

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**Bacanora Lithium Limited, Sonora Lithium Ltd., and Ganfeng International
Trading (Shanghai) Co. Ltd.**

v.

United Mexican States

(ICSID Case No. ARB/24/21)

PROCEDURAL ORDER NO. 5

Decision on the Suspension of the Arbitration due to Changed Circumstances

Members of the Tribunal

Mr. Eduardo Zuleta Jaramillo, President of the Tribunal
Mr. Donald Francis Donovan, Arbitrator
Prof. Pierre Mayer, Arbitrator

Secretary of the Tribunal

Ms. Gabriela González Giráldez

Assistant to the Tribunal

Ms. Sofía Klot

11 December 2025

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I. THE PARTIES

1. The Claimants in this arbitration are Bacanora Lithium Limited, Sonora Lithium Ltd., two companies incorporated in the United Kingdom (“**UK**”), and Ganfeng International Trading (Shanghai) Co. Ltd., a company constituted in the People’s Republic of China (jointly, the “**Claimants**”).
2. The Claimants bring claims on their own behalf and of behalf of Minera Sonora Borax, S.A. de C.V. and Bacanora Chemco S.A. de C.V. under two agreements: the Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Mexican States for the Promotion and Reciprocal Protection of Investments (“**Mexico-UK BIT**”) and the Agreement Between the Government of the United Mexican States and the Government of the People’s Republic of China on the Promotion and Reciprocal Protection of Investments (“**Mexico-China BIT**”).
3. The Respondent in this proceeding is the United Mexican States (“**Mexico**” or the “**Respondent**”, indistinctly).
4. The Claimants and the Respondent are jointly referred to as the “**Parties**”.

II. RELEVANT PROCEDURAL BACKGROUND

5. On 25 August 2025, the Tribunal issued Procedural Order No. 3, containing its Decision on Bifurcation, in which it, *inter alia*: (i) declined to bifurcate the arbitration; (ii) indicated that the proceeding would be conducted in accordance with “Scenario 2” of the Procedural Timetable at Annex B of Procedural Order No. 1 (“**PO1**”); and (iii) invited the Parties to reach an agreement on the outstanding deadlines in “Scenario 2” of the Procedural Timetable, including hearing dates, and to submit a joint proposal to the Tribunal within 30 days.¹
6. On 25 September 2025, the Claimants informed the Tribunal that the Parties had engaged in discussions but had not been able to reach an agreement yet on the outstanding deadlines pursuant to the Tribunal’s order in Procedural Order No. 3. Accordingly, the Claimants requested a one-week extension of the Tribunal’s deadline.
7. Also on 25 September 2025, Respondent submitted before the Acting Secretary-General of ICSID a request to consolidate the present ICSID Case No. ARB/24/21 with the case captioned *Estate of Ian Colin Orr-Ewing et al. v. the United Mexican States* (ICSID Case ARB/25/30) (the “**Orr-Ewing Arbitration**”) under Article 14 of the Mexico-UK BIT (the “**Request for Consolidation**”).
8. On the same date, the Respondent filed before the Tribunal a request to suspend this arbitration pending the resolution of its Request for Consolidation pursuant to Rule 54 of the ICSID Arbitration Rules in force as of 1 July 2022 (the “**Rules**”) (the “**Request for Suspension**”).
9. On 26 September 2025, the Tribunal invited the Claimants to comment on the Request for Suspension.
10. Also on 26 September 2025, the Respondent provided a copy of its Request for Consolidation to the Claimants and the Tribunal.

¹ While reviewing the Spanish translation of Procedural Order No. 3, the Tribunal identified a typographical error in the English version. Therefore, on 26 September 2025, Tribunal notified a Revised Procedural Order No. 3 to the Parties.

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11. On 29 September 2025, the Respondent uploaded the Request for Consolidation and supporting documentation to Box.
12. On 1 October 2025, the Claimants informed that they had received a copy of the Request for Consolidation after 10:00 PM on 26 September 2025 and were not given access to its supporting documents until the afternoon of 29 September 2025, and thus requested an extension of the deadline to comment on the Request for Suspension until 6 October 2025.
13. By email dated 2 October 2025, the Tribunal granted the extension requested by the Claimants to comment on the Request for Suspension until 6 October 2025. The Tribunal also indicated that it would inform the Parties whether discussions on the pending deadlines under “Scenario 2” of the Procedural Timetable should continue once it received the Claimants’ comments on the suspension of the proceeding.
14. On 6 October 2025, the Claimants submitted a letter opposing the Respondent’s Request for Suspension.
15. On 7 October 2025, the Respondent requested leave to comment on the Claimants’ letter of 6 October 2025.
16. On the same day, the Tribunal authorized the Parties to file an additional round of submissions on the question of suspension.
17. On 10 October 2025, the Respondent filed its comments to the Claimants’ letter of 6 October 2025.
18. On 16 October 2025, the Claimants filed their observations to the Respondent’s comments of 10 October 2025.
19. On 27 October 2025, the Tribunal issued Procedural Order No. 4 (“**PO4**”), in which it: (i) rejected the Respondent’s Request for Suspension in its entirety, without prejudice to the Parties’ right to seek a revision of PO4 “if circumstances change, or to file an application to suspend the proceeding before the Consolidation Tribunal”; (ii) ordered the Parties to comply with the deadlines set forth in “Scenario 2” of the Procedural Timetable of PO1; and (iii) instructed the Parties to resume discussions on the outstanding deadlines in “Scenario 2” of the Procedural Timetable, including the scheduling of the hearing dates, and to submit a joint proposal to the Tribunal within 10 days.²
20. On 5 November 2025, the Acting Secretary-General of ICSID took note of the Parties’ special agreement, whereby the tribunal that will hear the Request for Consolidation (the “**Consolidation Tribunal**”) would be composed by the members of the arbitral tribunal in ICSID Case No. ARB/24/21, Mr. Eduardo Zuleta Jaramillo (President), Mr. Donald Francis Donovan, and Prof. Pierre Mayer, in accordance with article 14.5 *in fine* of the UK-Mexico BIT.
21. On the same date, the Claimants wrote to the Tribunal informing it of the discussions maintained with the Respondent to schedule hearing dates and submit a joint proposal to the Tribunal, as per the terms of PO4, and alleging that the Respondent had advised that it was not possible to confirm hearing dates due to scheduling conflicts and the imminent constitution of the Consolidation Tribunal.
22. On 7 November 2025, the Tribunal invited the Respondent to submit brief comments on the Claimants’ email dated 5 November 2025.

² Procedural Order No. 4, 27 October 2025, ¶ 44.

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23. On 11 November 2025, the Respondent submitted its comments to the Claimants' email of 5 November 2025, declining to agree on hearing dates or other procedural milestones given the imminent constitution of the Consolidation Tribunal and indicating that it was necessary to await confirmation of the designation of the Consolidation Tribunal.
24. On 24 November 2025, the Consolidation Tribunal was constituted in accordance with article 14.5 of the UK-Mexico BIT, composed by Mr. Eduardo Zuleta Jaramillo (President), Mr. Donald Francis Donovan, and Prof. Pierre Mayer, to hear and adjudicate the Respondent's Request for Consolidation (the "**Consolidation Proceeding**").
25. On 27 November 2025, the Respondent filed a new request for suspension of ICSID Cases No. ARB/24/21 and ARB/25/30 invoking paragraph 44 of PO4 before the Consolidation Tribunal.
26. On 5 December 2025, the Claimants (and the claimants in the Orr-Ewing Arbitration) filed submissions before the Consolidation Tribunal opposing the Respondent's new request for suspension.
27. On 9 December 2025, the Respondent sent an email to the Consolidation Tribunal urging it to imminently issue its decision on the requested suspension before 12 December 2025.

III. ISSUES TO BE DECIDED IN THIS PROCEDURAL ORDER

28. In this Procedural Order, the Tribunal will decide whether the present arbitration should be suspended due to changed circumstances, as a result of the constitution of the Consolidation Tribunal, and whether the Parties are required to comply with PO4.
29. Preliminarily, the Tribunal observes that the Respondent's new request for suspension of 27 November 2025 filed before the Consolidation Tribunal invokes an alleged change of circumstances under PO4 as a basis to suspend both the present proceeding and the Orr-Ewing Arbitration. However, changed circumstances as a ground to revisit the Tribunal's decision on the Request for Suspension in PO4 applies exclusively to this arbitration proceeding, and not the Consolidation Proceeding.
30. Per the terms of PO4, the Tribunal dismissed the Respondent's Request for Suspension without prejudice to the Parties' right to "seek a revision of [PO4] before this Tribunal if circumstances change, or to file an application to suspend the proceeding before the Consolidation Tribunal".³ This Procedural Order is therefore limited to the question of whether there has been a change of circumstances since the issuance of PO4 that warrants revisiting the Tribunal's decision on the Respondent's Request for Suspension in ICSID Case No. ARB/24/21.
31. The Tribunal notes that it is acting in its capacity as the Tribunal constituted to hear and decide the present arbitration (ICSID Case No. ARB/24/21) exclusively. Consequently, any decisions in this Procedural Order shall have no bearing on the Orr-Ewing Arbitration or the Consolidation Proceeding. Any submissions made before the Consolidation Tribunal shall be decided by that tribunal within the framework of the Consolidation Proceeding. For the avoidance of doubt, the Parties' submissions and / or requests addressed to the Consolidation Tribunal on 27 November 2025, 5 December 2025 and 9 December 2025, referenced above, shall be assessed and decided by the Consolidation Tribunal in the context of the Consolidation Proceedings.
32. The remainder of this Procedural Order is organized as follows: Section IV summarizes the Parties' arguments that the Tribunal considers relevant for the issuance of this Procedural Order; Section V contains the Tribunal's analysis; and Section VI sets forth the Tribunal's decision.

³ Procedural Order No. 4, 27 October 2025, ¶ 44(i) (emphasis added).

IV. THE PARTIES' POSITIONS

A. The Claimants' position

33. In their correspondence to the Tribunal of 5 November 2025, the Claimants refer to their discussions with the Respondent to finalize the Procedural Calendar and agree on hearing dates, as instructed by the Tribunal in PO4.⁴
34. The Claimants allege that, on 3 November 2025, they wrote to the Respondent reiterating an earlier proposal to hold the hearing between 7 and 18 December 2026. According to the Claimants, the Respondent advised that it was not possible to confirm any hearing dates or other milestones until there was greater clarity on the Respondent's Consolidation Request, adding that any hearing dates would likely need to be adjusted and that it was not appropriate to agree on any such dates due to an imminent change of circumstances.⁵ According to the Claimants, the Respondent would have indicated that the proposed dates "coincide[d] with commitments previously undertaken in other cases" and "are not feasible at this time."⁶
35. The Claimants maintain that the Tribunal's instruction to resume discussions regarding the hearing dates in PO4 is clear, and that nothing prevents the Parties from identifying possible hearing dates. It adds that "Respondent's defiance of that direction makes it equally clear that Respondent remains intent on delaying these proceedings".⁷
36. The Claimants ask the Tribunal to direct Mexico: "(i) to provide details of the 'commitments previously undertaken' that allegedly prevent Mexico from attending a hearing in December 2026"; and "(ii) to provide other availabilities in the first quarter of 2027."⁸

B. The Respondent's position

37. In its correspondence of 11 November 2025, the Respondent avers that – as it had informed the Claimants – it "is not efficient to agree on hearing dates or other procedural milestones until there is greater clarity" on the Consolidation Proceeding.⁹
38. The Respondent refers to the agreement reached between the Parties on 3 and 4 November 2025 on the special procedure to constitute the Consolidation Tribunal as being inconsistent with the Claimants' insistence on setting hearing dates, which would be "premature" and "prejudges what will occur in the consolidation procedure".¹⁰ Additionally, the Respondent argues that the Parties' special agreement to constitute the Consolidation Tribunal "constitutes a change in circumstances under paragraph 44(i) of Procedural Order No. 4."¹¹
39. Accordingly, for the Respondent, it is necessary to wait until a first session has been held with the Consolidation Tribunal "to define the corresponding procedural course and, subsequently, make the

⁴ Claimants' email to the Tribunal of 5 November 2025.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Respondent's letter to the Tribunal of 11 November 2025, p. 1.

¹⁰ *Id.*

¹¹ *Id.*

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pertinent procedural adjustments in this arbitration.”¹² The Respondent concludes that setting dates for this arbitration without first having a procedural calendar in the Consolidation Proceeding “would undermine procedural efficiency and coherence.”¹³

40. Finally, the Respondent informs that, during December 2026, it must prepare for and attend the hearing in *Almaden Minerals Ltd. and Almadex Minerals Ltd. v. United Mexican States* (ICSID Case No. ARB/24/23), scheduled for 14-19 December 2026.¹⁴

V. THE TRIBUNAL’S ANALYSIS

41. The Tribunal recalls its decision at paragraph 44 of PO4, which provides as follows:

Based on the above considerations, the Tribunal:

- (i) Rejects the Respondent’s Request for Suspension in its entirety, without prejudice to the Parties’ right to seek a revision this Procedural Order before this Tribunal if circumstances change, or to file an application to suspend the proceeding before the Consolidation Tribunal;
 - (ii) Orders the Parties to comply with the deadlines set forth in “Scenario 2” of the Procedural Timetable of Procedural Order No. 1;
 - (iii) Instructs the Parties to resume discussions on the outstanding deadlines in “Scenario 2” of the Procedural Timetable, including the scheduling of the hearing dates, and to submit a joint proposal to the Tribunal within 10 days from this Order;
 - (iv) Dismisses all other requests.
42. It is not controverted that, pursuant to the terms of PO4, the Parties were instructed to resume negotiations on the pending deadlines in “Scenario 2” of the Procedural Timetable and submit a joint proposal within 10 days that would expressly contemplate potential hearing dates.
43. The Respondent relies on the constitution of the Consolidation Tribunal as a “change of circumstances” under paragraph 44(i) of PO4, and as grounds to enact a *de facto* suspension of this arbitration (and of the steps set forth by the Tribunal in PO4) until the Consolidation Tribunal has been able to hold its first session.
44. The Tribunal does not find the Respondent’s arguments persuasive. The Tribunal understands that the constitution of the Consolidation Tribunal does not constitute a “change of circumstances” that would warrant either revisiting its decision on the Respondent’s Request for Suspension contained in PO4, or excusing compliance with its clear instructions to negotiate and agree on outstanding deadlines in the Procedural Timetable and propose possible hearing dates.
45. As the Parties are well aware, the Consolidation Tribunal has only just been constituted, and the Parties are still to discuss the Terms of Appointment and a draft procedural order No. 1 (including a procedural calendar) in the Consolidation Proceedings. In this context, any suggestion that there has been a change of circumstances that would warrant suspending this arbitration is premature. The current situation is not materially different from the situation in which the Respondent filed the Request for Suspension in the first place.

¹² *Id.*, pp. 1-2.

¹³ *Id.*, p. 2.

¹⁴ *Id.*

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46. Based on the above considerations, the Tribunal finds no change of circumstances or compelling reasons to stay the arbitration or delay compliance with PO4 at this time. However, the Tribunal may revisit the issue when there is a change of circumstances that merits suspending this arbitration, for example, once the Consolidation Proceedings have moved further along.
47. In the meantime, the Parties are required to comply with PO1 and PO4 in full.

VI. DECISION

48. Based on the foregoing, the Tribunal:
- (i) Orders the Parties to comply with the deadlines set forth in “Scenario 2” of the Procedural Timetable of PO1;
 - (ii) Declines to revisit its decision on the Respondent’s Request for Suspension, without prejudice to:
 - a. The Parties’ right to seek a revision of PO4 and of this Procedural Order before this Tribunal if circumstances change; or
 - b. Any pending or future application to suspend this arbitration filed before the Consolidation Tribunal, or any decision issued by the Consolidation Tribunal to that effect.
 - (iii) Orders the Parties to negotiate the pending dates in the Procedural Timetable and submit a joint proposal to the Tribunal within 10 days of this Procedural Order, including hearing dates that consider the Respondent’s existing commitments for December 2026. During their negotiations, the Parties shall disclose any existing commitments as well as their availability to attend a hearing during the first half of 2027. Should the Parties fail to reach an agreement on potential hearing dates, the Tribunal will directly fix the hearing dates in the Procedural Timetable after hearing the Parties.
 - (iv) Dismisses all other requests.

For and on behalf of the Tribunal,

[signed]

Mr. Eduardo Zuleta
President of the Tribunal
Date: 11 December 2025