



Submission to the Joint Standing Committee on Treaties re the Free Trade Agreement between Australia and Korea

Conference of Leaders of Religious Institutes NSW

The Conference of Leaders of Religious Institutes in NSW (CLRI NSW) represents some 3,500 members working in many areas such as education, health, social services, the environment and refugee support. It networks with the many people working in organisations run by religious institutes.

Introduction

CLRI NSW welcomes the opportunity to make a submission to the Joint Standing Committee on Treaties re the Free Trade Agreement between Australia and Korea.

The Korea Free Trade Agreement, announced late last year, includes investor rights to sue governments (or ISDS). CLRI NSW does not support the inclusion of ISDS in any trade agreement. CLRI NSW believes that the Australian government should not enter into a Free Trade Agreement with Korea because it includes investor state dispute settlement provisions (ISDS).

Investor state dispute settlement

The ISDS is an instrument of public international law that grants a foreign investor the right to initiate dispute settlement proceedings against a foreign government, as part of a trade agreement, on the basis of a claim that the investor's business interests will be adversely affected by government policies.

ISDS clauses give extra legal rights to foreign investors and corporations which are not in our national legal system. They enable a foreign corporation to sue our government in an international tribunal if it considers a domestic law or policy is harming their investment.

It is indicative of the dangers inherent in ISDS clauses that increasing numbers of governments are reviewing and terminating their involvement in ISDS. Governments in significant economies in Europe, South America, Africa the Indian sub-continent and the Asia–Pacific have criticised and renounced ISDS on the grounds that it undermines legitimate democratic legislation.

Why CLRI NSW does not support the inclusion of ISDS in the Korea Free Trade Agreement

CLRI NSW believes that the protection of the common good is the primary responsibility of government.

The principle of the common good, to which every aspect of social life must be related if it is to attain its fullest meaning, stems from the dignity, unity and equality of all people. According to its primary and broadly accepted sense, the common good indicates “the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfilment more fully and more easily”.

Compendium of the Social Doctrine of the Church #164

Any legislation must embody principles of justice for the people of Australia and protect the future well-being of all life forms, human and non-human. Government needs to make responsible decisions in the national interest.

Legislation must not compromise the role of government to regulate in the interests of the common good. Government must ensure that international standards for workers, public health and the environment are all improved and that developing nations have the opportunity to grow and prosper.

CLRI NSW opposes the investor-state dispute settlement (ISDS) mechanism being negotiated in any trade agreement. It is unacceptable for foreign corporations to be able to mount legal challenges against governments over policies or laws which they perceive to affect the value of their investments.

In particular, we believe the Investor State Dispute Settlement (ISDS) provisions are likely to have a negative effect on central Australian values. For this reason we do not support the inclusion of ISDS in the Korea Free Trade Agreement. Public policy should give priority to the wellbeing of the nation and its citizens, not the interests of foreign companies.

Conclusion

CLRI NSW does not support the inclusion of ISDS in the Korea Free Trade Agreement. CLRI NSW believes that the Australian government should not enter into any agreements with other governments which include investor state dispute settlement provisions (ISDS).

Governments in significant economies in Europe, South America, Africa the Indian sub-continent and the Asia–Pacific have criticised and renounced ISDS on the grounds that it undermines legitimate democratic legislation. The Australian government should follow these examples and refuse to include ISDS in the Korea Free Trade Agreement.

The primary responsibility of government is the protection of the common good.

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