

Public Citizen, AFL-CIO, Sierra Club, and 200+ Organizations Urge Biden to Terminate ISDS Provisions in Existing U.S. Trade and Investment Agreements

November 1, 2023

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

cc: Katherine Tai, United States Trade Representative

Dear President Biden:

The achievements of your administration toward a clean energy transition are under threat by corporations looking to take advantage of unpopular, antidemocratic – and outdated – trade rules.

Corporations have an unfair advantage over sovereign nations under many trade and investment agreements. Investor-State Dispute Settlement (ISDS), embedded in numerous trade and investment agreements, has created a global governance regime that prioritizes corporate rights over those of governments, people, and the planet. These rules give special rights to multinational corporations that are not available to domestic businesses. If a corporation alleges that a government action, such as the banning of a toxic chemical or rejection of a mining permit, violates their special corporate rights, ISDS provides the corporation the ability to sue a government for compensation outside of the countries' domestic legal and court systems. ISDS claims are often in the millions or billions of dollars. An unaccountable three-person tribunal decides the fate of each case. The tribunal can even decide a company should be paid for the “expected future profits” it may have earned in the absence of the government policy in question. The ISDS regime has been especially detrimental to public health, climate and environmental protections, Indigenous land rights, financial regulations, and democratic sovereignty.

Your administration has overseen the largest investment in clean jobs and climate action ever. The Inflation Reduction Act, and other components of the Bidenomics agenda, are just the sort of transformative policies the world will need to face the challenges ahead. They are also just the sort of public interest policies that corporations love to attack via ISDS.

The labor, environmental, faith, consumer, and other civil society organizations signed below **appreciate that you have followed through on your promise and have not pursued new trade and investment agreements with the Investor-State Dispute Settlement (ISDS) system.**

The logical next step will be to address the ongoing liability of ISDS in existing agreements. The United States is party to dozens of trade and investment agreements that continue to be exploited by corporations to seek billions in taxpayer compensation over environmental, public health, land use, transportation and other public interest policies.

Congress and the White House already worked together on a bipartisan basis to significantly reduce ISDS liability in the renegotiated U.S.-Mexico-Canada Agreement (USMCA), the successor to the North American Free Trade Agreement (NAFTA). Though it left an unacceptable loophole for U.S. fossil fuel companies in Mexico, it is a promising step toward ending ISDS.

The tide is turning against ISDS outside the U.S. as well. Civil society efforts in Colombia and across the hemisphere have been demanding their governments work to end ISDS. Ten European countries have abandoned the Energy Charter Treaty over its ISDS rights for fossil fuel companies, and the European Union as a whole is considering withdrawing. Australia, New Zealand, and other countries have signed side letters to exclude themselves from ISDS in various pacts, and a number of countries including South Africa, India, and Indonesia have worked to exit investment treaties with ISDS. Continued movement away from ISDS by the United States would be a powerful signal to other governments considering taking similar action.

We are eager to work with you to finish the job and free public interest policies from the shadow of ISDS. **We urge you explore all avenues at your disposal and pursue an effective path to exiting ISDS by the U.S. and our partners in existing bilateral investment treaties and free trade agreements.** Bringing our existing agreements in line with current administration policy would foreclose the possibility of future attacks against the U.S. and signal to trading partners that they will not be penalized for prioritizing the public interest.

Sincerely,

National Organizations

350.org	Citizens Trade Campaign
A Legacy of Equality Leadership and Organizing (LELO)	Climate Crisis Policy
Acterra: Action for a Healthy Planet	Committee in Solidarity with the People of El Salvador (CISPES)
Action on Smoking and Health (ASH)	Communications Workers of America
ActionAid USA	Conservation Congress
AFL-CIO	Consumer Federation of America
Agricultural Justice Project	Corporate Accountability Lab
Amazon Watch	Corporate Campaign, Inc.
American Federation of Teachers	CPATH
American Indian Mothers Inc.	Demand Progress Education Fund
Americans for Democratic Action	DownRiver Alliance
Americans for Financial Reform	E3G - Third Generation Environmentalism
Amnesty International USA	Earth Action, Inc.
Association of Flight Attendants-CWA	Earth Ethics, Inc.
Basel Action Network	Earth Ethics, Inc.
BlueGreen Alliance	Earthjustice
Campaign for America's Future	Earthworks
Campaign for Family Farms and the Environment	EcoEquity
Center for Biological Diversity	Economic Policy Institute
Center for Economic and Policy Research	Endangered Habitats League
Center for Economic Justice	Evolved Wireless Inc
Center for Food Safety	Family Farm Defenders
Center for Popular Democracy	Family Farm Defenders
Center for the Advancement of the Steady State Economy	Food & Water Watch
	Foundation for Integrative AIDS Research (FIAR)

Franciscan Action Network
 Friends of the Earth US
 Friendship Office of the Americas
 Global Exchange
 GMO/Toxin Free USA
 Greenpeace USA
 Guatemala Solidarity Project
 Health GAP (Global Access Project)
 Heroes Remembered, LLC
 Holy Cross International Justice Office
 Honduras Solidarity Network
 Hope Border Institute
 Housing Works
 Human Rights Observation/ Honduras
 Impact Fund
 Institute for Agriculture and Trade Policy
 Institute for Policy Studies - Global Economy
 Project
 Interfaith Center on Corporate Responsibility
 (ICCR)
 International Association of Machinists and
 Aerospace Workers
 International Brotherhood of Teamsters
 International Corporate Accountability
 Roundtable (ICAR)
 International Federation of Professional and
 Technical Engineers (IFPTE)
 InterReligious Task Force on Central
 America
 Jobs to Move America
 Justice Is Global
 Knowledge Ecology International (KEI)
 Latin America Working Group
 League of Conservation Voters
 League of Women Voters of the United
 States
 Maryknoll Office for Global Concerns
 Mighty Earth
 Move To Amend
 National Advocacy Center of the Sisters of
 the Good Shepherd
 National Association of Consumer Advocates
 National Family Farm Coalition
 National Farmers Union
 National Jobs for All Network
 National Organization for Women
 Natural Resource Defense Council
 NETWORK Lobby for Catholic Social
 Justice
 Nicaragua Center for Community Action
 Oil Change International
 Other98
 Our Revolution
 Oxfam America
 Partners In Health
 Pass the Federal Green New Deal Coalition
 Pax Christi USA
 Peace Action
 Peace, Justice, Sustainability NOW!
 Pesticide Action Network North America
 PIRG
 PrEP4All
 Prevention Access Campaign
 Pride at Work
 Progressive Democrats of America
 Public Citizen
 R-CALF USA
 Rethink Trade
 Revolt Against Plutocracy
 Revolving Door Project
 RootsAction.org
 Rural Coalition
 Salud y Farmacos
 Service Employees International Union
 Sierra Club
 Sisters of Mercy of the Americas - Institute
 Justice Team
 Social Security Works
 St. Columban Mission for Justice, Peace and
 Ecology
 Sunflower Alliance
 Sunrise Movement
 Take On Wall Street
 The Altai Project
 The Cross Border Network for Justice and
 Solidarity
 The Jus Semper Global Alliance
 The People's Justice Council
 Toxics Information Project (TIP)
 Transport Workers Union of America
 Treatment Action Group

UE - United Electrical, Radio & Machine
Workers of America
Unitarian Universalists for a Just Economic
Community
UNITE HERE
United Church of Christ, Justice and Local
Church Ministries
United For Clean Energy

United Steelworkers (USW)
Universities Allied for Essential Medicines
Uplift International
Washington Office on Latin America
(WOLA)
Witness for Peace Solidarity Collective
Women's International League for Peace and
Freedom, US

Regional Organizations

U.A.W. Region 9
350 Eastside (Seattle)
350 Seattle
350 Tacoma
AFGE Local 3937
AFT 1356
Alabama Interfaith Power & Light
Alliance for the Wild Rockies
Austin Tan Cerca de la Frontera
Beacon Presbyterian Fellowships
CAJA3
California Trade Justice Coalition
Carrizo/Comecrudo Tribal Nation of Texas
Inc.
Chicago ALBA Solidarity
Coalition Against the Rockaway Pipeline
Code Pink Houston
Community to Community
Compassionate St. LOUIS
Congregation of Our Lady of Charity of the
Good Shepherd, U.S. Provinces
CWA/WashTech Local 37083
Dallas AFL-CIO CLC
Dallas Peace & Justice Center
Debs-Jones-Douglass Institute
Democratic Action Committee
Democratic Action Committee, East Texas
Denver Justice and Peace Committee
Economic Justice Mission Group, NH
Conference United Church of Christ
Elders Climate Action
Farm Worker Ministry Northwest
Food for Maine
Friends of Merrymeeting Bay

Friends of the Bitterroot
Green Party of Florida
Hernando County Green Party
IAMAW District W24
Indian Point Safe Energy Coalition
Indivisible Austin
Indivisible Bainbridge Island
Iowa Federation of Labor, AFL-CIO
Jefferson County Move to Amend
Jobs with Justice of East Tennessee
Kickapoo Peace Circle
KORCLC
Maine AFL-CIO
Maine Fair Trade Campaign
Minnesota Alliance for Retired Americans
Mira: Feminisms and Democracies
NC APPPL (Alliance to Protect Our People
and the Places We Live)
New York Climate Action Group
New York Trade Justice Coalition
NJ State Industrial Union Council
North Kitsap Indivisible
Northeast Organic Farming Association of
New Hampshire (NOFA-NH)
Northeast Organic Farming association of
Rhode Island
Northeast Organic Farming Association-
Interstate Council
Olympia Indivisible
Park Slope Food Coop - International Trade
Education Squad
Peace Action Maine
Peacemakers of Schoharie County

Portland Central America Solidarity
Organization (PCASC)
Portland Interfaith Clergy Resistance
Rise Up WV
Santa Cruz Climate Action Network
Snohomish County Indivisible
SoCal 350 Climate Action
Solidarity Committee of the Capital District
South Seattle Climate Action Network
South Texas Human Rights Center
Teamsters 777
Terraza 7
Texas AFL-CIO
Texas Campaign for the Environment
Texas Fair Trade Coalition
The Vessel Project of Louisiana
Third Act North Carolina Working Group
Unitarian Universalist Fellowship of Hidalgo
County Texas
USW Local 675
USW Local 675
WA People's Privacy
WA State Alliance for Retired Americans
Washington Fair Trade Coalition
WESPAC Foundation, Inc.
Wisconsin Fair Trade Coalition
WV Citizen Action