

IN THE ASIAN INTERNATIONAL ARBITRATION CENTRE
AT KUALA LUMPUR, MALAYSIA

THE 20TH LAWASIA INTERNATIONAL MOOT COMPETITION 2025

CALYX DREAMBOT INCORPORATED

(CLAIMANT)

V

RIVUS MICROELECTRONICS GROUP

(RESPONDENT)

MEMORIAL FOR CLAIMANT

TABLE OF CONTENTS

INDEX OF AUTHORITIES..... 3

STATEMENT OF JURISDICTION..... 4

QUESTIONS PRESENTED 5

STATEMENT OF FACTS..... 6

SUMMARY OF PLEADINGS 9

PLEADINGS 10

I. RMG IS NOT ENTITLED TO INVOKE SOVEREIGN IMMUNITY 10

 A. RMG cannot invoke immunity in arbitration..... 10

 B. Alternatively, RMG cannot invoke immunity because of illegality..... 10

II. CDI’S INITIATION OF ARBITRATION WAS NOT PREMATURE..... 11

 A. Clause 10.1 and Clause 10.2 are not applicable in our case today 11

 B. Even if Clause 10.1 remains applicable, it does not bar today’s proceedings because Clause 10.1 has been fulfilled by CDI..... 12

 C. Even if Clause 10.2 is applicable, it does not bar today’s proceedings because Clause 10.2 has been fulfilled by CDI..... 12

III. RMG BREACHED THE JVA IN RELATION TO THE ALLEGED LABOUR PRACTICES 13

IV. CDI’S TERMINATION OF THE JVA WAS LAWFUL..... 14

 A. CDI was substantially deprived by the respondent’s breach 15

B. CDI cannot rely on the respondent in light of the breach 15

PRAYER FOR RELIEF..... 17

INDEX OF AUTHORITIES

Authorities	Page
C.N. and V. v France Application No. 67724/09, European Court of Human Rights, October 11, 2012	13
Employment Act 1955 (Act 265)	13
Federal Constitution of Malaysia	10
Heirs to the Sultanate of Sulu v Malaysia, Paris Court of Cassation, 28 February 2022	14
Zaimatulhakma bt Abdul Hamid v PP [2022] MLJU 439	13

STATEMENT OF JURISDICTION

Calyx Dreambot Incorporated (“CDI” or “Claimant”) and Rivus Microelectronics Group (“RMG” or “Respondent”) hereby submit this dispute, arising from alleged breaches under the Joint-Venture Agreement (“JVA”), to the Asian International Arbitration Centre (“AIAC”). This submission is made pursuant to the AIAC Rules 2023 and Clause 11 of the JVA, as agreed by the parties in the Statement of Agreed Facts, including any Corrections and Clarifications.

The parties have accepted the jurisdiction of this Tribunal under Clause 11 of the JVA and agree that the Tribunal's decision shall be final and binding. Accordingly, the Tribunal is requested to adjudicate the dispute in accordance with the AIAC Rules 2023, the UNIDROIT Principles of International Commercial Contracts (2016) and, with respect to issues not covered by such Principles, by generally accepted principles of international commercial law as agreed in the JVA by both parties.

QUESTIONS PRESENTED

- I. Whether RMG is entitled to invoke sovereign immunity;
- II. Whether CDI's initiation of arbitration was premature;
- III. Whether RMG breached the JVA in relation to the alleged labour practices; and
- IV. Whether CDI's termination of the JVA was lawful.

STATEMENT OF FACTS

PARTIES

The Claimant, CDI, is a multinational corporation in the semiconductor industry, specialising in the design, manufacture, and sale of microchips. CDI entered into a Joint Venture Agreement (“JVA”) with RMG to develop semiconductor manufacturing facilities and expand production capacity for international markets.

The Respondent, RMG, is a state-owned company incorporated in Aurion. It undertakes various commercial ventures, including technology and manufacturing projects. Here, RMG collaborated with CDI on the semiconductor project under the JVA.

THE AVANT-GARDE

Aurion pursued high-tech FDI. Between April–June 2022, President Davul Ho courted Veridian firms and assured executives that Rivus Microelectronics Group (RMG) was commercially autonomous and operations would face “no interference.”

THE AURION–VERIDIA BIT

In October 2022, Aurion and Veridia signed a Bilateral Investment Treaty (“BIT”) to ensure fair and equitable treatment and regulatory stability, widely promoted domestically as the anchor for semiconductor FDI.

Public concerns arose about weak labour enforcement in Aurion; criticism faced online suppression.

THE JOINT VENTURE

With the BIT in place, CDI (Calyx DreamBot Inc) agreed on a USD 1.2 billion joint venture with RMG, executing the JVA in December 2022.

The Special Purpose Vehicle (“SPV”), Aurion Semiconductor Inc (ASI), was incorporated on 3 January 2023. Land approvals and construction were fast-tracked through RMG’s state links.

At CDI’s request, the project adopted an accelerated 15-month build target (Project Acceleration Memo 26 February 2023), overseen by a joint project management team (JPMT).

THE OPERATIONS

Cost overruns emerged. On 20 September 2023, CDI asked JPMT to prioritise staff mobilisation and to “minimise labour costs where feasible.”

RMG proposed agencies; BWS (Beta Workforce Solutions) was selected with CDI approval. 2 October 2023, ASI contracted BWS for 1,200 workers; ASI and BWS were to collaborate on audits and compliance.

Workforce deployed by 20 November 2023; production commenced 20 May 2024; orders exceeded forecasts by September 2024.

THE UNEARTHING OF WORKFORCE ABUSE

13 September 2024, a report alleged excessive hours, poor dorms, fee exploitation and wage issues. 17 September 2024, Seratious warned of an import ban if no action was taken.

Aurion formed an Independent Investigative Committee (IIC) to investigate the allegations; on 30 September 2024 it found congested dorms, some overtime pressure, passport retention by BWS, and audit gaps—no conclusive modern-slavery finding; monitoring was recommended.

On the 2–23 October 2024, the Ministry suspended ASI’s licence pending a revised workforce audit; operations and contracts were disrupted.

CDI’s internal review (10 October 2024) linked BWS to the President’s family by marriage and noted RMG’s non-disclosure of this conflict.

INITIATION OF ARBITRATION PROCEEDINGS

16 December 2024, the Ministry fined ASI USD 500 million, citing undisclosed timesheets showing approximately 10,000 unreported overtime hours; Aurion declined to reveal the source, invoking confidentiality, national interest and the protection of the whistleblower.

24 December 2024, CDI terminated the JVA and required RMG to bear the fine; 28 December 2024, CDI reiterated its demand.

6 January 2025, CDI filed for arbitration under the JVA, claiming USD 742.5 million (fine, suspension losses, penalties, and lost contracts), alleging RMG (i) failed to ensure legal and ethical compliance, (ii) concealed BWS conflicts, and (iii) caused regulatory sanctions and reputational harm.

SUMMARY OF PLEADINGS

I

RMG is not entitled to invoke sovereign immunity because arbitration is not a proper forum and the present matter involves illegality.

II

CDI's initiation of arbitration was not premature. The dispute resolution clauses, Clause 10.1 and Clause 10.2 are not applicable in our case today as they only apply if Clause 5 and Clause 6 have been breached. Even if they apply, Clauses 10.1 and 10.2 have been fulfilled by CDI.

III

RMG breached the JVA in relation to the alleged labour practices. RMG's conduct meets the threshold of forced labour under the Employment Act 1955.

IV

CDI's termination of the JVA was lawful as RMG's actions amounted to fundamental non-performance.

PLEADINGS

I. RMG IS NOT ENTITLED TO INVOKE SOVEREIGN IMMUNITY

A. RMG cannot invoke immunity in arbitration.

According to *Article 32(1) of the Malaysian Federal Constitution*: "The Yang di-Pertuan Agong shall not be liable to any proceedings whatsoever in any court except in the Special Court established under Part XV."

Similarly, RMG can only invoke immunity and be tried at the special courts of Aurion because those courts are expressly established under Aurion's domestic law to handle disputes involving state-owned entities and matters of sovereign interest.

Immunity, being a privilege of sovereignty, is respected in Aurion's judicial system but does not extend to international arbitration where the state or its entities have agreed to submit to a neutral forum. Hence, RMG's reliance on immunity is confined to Aurion's special courts, not arbitration.

B. Alternatively, RMG cannot invoke immunity because of illegality.

RMG cannot invoke immunity because its conduct offends public policy, which bars protection for acts tainted by illegality. Referring to Exhibit 11, Mr Suvan's offer to waive the fine imposed on RMG in exchange for concessions constitutes an act of bribery, a crime under both domestic and international standards. Bribery directly undermines the integrity of public institutions and is universally condemned.

Immunity is not designed to shield corrupt or illegal conduct. The doctrine rests on respect for state sovereignty and the proper performance of official acts, but where conduct contravenes fundamental principles of legality and morality, the tribunal should decline to uphold immunity. This reflects the public policy exception, a well-established principle in both international arbitration and national legal systems, which prevents recognition or enforcement of rights or defences arising from unlawful acts.

II. CDI'S INITIATION OF ARBITRATION WAS NOT PREMATURE

A. Clause 10.1 and Clause 10.2 are not applicable in our case today

Clause 10.1 and Clause 10.2 are only applicable when CDI is terminating the JVA under Clause 5 and Clause 6 of the JVA.

Only Clause 5.3 and Clause 6.3 of the JVA make reference to Clause 10:

“5.3 In the event of a dispute regarding ownership or licensing of IP, the matter shall be resolved in accordance with Clause 10 — Dispute Resolution.” and “6.3 In the event of any alleged non-compliance, the Parties shall refer to Clause 10 — Dispute Resolution.”

Since CDI is terminating the JVA under Clause 4.2(f) in relation to the violation of labour law, CDI can commence arbitration without complying with Clause 10 first to give effect to the ordinary meaning of the contractual terms.

B. Even if Clause 10.1 remains applicable, it does not bar today’s proceedings because Clause 10.1 has been fulfilled by CDI

Referring to the Whatsapp messages at Exhibit 11, CDI has sent Whatsapp messages to RMG on 11 Oct 2024. CDI also laid down the particulars of today’s dispute which stems from the “labour law investigations.” Hence, RMG would reasonably know the issues that have arisen by reading CDI’s Whatsapp messages.

In summary, CDI discharged its obligation to negotiate by sending WhatsApp messages to RMG. RMG’s failure to respond for 2.5 months does not negate the fact that CDI had already fulfilled its obligation to negotiate. Furthermore, CDI sent a Notice of Arbitration dated 6th January 2025 to RMG, which amounts to a notice to negotiate.¹

C. Even if Clause 10.2 is applicable, it does not bar today’s proceedings because Clause 10.2 has been fulfilled by CDI

Clause 10.2 requires CDI to obtain consent of the Minister in charge of economic policy, foreign investments and trade of Aurion before commencing arbitration.

The President agreed to help facilitate the matter² and Mr Suvan even offered to waive the fine.³ Hence, the State has given their indirect consent to arbitrate the matter.

¹ Moot Problem Paragraph [62].

² Moot Problem Paragraph [16].

³ Moot Problem Exhibit 11.

III. RMG BREACHED THE JVA IN RELATION TO THE ALLEGED LABOUR PRACTICES

According to Clause 4.2(f) of JVA, RMG shall ensure full compliance with all applicable labour and employment laws.⁴

According to *Section 90B of the Employment Act 1955*, any employer who threatens, deceives or forces an employee to do any activity, service or work and prevents that employee from proceeding beyond the place or area where such activity, service or work is done, commits an offence of forced labour.

According to *C.N. and V. v France*,⁵ forced labour is met if workers were forced into service. In the current case, workers were hired to construct a facility for ASI by force as there was a threat.⁶

A threat includes unpaid wages, the withholding of wages, lack of overtime pay, long hours and heavy workloads, inadequacy of rest days, absence of health care and maternity leave, poor living conditions, and issues related to contracts and their termination as per *Zaimatulhakma bt Abdul Hamid v PP*.⁷

The workers in the current case were made to live in congested dormitories, with each 185-square-foot room housing 4 to 6 occupants.⁸ Forcing workers to live in such areas is both degrading and punitive. Such conditions can be used to pressure workers into compliance. For example, if

⁴ Exhibit 4, Clause 4.2(f).

⁵ Application No. 67724/09, European Court of Human Rights, October 11, 2012.

⁶ Moot Problem Paragraph [33].

⁷ [2022] MLJU 439.

⁸ Moot Problem Paragraph [47].

they complain or leave, they risk losing their job and accommodation, which are often tied together in migrant labour arrangements.

Second, workers are forced to provide recruitment fees of USD 500, this amounts to debt bondage.⁹ Charging such a high recruitment fee amounts to debt bondage, a recognised form of forced labour under the ILO's Forced Labour Convention. Workers must keep working to repay the debt, knowing that quitting would leave them in serious financial hardship. The debt thus operates as a penalty for leaving the job.

The workers were faced with an economic penalty if they did not comply, effectively compelling them to work. In conclusion, the requirements of forced labour under the *Employment Act 1955* are fulfilled. Consequently, RMG has breached the JVA in relation to the alleged labour practices.

IV. CDI'S TERMINATION OF THE JVA WAS LAWFUL

According to Clause 8.1 of the JVA, CDI may terminate this Agreement in the event of a fundamental non-performance or breach of this Agreement.¹⁰

There are 2 elements for fundamental breach as per *Heirs to the Sultanate of Sulu v Malaysia*.¹¹ First, whether the claimant was substantially deprived by the respondent's breach; and second, whether the claimant cannot rely on the respondent in light of the breach.

⁹ Exhibit 10, Clause 3.6.

¹⁰ Exhibit 4, Clause 8.1.

¹¹ Paris Court of Cassation, 28 February 2022.

A. CDI was substantially deprived by the respondent's breach

RMG failed to ensure compliance with labour standards, directly resulting in the Government of Aurion suspending ASI's operating licence.¹²

This suspension caused a halt in ASI's production, leading to the loss of major supply contracts, the imposition of contractual penalties, and investor losses.¹³ Additionally, ASI was subjected to a USD 500 million fine.¹⁴

These measures deprived the Claimant of the commercial purpose of the JVA, that is to generate profit. If the JVA is not terminated, CDI may risk filing for bankruptcy.

Hence, CDI was substantially deprived by the respondent's breach.

B. CDI cannot rely on the respondent in light of the breach

Ms Emret, the CEO of CDI, attempted to communicate her concerns regarding the labour law breaches directly to RMG's CEO. These concerns were urgent, as the breaches had already led to ASI's operational suspension. However, RMG did not reply to CDI's WhatsApp messages for a long time.¹⁵

Hence, RMG's silence justifies CDI's termination of the JVA as CDI could no longer rely on RMG to perform its obligations.

¹² Moot Problem Paragraph [50].

¹³ Moot Problem Paragraph [51].

¹⁴ Moot Problem Paragraph [56].

¹⁵ Exhibit 11.

Accordingly, bearing the application of these elements in mind, it is clear that CDI's termination of the JVA was lawful.

PRAYER FOR RELIEF

The Claimant respectfully requests this Tribunal hold the following:

I

RMG is not entitled to invoke sovereign immunity.

II

CDI's initiation of arbitration was not premature.

III

RMG breached the JVA in relation to the alleged labour practices.

IV

CDI's termination of the JVA was lawful.

Respectfully Submitted,

Counsels for Claimant