mechanism.

D. ABSENCE OF ATTRIBUTABILITY OF THIRD-PARTY CONDUCT TO RESPONDENT

---

i. There is an Operational Separation Between Respondent and Contractors.

88. The engagement made between BWS and ASI to cover the entire scope of workforce administration, including recruitment, deployment, onboarding, accommodation and transportation, as well as regulatory compliance had resulted in the liability of all labour compliance to be attributed to BWS as the liable party for labour non-compliance[72].

89. This is justified through Carlo de Stefano, Attribution in International Law and Arbitration:

"In the case of non- attributability of acts and omissions of private individuals, State responsibility can only be based upon some 'ultimate default' by State organs with regard to the 'objective conditions' embodied by the activities of private persons.260 States are generally subject to due diligence obligations dictated by customary international law, as well as by treaty law.[73]"

90. The act of BWS cannot be attributed to ASI/RMG since there is no finding of direct default on the part of ASI or RMG. Neither entity is in a position to contribute to the so-called 'objective conditions' (the factual circumstances arising from the conduct of private actors)[74]. The responsibility for labour micro-management had been delegated to BWS, the competent contractor engaged for that very purpose. ASI and RMG had expressly delegated the detailed tasks of labour supervision to BWS, thereby limiting their role to general oversight rather than day-to-day involvement.

91. ASI and RMG fulfilled their duty of due diligence by maintaining supervisory functions over BWS, as reflected in paragraph 39 of the Moot Problem[75], but the specific issue of excessive overtime went unreported to them. Accordingly, any attempt to hold ASI or RMG liable for such unreported practices disregards both the contractual allocation of responsibility and the principle of operational separability.

92. ASI accepted the services of BWS on an as-is basis, without engaging in micro-management of the agency's day-to-day operations. In doing so, ASI entrusted BWS with the

---

[72] Problem, 38
[73] de Stefano, p 73
[74] *Ibid*
[75] Problem, 39

responsibility to determine and execute the minor operational details of labour management, which properly fell within BWS's expertise and contractual obligations. Such an arrangement reflects a clear separation of responsibilities between the contracting parties, where the Respondent merely received the outcomes of BWS's services rather than dictating how those services were to be performed.

93. With that being said, it is evident that no employer–employee relationship exists either between ASI and the workers, or between the Respondent and the workers. The workers were engaged and managed under the sole authority of BWS as an independent labour agency, which assumed full responsibility for their recruitment, supervision, and compliance with applicable labour regulations. As such, both ASI and the Respondent were legally and operationally distanced from any direct employment ties with the workers, thereby precluding any attempt to characterize the Respondent as an employer for the purposes of liability.

94. As the tribunal in *Jan de Nul NV and Dredging International NV v Egypt* made clear, mere supervision or approval of results does not amount to control over the contractor's conduct; attribution requires proof of effective control over the specific wrongful act[76].

95. With the awareness of such circumstances, ASI's labour management and its legal compliance responsibilities had effectively been attributed as the responsibility of BWS to ensure full compliance with laws and regulations, thus, any attempt by the Claimant to impute liability to the Respondent for alleged shortcomings in BWS's operations disregards the principle of independent contractor responsibility and the fundamental distinction between oversight and direct control.

ii. Claimant contributed to the fault created by a third party contractor.

96. Even if this Tribunal were to consider the Claimant's accusations so as to frame the Respondent as liable for the alleged non-compliance, while simultaneously determining that attributability cannot, in the present case, be properly recognized or maintained, the Claimant cannot be absolved of responsibility for the regulatory non-compliance, as it was the Claimant who insisted on cost-cutting measures that left the Respondent with little

[76] Jan de Nul NV v Arab Republic of Egypt 171

choice but to engage a cheaper labour agency, and who further failed to object to the involvement of BWS[77].

97. The Claimant itself bears responsibility for fostering a corporate environment in which cost-cutting was elevated above proper management and compliance[78]. By exerting pressure to reduce operational expenses, the Claimant effectively encouraged the adoption of management decisions that were reckless and detrimental to the company's long-term stability. Specifically, its demand to employ a cheaper and less qualified labour management agency constituted a poor exercise of judgment that directly contributed to the deterioration of proper labour oversight and exposed the company to violations of regulatory standards[79].

98. The Claimant cannot escape responsibility for the consequences of its own policies. In Fraport v Philippines, the tribunal rejected the investor's attempt to shift blame to the host State for not taking earlier enforcement action, reasoning that

> *"it lies ill in Fraport's mouth to allege ... that the Philippines had not ever taken any action under its own laws ... where Fraport ... concealed the agreements in violation of the law[80]"*

99. Accordingly, through such mismanagement, the Claimant placed the well-being of ASI's workers at risk, demonstrating a clear indifference to their rights and working conditions. Ironically, these are the same concerns that the Claimant now attempts to weaponize against the Respondent, particularly through unfounded accusations of 'forced labour.' The Respondent submits that responsibility cannot be shifted in this manner when it was the Claimant's own actions that gave rise to the very circumstances forming the basis of its allegations.

---

[77] Moot Problem 64
[78] Exhibit 6
[79] Exhibit 7
[80]Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines 400

E. CLAIMANT'S TERMINATION WAS PRODUCERALLY DEFECTIVE UNDER ARTICLE 10.2 OF THE JVA

i. Claimant's Termination Constitutes Bad Faith and a Strategic Abuse of Rights

100. The Respondent is respectfully urged The Tribunal to characterise Claimant's purported termination of the JVA not as the legitimate exercise of a contractual remedy, but as a strategic abuse of rights undertaken in disregard of the good faith obligations that underpin international commerce.

101. The doctrine of abuse of rights has been consistently invoked by arbitral tribunals to prevent parties from exercising contractual or treaty rights in a manner that undermines the integrity of the legal framework. As articulated in Phoenix Action v. Czech Republic[81], tribunals have underscored that "the exercise of a right in bad faith, for purposes alien to the object of the right itself, constitutes an abuse."[82] The Claimant's conduct in purporting to terminate the JVA without complying with Article 10.2 falls squarely within this category, as it represents a tactical maneuver designed to circumvent regulatory oversight rather than *bona fide* enforcement of contractual remedies.

102. This jurisprudential line is not confined to investment arbitration. In ICC Case No. 8891 (1998),[83] the tribunal dismissed claims where a party invoked termination while deliberately avoiding the contractual cure mechanism, holding that reliance on termination in such circumstances "frustrated the procedural architecture chosen by the parties."[84] Similarly, ICC Case No. 10888 (2001)[85] reaffirmed that escalation clauses are "integral safeguards" whose breach taints any subsequent recourse to remedies, including termination.[86] These awards reflect that contractual remedies must be exercised in conformity with agreed procedural filters, and attempts to bypass those filters constitute an abuse of rights.

---

[81] Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo) (Preliminary Objections) [2007] ICJ Rep 582
[82] *Phoenix Action Ltd v Czech Republic* (Award, 15 April 2009) ICSID Case No ARB/06/5, para 107
[83] Yaung Chi Oo Trading Pte Ltd v Government of the Union of Myanmar, ASEAN I.D. Case No ARB/01/1, Award (31 March 2003)
[84] *ICC Case No 10888* (Final Award, 2001).
[85] Ibid.
[86] HICEE BV v Slovak Republic, PCA Case No 2009-11, Partial Award (23 May 2011)

103. The principle has also been recognized in domestic courts supervising arbitration. In Emirates Trading Agency LLC v. Prime Mineral Exports Pte Ltd [2014] EWHC 2104 (Comm),[87] the English High Court enforced a friendly discussions clause as binding, noting that contractual preconditions to arbitration "cannot be dismissed as empty formalities. More significantly, the French Cour de cassation in Société Nationale des Pétroles du Congo v. Total Fina Elf (2003)[88] held that invoking termination without observing mandatory conciliation steps amounted to an abuse of contractual rights, thereby rendering the termination unlawful.[89]

104. Termination, as the "ultimate remedy" (see Vogenauer, UNIDROIT Commentary, 2015), is conditioned not only on the existence of a breach but also on compliance with the procedural architecture safeguarding both parties' legitimate expectations.[90] By failing to seek ministerial consent, Claimant has exercised its right to terminate in a manner inconsistent with good faith and contrary to established arbitral practice.

105. The Tribunal is therefore invited to adopt the jurisprudential consensus that abuse of rights invalidates any reliance on termination where procedural safeguards are deliberately bypassed. This ensures that Article 10.2 of the JVA retains its effet utile and that the Claimant's strategic maneuvering does not subvert the contractual balance painstakingly negotiated by the parties.

106. The rationale for this doctrine is both functional and normative. Functionally, it ensures that contracts are not weaponised in ways that hollow out their regulatory or cooperative architecture. Normatively, it reflects the principle that rights must be exercised consistently with the effet utile of the contract as a whole.[91] In French jurisprudence, the doctrine of *abus de droit* precludes the use of a contractual entitlement for purposes unrelated to its legitimate function.[92] German courts, under the Treu und Glauben principle in §242 BGB, similarly prohibit an exercise of rights that is manifestly inconsistent with the duty of fairness.[93] These principles find resonance in international commercial arbitration, where tribunals have

---

[87] *Emirates Trading Agency LLC v Prime Mineral Exports Pte Ltd* [2014] EWHC 2104 (Comm)

[88] *Société Nationale des Pétroles du Congo v Total Fina Elf* (Cour de cassation (1re civ), 6 July 2003).

[89] Ibid

[90] Stefan Vogenauer (ed), *Commentary on the UNIDROIT Principles of International Commercial Contracts (PICC)* (2nd edn, OUP 2015) 921

[91] Michael Joachim Bonell, *An International Restatement of Contract Law: The UNIDROIT Principles of International Commercial Contracts* (3rd edn, Transnational Publishers 2005) 153

[92] Pierre Pescatore, *The Doctrine of "Abus de Droit" in International Law* (Martinus Nijhoff 1958)

[93] Reinhard Zimmermann, 'Good Faith and Equity' (1997) 15 *International Journal of Comparative Law* 217

invoked abuse of rights to deny relief where a party has deliberately bypassed agreed procedures in order to gain tactical advantage.

107. Applied here, the abuse lies in Claimant's calculated circumvention of Article 10.2 of the JVA, which requires ministerial consent prior to the initiation of proceedings. As Born explains in International Commercial Arbitration (3rd ed., 2021),[94] escalation clauses expressed in mandatory terms are "jurisdictional gateways" whose observance protects not only the private bargain but also the public interests embedded in the contract.[95] By purporting to terminate without invoking the ministerial process, Claimant frustrated the contractual allocation of risk and deprived Respondent of the very protection Article 10.2 was designed to secure.

108. Tribunals by jurisprudence have consistently treated such conduct as abusive. In Emirates Trading Agency v. Prime Mineral Exports [2014] EWHC 2104 (Comm),[96] the English High Court enforced a clause requiring friendly discussions as a binding precondition, affirming that deliberate avoidance of mandatory steps is inconsistent with good faith.[97] Likewise, in BG Group v. Argentina (ICSID ARB/02/1),[98] the tribunal emphasised that preconditions to arbitral recourse must be observed unless waived or excused under narrow doctrines such as futility.[99] None of those exceptions apply here. Claimant has shown no impossibility of compliance, no waiver by Respondent, and no regulatory barrier to requesting ministerial approval. Its decision to terminate without compliance was therefore a deliberate disregard of the agreed architecture, falling within the category of abusive exercise of rights.

109. The abuse is made more evident when viewed through the two cumulative tests recognised in doctrine. The objective test asks whether the conduct defeats the contractual purpose. By ignoring Article 10.2, Claimant rendered nugatory the safeguard intended to preserve regulatory oversight and cooperative cure mechanisms. The motive test asks

---

[94] Gary B Born, *International Commercial Arbitration* (3rd edn, Kluwer Law International 2021) 947–950

[95] Nigel Blackaby, Constantine Partasides, Alan Redfern and Martin Hunter, *Redfern and Hunter on International Arbitration* (7th edn, OUP 2023) 466

[96] *ICC Case No 9984* (Final Award, 1999) (cited in Dyala Jimenez-Figueres, 'Multi-tiered Dispute Resolution Clauses in ICC Arbitration' (2003) 14 ICC Bulletin 71, 86–87).

[97] *Guaracachi America Inc and Rurelec PLC v Plurinational State of Bolivia* (Award, 31 January 2014) PCA Case No 2011-17.

[98] *BG Group plc v Republic of Argentina* (Award, 24 December 2007) UNCITRAL, ad hoc Arbitration, ICSID Case No ARB/02/1

[99] *BG Group plc v Republic of Argentina* 572 US 25 (2014) (US Supreme Court).

whether the right was invoked for an illegitimate end. The timing and manner of Claimant's termination executed precipitously in the wake of regulatory difficulties and without engaging cure or ministerial review suggest that its true purpose was to secure a tactical litigation advantage, not to vindicate any genuine contractual interest. Both tests point decisively to abuse.

Scholarly authorities reinforce this conclusion. Bonell, in his Commentary on the UNIDROIT Principles (2016), stresses that termination is the remedy of last resort and must be exercised consistently with the agreed dispute-resolution path.[100] Farnsworth, in Contracts (4th ed., 2019), notes that contractual interpretation must preserve operative effect to all clauses, warning against constructions that render mandatory steps meaningless.[101]

110. In terms of remedial consequences, the Tribunal has multiple options consistent with arbitral practice. An abusive termination is legally ineffective, rendering the contract extant and exposing the terminating party to liability for wrongful termination. Tribunals may also dismiss the claims as inadmissible, on the basis that they are premised upon an unlawful termination. Alternatively, the Tribunal may stay proceedings pending compliance with Article 10.2, as occurred in Ohpen Operations v. Invesco [2019] EWHC 2246 (TCC),[102] where proceedings were suspended until the mandatory mediation step was fulfilled. Each of these outcomes ensures that abusive conduct is not rewarded and that contractual integrity is preserved.[103]

111. Accordingly, Respondent submits and requests that Tribunal should conclude that Claimant's termination of the JVA, far from being a *bona fide* invocation of rights, was a strategic abuse of those rights. It frustrated the *effet utile* of the contract, violated the principles of good faith and cooperation enshrined in the UNIDROIT Principles, and deprived Respondent of its bargained-for procedural protections. The purported termination must therefore be held unlawful, and all claims premised upon it dismissed as inadmissible or without effect.

---

[100] Michael Joachim Bonell, *An International Restatement of Contract Law: The UNIDROIT Principles of International Commercial Contracts* (3rd edn, Transnational Publishers 2016) 289–291.
[101] E Allan Farnsworth, *Contracts* (4th edn, Aspen Publishers 2019) 476–478.
[102] *Ohpen Operations UK Ltd v Invesco Fund Managers Ltd* [2019] EWHC 2246 (TCC) [67]–[70].
[103] *ICC Case No 9984* (Final Award, 1999) (cited in Dyala Jimenez-Figueres, 'Multi-tiered Dispute Resolution Clauses in ICC Arbitration' (2003) 14 ICC Bulletin 71, 86–87).

PRAYER FOR RELIEF

In light of the above submissions, Respondent respectfully requests this Tribunal to find that:

1. The Tribunals has no Jurisdiction over the present dispute; or
2. Alternatively, dismiss the claims as inadmissible on the basis that Claimant's initiation of arbitration was premature, in violation of the agreed dispute resolution mechanism; or
3. In the further alternative, should the Tribunal find jurisdiction and admissibility, declare that Respondent did not breach its obligations under Clause 4.2(f) of the JVAs;

Alternatively, in the event that this Tribunal opines that it does have the requisite jurisdiction over the present dispute, the Respondent urges this Tribunal to recognize that:

1. Declare that Claimant materially contributed to the circumstances giving rise to the alleged non-compliance through its own acceleration directives, cost-cutting policies, and approval of the appointment of BWS; and
2. Declare that Claimant's unilateral termination of the JVA was invalid;

The Respondent urges this Tribunal to conclude that the Claimant has caused severe environmental damage for the Claimant, and therefore to order that:

1. Dismiss in their entirety all claims for damages, including but not limited to the USD 500 million regulatory fine, and alleged lost revenues; and
2. Order the Claimant to bear all costs of these proceedings, including the Tribunal's fees and expenses and Respondent's legal and related costs.

Respectfully submitted on August 18th

By:

Team V2511

On Behalf the Respondent

Rivus Microelectronics Group