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The Hon. Richard Marles
Minister for Trade
Parliament House
Canberra ACT 2600

July 25, 2013

Dear Mr Marles,

As you know, the Australian Fair Trade and Investment Network is a network of organisations which advocate for fair trade based on human rights, labour rights and environmental sustainability.

Our organisations are concerned about proposals in the Trans-Pacific Partnership Agreement, the Korea Australia Free Trade Agreement and the Japan Australia Free Trade Agreement to include clauses which would enable foreign investors to sue governments for damages on the grounds that government regulation harms their investment, known as investor-state dispute settlement (ISDS).

We congratulate your Government for its policy against ISDS and its steadfast opposition to the attempt by the Philip Morris tobacco company to sue for damages over the tobacco plain packaging legislation, using an obscure 1993 Hong Kong Australia investment agreement.

We also congratulate your Government on its High Court victory over the tobacco companies' constitutional challenge to the plain packaging legislation. The fact that Philip Morris is persisting with its ISDS case in the expectation of more favourable treatment in an international tribunal shows how ISDS can be used to attempt to undermine democratic legislation which has been validated by the highest court in the land.

There are many examples of foreign investors using such provisions to challenge health and environmental regulation. Under the North American Free Trade Agreement, US corporations have sued the Canadian and Mexican governments for tens of millions of dollars over health and environment legislation. Recent cases include the Lone Star mining company suing the Québec provincial government because it introduced an environmental review of coal seam gas fracking, and the Eli Lilly pharmaceutical company suing the Canadian government because it was refused a medicine patent in a recent Federal Court decision. For details of these and other cases, see <http://www.citizen.org/documents/investor-state-chart.pdf>

As pressure mounts to conclude negotiations, we ask you to continue to implement your policy to reject ISDS in all trade agreements. Failure to implement this policy would open the door to further litigation like the Philip Morris case.

We also ask you to support enforceable workers' rights and environmental protections in trade agreements, and to release the text of all trade agreements for public and Parliamentary discussion before they are signed by Cabinet.

We look forward to your response.

Yours sincerely



Dr. Patricia Ranald
Convenor, Australian Fair Trade and Investment Network

This letter is endorsed by the following organisations:

- Australian Fair Trade and Investment Network
- Australian Council of Trade Unions
- Australian Catholic Social Justice Council
- Australian Conservation Foundation
- Public Health Association of Australia
- Australian Manufacturing Workers Union
- Australian Nursing Federation
- Australian Services Union
- Australian Education Union
- Finance Sector Union
- National Union of Workers
- National Tertiary Education Union
- NSW Teachers Federation
- United Voice
- World Vision Australia
- Uniting World
- Union Aid Abroad
- Combined Pensioners & Superannuants Association of NSW Inc.
- Friends of the Earth
- Greenpeace
- Gene Ethics
- Mothers Are Demystifying Genetic Engineering Australia
- Fair go for Pensioners NSW
- AID/WATCH
- Asian Women at Work
- Melbourne Unitarian Church
- SEARCH Foundation
- Sisters of Charity
- The Grail Global Justice Network
- Unfolding Futures
- WTO Watch Qld