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October 2, 2013

## **Rural anti-gas mining groups say no to investors suing governments for environmental regulation as Trans-Pacific trade talks resume**

More than 70 organisations including 54 regional groups ranging from Mirboo in Victoria, to the Cassowary Coast in North Queensland, to Walgett in NSW, in traditional areas of Coalition support, have endorsed a letter to Trade Minister Andrew Robb. They express their strong opposition to clauses in trade agreements which would enable foreign investors to sue governments for damages in international tribunals if government regulation is seen to 'harm' their investment. These proposals are known as investor-state dispute settlement (ISDS).

The Minister will meet with other Trans-Pacific Partnership (TPPA) Ministers at the APEC meeting in Bali on October 3-4 before a TPPA Leaders' meeting on October 7 which is expected to announce progress in the negotiations.

"ISDS 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 Coal Seam Gas mining (CSG)", Drew Hutton, President of Lock the Gate, said today.

"The US-based Lone Pine energy company is using ISDS clauses in the North American Free Trade Agreement to sue the Canadian Quebec provincial government for \$250 million, because it responded to community concerns and reviewed the environmental impact of shale gas mining," said Mr Hutton

"In a similar way, farmers and community members in NSW and Victoria have influenced their state governments to review the environmental impact of CSG mining and to consider regulation. If Australia agrees to include ISDS in trade agreements, governments could be sued for millions of dollars for responding to community concerns," explained Mr Hutton.

"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 Australia for millions of dollars 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. This shows how ISDS can undermine democratic laws and national sovereignty" Dr Patricia Ranald, Convenor of the Australian Fair Trade and Investment Network.

"The inclusion of ISDS in The TPPA 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 call upon the government to reject the inclusion of ISDS in the TPPA and all other trade agreements," said Dr Ranald.

A copy of the letter with signatories is attached

**Contact Drew Hutton 0428 487 110 or Dr Patricia Ranald 0419 695 841**



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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