

Dear Honourable Members,

I am concerned about Investor-Dispute Settlement clauses in trade and investment agreements entered into by the Australian Government.

One reason is that ISDS has developed expanded legal rights for investors which are not found in national legal systems. I believe our legal system is robust enough to deal with investor rights and placing arbitration of these disputes in a non-statutory body places the interests of the Australian public at unnecessary risk. The costs of running these cases under ISDS also places an unnecessary burden on tax-payers.

Another reason is the risk of claims being pursued under ISDS clauses placing public health and environmental legislation at risk. This is because, under ISDS, corporations can claim their 'rights' to profit are impaired by some public health or environmental legislation, such as, the current plain tobacco packaging legislation. Thus, an example is Phillip Morris pursuing its current claim under an ISDS provision in an existing trade agreement entered into by Australia. And, this case will not even be heard in an Australian court but in a tribunal the veracity of which we have no way of controlling!

In Prime Minister Abbot's terms, ISDS provisions are a ruse to undermine Australia's sovereign borders but with far greater potential costs to the country's wellbeing than those posed by refugees of oppression arriving at the borders in tiny wooden boats.

Your sincerely,

Dr. Bill Genat

Honorary Senior Fellow
Centre for Health and Society
Melbourne School of Population and Global Health
University of Melbourne 3010