

## **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a clean energy transition are under threat by corporations looking to take advantage of unpopular, antidemocratic – and outdated – trade rules.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