

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. 4

Decision on the Suspension of the Arbitration

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

27 October 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**”). Their claims are related to seven mining concessions in the Sonora Lithium Project, a lithium extraction project based in the northern state of Sonora.
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; 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 ICSID Secretary-General 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 (the “**Suspension Response**”).
15. On 7 October 2025, the Respondent requested leave to comment on the Suspension Response.
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 Suspension Response (the “**Suspension Reply**”).
18. On 16 October 2025, the Claimants filed their observations to the Suspension Reply (the “**Suspension Rejoinder**”).

III. ISSUES TO BE DECIDED IN THIS PROCEDURAL ORDER

19. This Procedural Order exclusively concerns the question of whether the Tribunal can (and should) suspend this arbitration under ICSID Arbitration Rule 54 until the Respondent’s Request for Consolidation is adjudicated.
20. The Tribunal notes that, in their submissions, the Parties have advanced substantive arguments on the merits of the Request for Consolidation and its likelihood of success, and whether consolidation would be possible, efficient or an alleged dilatory tactic.² In that context, the Respondent has also invoked the Claimants’ alleged, unilateral “self-consolidation” of their claims, an argument that is closely linked to the Respondent’s abuse of process (admissibility) objection announced during the bifurcation phase.³
21. The Tribunal observes that these arguments go to the substance of the Respondent’s Request for Consolidation, which will be decided by a tribunal specifically constituted to hear and adjudicate the consolidation claims (the “**Consolidation Tribunal**”). It is therefore not for this Tribunal to weigh in on the merits, likely outcome, effectiveness or alleged dilatory nature of the Request for Consolidation – not even preliminarily or on a *prima facie* basis. Mindful of its duty not to usurp the Consolidation Tribunal’s jurisdiction, the Tribunal has not considered the Parties’ arguments on the merits or likely outcome of the Request for Consolidation when issuing this Procedural Order. Such

² See, generally, the Request for Suspension, Suspension Response, Suspension Reply and Suspension Rejoinder.

³ See, e.g., Suspension Reply, pp. 4-5; Suspension Rejoinder, pp. 4-5; Revised Procedural Order No. 3, 25 August 2025, ¶¶ 38-39, 53, 88-89.

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arguments must be submitted to the Consolidation Tribunal in the consolidation proceeding. For similar reasons, the Tribunal will not consider at this stage the Parties' arguments on any alleged, unilateral "self-consolidation" of the Claimants' claims, to avoid any risk of prejudgment of the Respondent's announced admissibility objection. The Tribunal does not consider it necessary to address these issues to adjudicate the Respondent's Request for Suspension.

22. Given the limited scope of the issues before this Tribunal (*i.e.*, whether the arbitration should be suspended at this juncture under Rule 54), the summaries included in the Section immediately below will focus on those issues exclusively and are not intended to be a comprehensive or detailed reproduction of all the Parties' positions expressed in their submissions.
23. 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 on the Request for Suspension.

IV. THE PARTIES' POSITIONS

24. This Section briefly summarizes the Parties' positions on whether the Tribunal can and should suspend this arbitration pending adjudication of the Respondent's Request for Consolidation.

A. The Respondent's position

25. The Respondent asks the Tribunal to use its power to suspend the present arbitration under Rule 54(2), which provides that "the Tribunal may suspend the proceeding upon the request of either party or on its own initiative".⁴ For the Respondent, the Tribunal "has the discretionary authority to suspend the proceeding if it deems it appropriate" with "no additional conditions" other than having heard the Parties.⁵ It agrees with the Claimants that a request to suspend the proceeding does not automatically trigger a suspension.⁶
26. The Respondent argues that suspending this arbitration will benefit its orderly administration, since an eventual decision on its consolidation with the Orr-Ewing Arbitration could potentially affect this Tribunal's jurisdiction. Suspension of this arbitration would therefore allow for a fair and efficient resolution of the claims, avoid the risk of contradictory rulings and the "unnecessary expenditure of additional resources" while the Request for Consolidation is adjudicated.⁷
27. In response to the Claimants' arguments, the Respondent maintains that its Request for Suspension is consistent with Rule 3, which sets forth the principles of good faith, efficiency, and procedural equity, because its Request is made in good faith, seeks to avoid the duplication of proceedings, protects due process and ensures the orderly and fair conduct of the arbitration.⁸ It further notes that Rule 58 – which establishes a duty for tribunals to render the Award as soon as possible – does not apply to its Request for Consolidation and is restricted to other, specific contexts.⁹

⁴ Request for Suspension, p. 1 (citing Rule 54(2)).

⁵ Request for Suspension, p. 1.

⁶ Suspension Reply, p. 1.

⁷ Request for Suspension, pp. 1-2.

⁸ Suspension Reply, p. 1.

⁹ Suspension Reply, pp. 1-2 (arguing that Rule 58 applies only in specific contexts, such as in proceedings for manifest lack of legal merit, preliminary objections with a request for bifurcation and when the last written submission has been filed).

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28. The Respondent further avers that a suspension of this case would meet the standard applied in *Ruby River Capital LLC v. Canada*, even though it is not binding on the Tribunal.¹⁰ In that vein, a suspension would be: (i) expeditious, as the Consolidation Tribunal will most likely suspend the present arbitration in any case, such that suspending it now would avoid unnecessary duplication of procedural efforts;¹¹ (ii) cost-effective, as continuing with the proceeding without waiting for the constitution of a Consolidation Tribunal would force the Respondent to bear the cost of litigating the same facts in multiple proceedings, placing a disproportionate financial burden on the State;¹² and (iii) fair, because forcing the Respondent to defend itself simultaneously in multiple proceedings dealing with the same facts, but “without certainty as to the definitive identity of the Claimants”, would severely compromise the equity of the process.¹³
29. The Respondent requests that the Tribunal: (i) “suspend the arbitration proceeding ICSID Case ARB/24/21 until the Request for Consolidation, filed on September 25, 2025, is resolved”; and (ii) “disregard the Claimant’s *[sic]* comments on the merits of the Request for Consolidation.”¹⁴

B. The Claimants’ position

30. The Claimants agree that under Rule 54(2) the Tribunal may exercise its discretion to decide whether to suspend the proceeding, and note that a request for suspension is not automatic or unconditioned.¹⁵ For the Claimants, the Tribunal’s discretion to suspend the proceeding is subject to compliance with other Rules, including Rule 3 which, *inter alia*, establishes the Tribunal’s duty to “conduct the proceeding in good faith in an expeditious and cost-effective manner”, and Rule 58 which sets forth the duty to “render the Award as soon as possible.”¹⁶ Accordingly, for the Claimants, the Tribunal’s discretion to suspend the proceeding under Rule 54(2) would be “narrow”, and the Tribunal has a binding obligation to ensure that any suspension is compatible with principles of fairness, efficiency, and cost-effectiveness.¹⁷
31. Citing *Ruby River Capital LLC v. Canada*, among other authorities, the Claimants argue that the Respondent “bears the burden of proving that the suspension is warranted by compelling reasons or good cause that justify displacing the presumption that either party is entitled to have the proceeding conducted at a normal pace, according to the procedural timetable, efficiently and expeditiously.”¹⁸

¹⁰ Suspension Reply, p. 2 (citing *Ruby River Capital LLC v. Canada* (ICSID Case No. ARB/23/5), Procedural Order No. 3, Decision on the Respondent’s Request for Suspension of the Proceeding and Other Requests, 9 April 2024, ¶ 27).

¹¹ Suspension Reply, p. 2 (citing *Canfor Corporation v. United States of America* (UNCITRAL), Order of The Consolidation Tribunal, 7 September 2005, ¶ 20; *First Majestic Silver Corp. v. United Mexican States* (ICSID Case No. ARB/21/14), Procedural Order No. 1 of the Consolidation Tribunal, 5 August 2024, ¶ 3.2).

¹² Suspension Reply, pp. 2-3. The Respondent points out that, by contrast, the Claimants can eventually be made whole for any delay in the resolution of their claims through an award of damages. *See* Suspension Reply, p. 4.

¹³ Suspension Reply, p. 3.

¹⁴ Suspension Reply, p. 5.

¹⁵ Suspension Response, p. 2 (citing *Ruby River Capital LLC v. Canada* (ICSID Case No. ARB/23/5), Procedural Order No. 3, Decision on the Respondent’s Request for Suspension of the Proceeding and Other Requests, 9 April 2024, ¶ 26); Suspension Rejoinder, p. 2.

¹⁶ Suspension Response, pp. 2-3 (citing, *inter alia*, Rules 3(1), 3(2) and 58 and *Ruby River Capital LLC v. Canada* (ICSID Case No. ARB/23/5), Procedural Order No. 3, Decision on the Respondent’s Request for Suspension of the Proceeding and Other Requests, 9 April 2024, ¶ 27.)

¹⁷ Suspension Response, p. 2; Suspension Rejoinder, pp. 2-3.

¹⁸ Suspension Response, p. 3 (citing, *inter alia*, *Ruby River Capital LLC v. Canada* (ICSID Case No. ARB/23/5), Procedural Order No. 3, Decision on the Respondent’s Request for Suspension of the Proceeding and Other Requests, 9 April 2024, ¶ 28.)

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32. The Claimants maintain that the Respondent has not met its burden to show that suspension of the proceeding is warranted and that the claimed benefits of suspending this arbitration outweigh the prejudice resulting from delaying the resolution of their claims, offering only “unsubstantiated and unparticularized concerns”.¹⁹ On the possibility of contradictory rulings, the Claimants allege that there would be no such risk while the Request for Consolidation is pending, because this Tribunal could not reasonably issue an Award until at least mid to late 2026, while the Orr-Ewing Arbitration is in its very early stages.²⁰
33. The Claimants challenge the Respondent’s claim that a suspension is necessary to alleviate the State’s financial burden of having to litigate the same facts in different proceedings. In this regard, the Claimants point out that it was the Respondent itself who filed the Request for Consolidation and the associated Request for Suspension, which the Claimants are now forced to oppose.²¹
34. The Claimants ask the Tribunal to: “(i) reject Respondent’s Request for Suspension; (ii) direct Respondent to comply with the deadlines set in Scenario 2 of the Procedural Timetable of Procedural Order No. 1, and (iii) instruct the Parties to resume discussions on the pending deadlines under ‘Scenario 2’ of the Procedural Timetable, including the scheduling of the hearing dates.”²²

V. THE TRIBUNAL’S ANALYSIS

35. As the Parties have noted, the Tribunal’s authority to suspend the proceeding stems from Rule 54, which provides as follows:

Rule 54
Suspension of the Proceeding

- (1) The Tribunal shall suspend the proceeding by agreement of the parties.
- (2) The Tribunal may suspend the proceeding upon the request of either party or on its own initiative, except as otherwise provided in the ICSID Administrative and Financial Regulations or these Rules.
- (3) The Tribunal shall give the parties the opportunity to make observations before ordering a suspension pursuant to paragraph (2).
- (4) In its order suspending the proceeding, the Tribunal shall specify:
 - (a) the period of the suspension;
 - (b) any relevant terms; and
 - (c) a modified procedural calendar to take effect on resumption of the proceeding, if necessary.
- (5) The Tribunal shall extend the period of a suspension prior to its expiry by agreement of the parties.
- (6) The Tribunal may extend the period of a suspension prior to its expiry, on its own initiative or upon a party’s request, after giving the parties an opportunity to make observations.
- (7) The Secretary-General shall suspend the proceeding pursuant to paragraph

¹⁹ Suspension Response, pp. 3-4, 6; Suspension Rejoinder, p. 3.

²⁰ Suspension Response, p. 6.

²¹ Suspension Rejoinder, p. 6.

²² Suspension Rejoinder, p. 6.

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(1) or extend the suspension pursuant to paragraph (5) if the Tribunal has not yet been constituted or if there is a vacancy on the Tribunal. The parties shall inform the Secretary-General of the period of the suspension and any terms agreed to by the parties.

36. It is common ground that pursuant to Rule 54(2) the Tribunal can exercise its discretion to decide whether to suspend the proceeding upon the request of a Party or on its own initiative. The Parties also agree that this discretionary power to suspend the proceeding must be exercised taking into account other duties imposed by the Rules on the Tribunal, and particularly Rule 3, which requires it to treat the Parties equally and conduct the proceeding in good faith and in an expeditious and cost-effective manner.²³

Rule 3
General Duties

- (1) The Tribunal and the parties shall conduct the proceeding in good faith and in an expeditious and cost-effective manner.
- (2) The Tribunal shall treat the parties equally and provide each party with a reasonable opportunity to present its case.
37. It is also uncontroversial that Rule 54(2) does not provide for an automatic or unconditioned suspension of the proceeding upon a party's request, and that the party requesting the suspension bears the burden of proving that it is warranted. Indeed, both Parties rely on the test set forth by the tribunal in *Ruby River Capital LLC v. Canada*, pursuant to which "[t]he Tribunal thus should order suspension if doing so can be considered compatible with its obligation to conduct the proceedings in an expeditious, cost-effective and fair manner."²⁴
38. The Tribunal subscribes to this view. It agrees that any discretionary decision of whether to suspend the arbitration pursuant to Rule 54(2) must be informed by Rule 3, and that the Respondent – as the requesting Party – bears the burden of providing compelling reasons showing that the suspension is warranted.
39. Rule 3(1) places a clear obligation on the Tribunal and the Parties to conduct the proceeding in an expeditious and cost-effective manner, which is evident from the use of the word "shall." However, it does not necessarily follow from this that an ICSID tribunal's discretion to suspend the proceeding under Rule 54(2) is narrow, as the Claimants aver.²⁵ Rather, when exercising its discretion, the Tribunal must conduct a balancing exercise: it must assess whether any initial delays in the resolution of the dispute could be justified in terms of increased efficiency, cost-effectiveness or fairness, or would instead lead to a longer, costlier proceeding with no corresponding gains.
40. In the present case, the Tribunal finds that the Respondent has not properly justified or substantiated the need to suspend the proceeding while the resolution of its Request for Consolidation is pending.
41. The Respondent asserts that it is "highly probable" that a future Consolidation Tribunal will suspend

²³ The Parties disagree on whether the Tribunal should also take into account the duty to render the Award "as soon as possible" pursuant to Rule 58. For the purposes of this decision, the Tribunal does not consider it necessary to discuss or consider the application of Rule 58.

²⁴ See Suspension Response, p. 3 and Suspension Reply, p. 2 (both relying on *Ruby River Capital LLC v. Canada* (ICSID Case No. ARB/23/5), Procedural Order No. 3, Decision on the Respondent's Request for Suspension of the Proceeding and Other Requests, 9 April 2024, ¶ 27).

²⁵ Suspension Response, p. 2; Suspension Rejoinder, p. 2.

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the present arbitration.²⁶ The Tribunal finds that such a claim is overly speculative. Still, the Respondent does not explain why this arbitration cannot move forward in the interim, or why this Tribunal – anticipating a future suspension – should make that decision now instead of waiting for the Consolidation Tribunal to assess if a suspension is warranted on the merits of the Request for Consolidation.

42. If the Consolidation Tribunal is constituted within the 60-day window stipulated in the Mexico-UK BIT,²⁷ and assuming – for the sake of argument – that the Consolidation Tribunal does suspend this arbitration, any duplication of procedural efforts between this arbitration and the Orr-Ewing Arbitration during such a short timeframe would be minimal. So would the risk of there being contradictory rulings or fundamentally incompatible decisions, especially considering the stages that both arbitrations are in. In these circumstances, a suspension would be contrary to the Tribunal’s obligation to conduct the arbitration in an expeditious, cost-effective and fair manner under Rule 3, and would unnecessarily disrupt the Procedural Timetable.
43. In sum, the Tribunal finds that the Respondent has not provided compelling reasons showing that there is an imminent and justified need to suspend the proceeding at this juncture, before a Consolidation Tribunal is constituted. Once a Consolidation Tribunal is in place, it will be possible to reassess whether a suspension of this arbitration is warranted. Accordingly, while the Tribunal believes that there are presently no circumstances warranting a suspension of the proceeding, those circumstances might very well change in the future. Therefore, the Tribunal’s decision is without prejudice to the Parties’ right to seek a revision of this Procedural Order before this Tribunal if circumstances change, or to file an application to suspend the proceeding before the Consolidation Tribunal, once constituted.

VI. DECISION

44. 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.

For and on behalf of the Tribunal,

[signed]

Mr. Eduardo Zuleta
President of the Tribunal
Date: 27 October 2025

²⁶ Suspension Reply, p. 2.

²⁷ Mexico-UK BIT, **CL-0001**, Art. 14(5) (“Within 60 days of receipt of the request, the Secretary-General of ICSID, shall establish a tribunal comprised of three arbitrators.”)