



128 Chalmers Street
Surry Hills, NSW, 2010
Phone: 02 9699 3686
Fax: 02 9699 3717
Email: campaign@aftinet.org.au
ACN 097 603 131
ABN 83 659 681 462
www.aftinet.org.au

1 October, 2013

The Hon. Andrew Robb
Minister for Trade and Investment
Parliament House
Canberra ACT 2600

Dear Mr Robb,

The Australian Fair Trade and Investment Network and the Lock the Gate Alliance, with the undersigned community organisations, would like to congratulate you on your new position as Australia's Minister for Trade.

Together, we represent a diverse range of civil society groups including farmers groups and local community groups.

We are concerned about proposals in international trade negotiations which would enable foreign investors to sue governments for damages if government regulation is seen to "harm" their investment. These proposals are known as investor-state dispute settlement (ISDS).

Including these proposals in any trade agreement would reduce the ability of governments to regulate the activities of foreign companies even if these activities have a negative impact on health and the environment. This would prevent governments from responding to community concerns about environmental issues, including Coal Seam Gas mining (CSG).

Through ISDS provisions in the North American Free Trade Agreement, the Canadian Quebec provincial government is currently being sued by the US-based Lone Pine energy company for \$250 million, because it has suspended shale gas mining pending a study of its environmental impact. The Quebec government acted in response to concerns from the community.

In a similar way, farmers and community members in NSW and Victoria influenced their state governments to review the impact of CSG mining on land use and the environment. The NSW Government has also enacted new regulation. We are concerned that if Australia agrees to include ISDS in trade agreements, governments could be sued for millions of dollars because of such reviews and regulation.

In the 2004 Australia-United States Free Trade Agreement, the Howard Coalition government rejected the US proposal for ISDS because of widespread public opposition.

The Productivity Commission's 2010 Report on Regional and Bilateral Trade Agreements also recommended against ISDS. The report found no evidence of economic benefits from ISDS in trade agreements, but that ISDS poses large financial and policy risks to government.

However, ISDS is already being used to undermine Australian democratic legislation and the decisions made by the Australian High Court. The Philip Morris tobacco company is trying to use an obscure 1993 Australia-Hong Kong investment agreement to sue the government for damages in an international tribunal over the tobacco plain packaging legislation. Philip Morris has persisted with this case despite the fact that Australian High Court found that the law was a public health measure and the tobacco companies had no right under Australian law to damages for the legislation. The company believes the ISDS tribunal will give them a more favourable decision.

The inclusion of ISDS in more trade agreements would provide more opportunities for such cases which could cost taxpayers many millions of dollars, and would discourage governments from regulating in the public interest.

We ask that your government reject these proposals in all trade agreements. In particular, we call upon your government to reject ISDS proposals in the Trans-Pacific Partnership Agreement, which involves 12 nations across the Pacific, and is in its final stages of negotiation.

We have included an information sheet detailing our concerns that these free trade agreements could prevent regulation of Coal Seam Gas mining for your reference.

We look forward to your response.

Yours sincerely



Dr. Patricia Ranald

Convenor, Australian Fair Trade and Investment Network


Drew Hutton

President, Lock the Gate Alliance

This letter is endorsed by the following organisations:

Regional (54)

Aldershot and District Against Mining
Alliance to Save Hinchinbrook Inc
Armidale Action on CSG and Mining
Australian Coal Alliance Wyong
Ballina Environment Society
Blacktown & District Environment Group Inc
Blue Mountains Conservation Society
Cassowary Coast Alliance
Channon Gas Defence Network
Clarence Environment Centre
Climate Action Now! Wingecarribee
Coal and CSG Free Mirboo North
CSG Free Ballina Shire
CSG Free Bass Coast
CSG Free Ingleburn
CSG Free Northern Rivers
CSG Free Western Sydney
Friends of the Pilliga
Gecko-Gold Coast & Hinterland Environment
Council Assoc. Inc.
Gladstone Conservation Council
Gympie Water Air and Soil Protection Group
Hawkesbury Environment Network
Kyogle Group Against Gas
Lock the Mid North Coast
Lock the Tweed
Logan and Albert Conservation Association Inc
Macarthur Environment Action Alliance
Mackay Conservation Group
Mid Clarence Group Against Gas
Nimbin Environment Centre
No CSG Blacktown
No CSG Walgett
North Coast Environment Council
North East Forest Alliance
Northern Inland Council for the Environment
North Queensland Conservation Council
Northern Rivers Greens
Our Land, Our Water, Our Future (Hunter Valley)
Pikapene & Cherry Tree Environment Centre Ltd
Pillar Valley Guardians

Rock Valley Gas Rangers
Social Justice Around the Bay (Broken Bay)
Southern Sydney Branch National Parks Association
Stop Coal Seam Gas Blue Mountains
Stop CSG Macarthur
Stop CSG Sutherland
Stop CSG Sydney Water Catchment
Sutherland Climate Action Network
Sutherland Shire Environment Centre
Rivers SOS
Ryde Hunters Hill Flora & Fauna Preservation Society
Wide Bay Burnett Environment Council Inc
Wingecarribee Landcare & Bushcare Network Inc
Yuraygir Coast & Range Alliance NSW

State (6)

Alliance for a Clean Environment Inc. (WA)
Better Planning Network Inc. (NSW)
Conservation Council of South Australia
Environment House (WA)
Nature Conservation Council of NSW
National Parks Association of NSW

National (12)

350.org Australia
Australian Fair Trade and Investment Network
Australian Student Environment Network
Colong Foundation for Wilderness
Friends of the Earth
Greenpeace
Green Shareholders
Householders' Options to Protect the Environment Inc.
Lock the Gate
National Toxics Network Inc
NativesRule Incorporated
Transform Australia