

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Finley Resources Inc., MWS Management Inc., and Prize Permanent Holdings, LLC

v.

United Mexican States

(ICSID Case No. ARB/21/25)

PROCEDURAL ORDER NO. 17
(On Claimants' request to submit new evidence)

Members of the Tribunal

Mr. Manuel Conthe Gutiérrez, President of the Tribunal
Dr. Franz X. Stirnimann Fuentes, Arbitrator
Prof. Alain Pellet, Arbitrator

Secretary of the Tribunal

Ms. Anneliese Fleckenstein

April 16, 2026

I. BACKGROUND

1. On March 12, 2026, the Claimants requested leave to:
 - (a) supplement Exhibit C-0229 with the remaining question-and-answer portions of the bid documents for International Public Tender No. 18575088-542; and
 - (b) submit the 825 and the 826 Contracts (without annexes or amendments).

A. THE CLAIMANTS' POSITION

2. In their request, the Claimants explained that they had received more than 9,100 pages of documents related to International Public Tender No. 18575088-542, with some 3,500-3,800 pages pertaining to the Q&A sessions. Of these, the Claimants had selected and submitted as Exhibit C-0229 the 18 pages most directly relevant to what they considered Pemex's understanding of the concept of an "open contract" and the nature of the contracts providing minimum and maximum monetary amounts that Pemex tendered, including the 821 Contract.¹
3. According to the Claimants, in its opening presentation during the Hearing, Mexico did not rebut the Claimants' assertions regarding Pemex's explanations that the 821 Contract and the other seven contracts were all "open contracts" but "questioned the completeness and reliability" of Exhibit C-0229. Specifically, Mexico questioned the compilation and organization of Exhibit C-0229 and "implied that Claimants had deliberately withheld the thousands of remaining pages" of these Q&A sessions.²
4. In view of Mexico's comments, the Claimants offered Mexico to provide the complete set of the bid Q&As (*i.e.*, between 3,500 and 3,800 pages), as well as the 825 and 826 Contracts, to demonstrate that these two contracts –to which some of the Q&As referred– contained the same key provisions as the 821 Contract.³ According to the Claimants, on February 23, 2026, they shared with Mexico the approximately 9,100 pages related to

¹ Claimants' Request, ¶¶ 1-3.

² Claimants' Request, ¶¶ 4-5.

³ Claimants' Request, ¶ 6.

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International Public Tender No. 18575088-542 and asked Mexico about their position on the submission of these documents. According to the Claimants, Mexico ultimately indicated that it opposed their submission, characterizing the thousands of pages of the bid documents as new evidence and asserted that the Claimants lacked sufficient justification under Procedural Order No. 1 to introduce them at this stage into the record of the present arbitration.⁴ As an alternative to the submission of documents, the Claimants asked Mexico to acknowledge that it had misspoken during its opening presentation; however, according to the Claimants, Mexico did not respond.⁵

5. Consequently, the Claimants felt the need to ask for leave to submit these documents, in order to rebut Mexico's position during its opening presentation that they had deliberately withheld pages when selecting those in Exhibit C-0229. The Claimants stressed that Mexico would suffer no prejudice if these additional pages were filed with the Tribunal, as the Tribunal had already received them from the Claimants on February 23, 2026 and, if it deemed necessary, could independently analyze the full universe of documents that Mexico had placed at issue.⁶

B. THE RESPONDENT'S POSITION

6. Following the Tribunal's invitation to comment on the Claimants' request, on March 19, 2026, the Respondent opposed the request.
7. The Respondent stressed that the submission of new evidence at this stage of the proceedings would cause unnecessary delays in the arbitration. According to the Respondent, the Parties should focus their efforts on preparing the Post-Hearing Briefs ("PHBs"), rather than being compelled to analyze thousands of pages of additional documentation. The Respondent averred that should these new pages be admitted, the Post-Hearing Briefs would need to be postponed, and the Respondent would be entitled to file

⁴ Claimants' Request, ¶¶ 7-8.

⁵ Claimants' Request, ¶¶ 10-11.

⁶ Claimants' Request, ¶ 13.

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an additional submission in response to any new arguments that the Claimants raise in their PHBs.⁷

8. The Respondent further stated that the documentation that the Claimants sought to incorporate into the record constitutes additional evidence and, as such, must satisfy the requirement of exceptional circumstances set forth in Section 16.3 of Procedural Order No. 1 for its admission, which it does not.⁸
9. According to the Respondent, the Claimants had the documentation they now seek to incorporate in their possession since at least before January 20, 2026 (the date on which they first requested to submit the Q&A sessions documentation), and therefore it cannot be argued that this constitutes recently obtained evidence. In the Respondent's view, in reality, the Claimants' request is the consequence of the Claimants' own negligence: when complying with Procedural Order No. 15, they chose to submit a partial selection of questions and answers instead of the entirety thereof, which is precisely what they now seek to incorporate.⁹
10. Furthermore, the Respondent stated that were the incorporation of additional documentation at this stage of the arbitration, based on what occurred during the Hearing, be permitted, the Respondent would be placed at a clear disadvantage, as the Claimants would be free to construct novel arguments based on the new evidence, without Mexico having a fair opportunity to respond, given that the proceedings provide for only one round of PHBs.¹⁰
11. Finally, the Respondent argued that were the Claimants' request granted, Mexico would insist, to preserve equal treatment, on being granted the opportunity to respond, through a separate submission, to any argument that the Claimants raise in their PHB in connection with the additional evidence. The principle of equal treatment would additionally require

⁷ Respondent's Response, p. 1.

⁸ Respondent's Response, p. 2.

⁹ Respondent's Response, p. 2.

¹⁰ Respondent's Response, p. 3.

Mexico to be able to submit new documents related to various unsupported assertions made by the Claimants and their witnesses during the Hearing.¹¹

II. THE TRIBUNAL’S ANALYSIS

12. In the Tribunal’s view there are two main reasons calling for the rejection of the Claimant’s request.
13. *First*, the Tribunal considers that Exhibit C-0299, as already filed, and the Parties’ comments during the Hearing and presumably in their forthcoming PHBs will provide enough elements for the Tribunal to assess whether the 821 Contract was legally designed as an “open contract”. To that extent, without entering into the question of whether the submission of the new evidence sought by the Claimants meets all the conditions required under Procedural Order No.1, in the Tribunal’s view the new evidence would lack enough relevance to be allowed into the record so late in the arbitration.
14. *Additionally*, as argued by the Respondent, the admission of new, voluminous documents in the run-up to the submission of the PHBs would inevitably entail a delay in the procedural timetable of the present arbitration, not only because of the time required for the Parties and the Tribunal to digest this voluminous documentation and huge inflow of new information, but also because the Respondent would arguably be entitled to comment on it, ahead of the Parties’ simultaneous time limit to file their PHBs. A delay would thus be inevitable. In this connection, the Tribunal recalls that the Claimants themselves were the ones who, when discussing the procedural timetable of the arbitration for this *quantum* phase, expressed their strong desire that the Award be rendered, if not in 2025, as early as possible in 2026.

¹¹ Respondent’s Response, p. 3.

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III. DECISION

15. In light of the above, the Tribunal denies the Claimants the leave to file new evidence that they requested in their March 12, 2026 letter.

For and on behalf of the Tribunal,

[Signed]

Mr. Manuel Conthe Gutiérrez
President of the Tribunal
Date: April 16, 2026