

24/02/2016

Dear Committee,

My major concern in relation to the TPP is the inclusion of the ISDS provision.

There are no grounds for including it in an agreement between Australia and other nations. Foreign investment is important, and in order to encourage that investment we do need to provide an environment in which investors can operate in a landscape free from sudden change, unforeseen risk and rampant corruption.

This environment can be provided in a number of ways – through a stable political system, with checks and balances and a commitment to transparency. It can be provided through a domestic legal and regulatory system which provides protections against corruption and sudden change, but which also provides a level of oversight and transparency. It can also be provided with an instrument like an ISDS. However an ISDS is not required to provide investment certainty if all the previously mentioned checks and balances are in place and are operating effectively... as they are in Australia.

While an ISDS can provide investor certainty, it shouldn't provide insurance against the will of the people or environmental protections, and it shouldn't restrict a democratically elected government's ability to legislate in ways they have an electoral mandate to do. The downside of an ISDS is that it is potentially anti-democratic as it by-passes national laws. In fact it doesn't just have the potential to by-pass national laws, it has been demonstrated to have done so in jurisdictions where an ISDS process operates... Canada being one example... a democracy not unlike ours.

I implore you not to recommend the passing of any enabling legislation that allows an ISDS process to function in Australia –we don't need it, potential investors don't need it (unless they want to by-pass our social and environmental protections or our democratic processes), and the risks for our sovereignty are too great.

Thank you

Mark Enders

QLD