

Trade and Foreign Investment (Protecting the Public Interest) Bill 2014.

To Whom It May Concern,

I would like to make a submission into the inquiry regarding the introduction of Investor State Dispute Settlements (ISDS) provisions as part of the Trade and Foreign Investments Bill.

For reasons identified below, I support current Australian laws, which recommend a ban on the ISDS provisions.

The protection of natural and economic assets of the Australian people and the ability to grow a sustainable economy should be the fundamental role of its Government. The development of trade agreements that enhance the livability of our country for its people, alongside both domestic and foreign corporations, must also be an important consideration when building a strong economy.

An example of where these core principles are being challenged is the conflict the Australian Government is presently facing, where it is being sued under current ISDS clauses over legislative decisions made with regard to plain packaging laws on cigarette cartons. The evidence is clear that smoking causes cancer. Our Government should be doing everything in its power to curtail this hideous, life threatening addiction. However, some corporations (including other Governments) believe they have the ability to influence decisions made based on the effect this has on their profitability.

If I could, for one minute, take this argument one step further. If this example were to be reversed, could the Australian Government follow on by suing corporations for losses incurred due to increases in a deterioration of public health caused by the well-documented effects of smoking? Surely the Government's inability to protect its citizens from the hazards of smoking must be cause of concern for these corporations! If not, then they have no ethical foundation by which to sue.

Also, our country and its citizens do not deserve to have their tax dollars wasted on litigation and endless challenges by organisations that are merely seeking to enhance their bottom line and shareholder dividends. The only clear outcome of such activity is the burden of increased taxes, reduced spending, less funding for community projects and a worse standard of living. How would poorer countries fair, given that some multi-nationals have earnings that cast a huge shadow over smaller countries GDP? Would these countries, under similar circumstances as outlined above, become the property of these multi-nationals? I believe it is a very scary slippery slope!

Finally, to quote Australia's leading analysis into these provisions, the Productivity Commission in their November 2010 report, Bilateral and Regional Trade Agreements, made clear their thinking on ISDS. They outlined:

"In relation specifically to investor-state dispute settlement provisions, the government should seek to avoid accepting provisions in trade agreements that confer additional substantive or procedural rights on foreign investors over and above those already provided by the Australian legal system. Nor is it advisable in trade negotiations for Australia to expend bargaining coin to seek such rights over foreign governments, as a means of managing investment risks inherent in investing in foreign countries. Other options are available to investors".

At this very significant juncture in Australia's trade and foreign investment future, I would strongly encourage you to think very deeply about the ramifications of these disruptive and coercive provisions on future generations. Once these provisions are put in place, their undoing becomes almost impossible and, I believe, are to the detriment of our great country.

Your Sincerely,

Michael Scott.