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Submission on the Trade and Foreign Investment (Protecting the Public Interest) Act 2014

- I support this bill to protect Australian laws by banning Investor State Dispute Settlement (ISDS) provisions.
- I believe that governments should not be challenged simply for making laws to govern their country or making a decision to protect their environment or the health of their citizens. The Australian people elect their governments and their parliaments to design and implement legislation. Their sovereignty should be respected.
- The Productivity Commission in their November 2010 report Bilateral and Regional Trade Agreements made clear their thinking on ISDS. They said: "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".
- An ISDS could:
 - ~ Put at risk affordable medicines and Australia's Pharmaceutical Benefits Scheme
 - ~ Attack moves to tighten rules on foreign investment in agricultural land and water
 - ~ Prevent moratoriums on genetically modified organisms and coal seam gas extraction
 - ~ Attack environment laws and legislation designed to address climate change
 - ~ Remove county or region of origin food labelling
 - ~ Prevent governments implementing local procurement policies
- ISDS provisions allow corporations to attack legislation designed to address climate change, curb fossil fuel expansion and reduce air pollution. ISDS will also place a further serious barrier in the way of energy policy that is clearly in the public interest.
- ISDS provisions can be used by foreign companies ranging from mining to other major entities to attack Australia's environmental laws. Under ISDS the license holder would be able to sue for compensation for any loss of profits

- ISDS would allow foreign corporations to sue the Australian government for introducing new environmental regulations on coal seam gas (CSG). This is particularly concerning because scientists still don't know what the long-term impacts will be on our groundwater resources, our prime agricultural land and our environment. The coal seam gas industry is rapidly expanding across Australia's rich farming regions in Queensland and New South Wales.
- ISDS allows companies like Monsanto to sue states like Tasmania and South Australia over their GM moratoriums. Even entire countries or regions like the EU would be opened up to litigation for alleged loss of future profits under ISDS if they don't allow GM products to be sold. ISDS provisions could also open Australia up to attack on some of its competitive advantages including quarantine laws and food labelling under this same logic.
- None of these outcomes would be in Australia's interests, and it is inconceivable that a government would agree to such terms. We would be surrendering our national sovereignty to multinational corporations whose only concern is their own profit. The Government of Australia was elected to look after its citizens, not to make life easy for global corporations. Global corporations already have immense clout, and there is a grave danger of them ending up with all the power, and national governments with none.
- The inclusion of an ISDS provision is significant because the clause gives authority to major corporations to challenge laws made by those elected to do so in the nation's best interest in international courts of arbitration. The Democracy Centre has called such international arbitration 'a privatised justice system for global corporations'. ISDS undermines Australia's democracy and sovereignty.

I strongly urge the Government to consider the good of Australia's citizens, whom they are pledged to serve, and place that above the demands of corporations, who have no interests at heart except their own profits; and I call on the Government to adopt this Bill.

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