



11 April, 2014

Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee,

Thank you for your invitation to make a submission to the Inquiry into Trade and Foreign Investment (Protecting the Public Interest) Bill 2014.

The Australian Manufacturing Workers' Union (AMWU) is affiliated with the Australian Council of Trade Unions (ACTU). The ACTU will be making a detailed submission to the Committee on this Bill and the AMWU would like to formally endorse this submission as representing our views on the Bill.

In the AMWU's view, Investor-State Dispute Settlement (ISDS) provisions represent an unjustified threat to Australia's sovereignty, they undermine the legitimacy of Australia's political and legal institutions and they represent biased treatment of corporations based on their country of origin.

As the ACTU submission outlines, these provisions were initially intended to protect foreign investors who chose to invest in countries with under-developed legal systems and were prone to political risk. Their acceptance by Australia is fundamentally unnecessary to ensure robust legal protection of investment and property rights as our legal and political system is based on sound principles of the common law and democracy, is very mature and very stable.

ISDS provisions only serve to shift investment risk that rightly should be held by investors to the public. It is not the case that these investment provisions provide the public with access to the payoffs of this risk. They only enable corporations to seek compensation for costs incurred due to risk. This is effectively socialising the costs of private investment while keeping the benefits private.

To the detriment of the public good across the world, this type of legal/policy innovation has been seen across a range of sectors in recent decades, including in the financial sector through the public bailout of institutions that are deemed 'too large to fail'. However, in no other instance is such a change as unwarranted as it is in the case of ISDS.

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ISDS are neither necessary to secure foreign investment, nor necessary to conclude trade agreements that are in the nations interests. They effectively place the interests and rights of foreign corporations above both domestic corporations and the general public good as represented by elected governments. No amount of 'carve outs' can fully mitigate their risks. They should not be included in any Australian trade agreements.

The AMWU strongly supports this Bill.

Kind regards,

ANDREW DETTMER
NATIONAL PRESIDENT