

The Committee Secretariat
Foreign Affairs, Defence and Trade Committee Department of the Senate

ISDS

It is with great concern that I learn the pending Trans-Pacific Partnership (TPP) contains a number of commitments which will greatly disadvantage Australia.

Of particular concern is the agreement to the clause that deals with Investor-state dispute settlement proposal (ISDS). This allows foreign corporations the right to sue the Australian Government if policies are seen to harm their investment. Minister Andrew Robb's claim in SMH article on the 16th of February, that there will be safeguards for the protection of health and environmental legislation is incorrect. A carve-out did not prevent Renco Lead mining company from suing the Peruvian government because it required the company to clean up its lead poison or the Pacific Rim company from suing the El Salvador government because it withheld a mining licence in order to protect the environment.

The Federal Government's decisions are quite irresponsible, particularly as Philip Morris is challenging the Australian Government on the grounds that the Plain Packaging legislation, threatens its ability to compete. The company is using the Hong Kong investment agreement signed in 1993 to support its case. These challenges are heard by an International Tribunal which has a reputation for ruling in favour of corporate interests. Agreeing to the ISDS will greatly strengthen Philip Morris's case and is likely to cost the Australian Government hundreds of millions of dollars. How does this equate with the Coalition's forecast that there will be major cuts to make up for the shortfall of revenue?

Medicine

Some years ago we had one of the best Pharmaceutical Schemes in the world. The free trade agreement with the USA weakened this scheme, making it possible to stack the independent advisory committee with drug company representatives amongst other measures. As a consequence the price of medicine increased for the community. I understand that the pharmaceutical companies now want extended patents for medicines, this means that new medicines will cost more and old medicines will be costly for longer periods of time. While it will be the Australian Government that initially absorbs the extra cost, ultimately these costs will be met by the public. Those most disadvantaged in our society will not be able to afford essential medicine. As you are aware, we already pay 60% more for some essential drugs than the public pay in Britain and New Zealand. This is due to the poor negotiating skills of the PBS and the high dispensing fees charged by the chemists.

Secrecy

The trade agreements are negotiated in secret so there is little public or parliamentary input into the process. It is agreed by the Trade Minister and signed by Cabinet without parliamentary debate. Only after it is signed will the trade agreement become public. The lack of a democratic process can lead to poor decision making which is exacerbated by the introduction of changes which do not require legislation. This process is at odds with the Coalition's commitment to transparent governance and the principle of individual freedom. It is not possible for an individual to have free choice unless they have access to the information to make an informed decision. Does the Coalition have something to hide?.

The Federal Government must make the Trans Pacific Partnership agreement available for public debate

before any decision is made. Even Mr Howard did not include the ISDS as part of the Free Trade agreement with America.

Yours sincerely

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