



Uniting Church in Australia  
SYNOD OF VICTORIA AND TASMANIA

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**Uniting Church in Australia, Synod of Victoria and Tasmania  
Submission to the Renegotiation of Australia's Bilateral Investment  
Treaties with Argentina, Pakistan and Türkiye  
14 March 2025**

The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes the opportunity to provide a submission in response to the renegotiation of Australia's bilateral investment treaties with Argentina, Pakistan and Türkiye.

In the Gospels, Jesus makes it clear the selfish pursuit of material wealth is a barrier to a relationship with God and harms other people. In the Statement to the Nation made by the Uniting Church delegates across Australia at the first National Assembly meeting in 1977, they committed the Uniting Church to:

*We will challenge values which emphasise acquisitiveness and greed in disregard of the needs of others and which encourage a higher standard of living for the privileged in the face of the daily widening gap between the rich and poor.*

We believe the Investor-State Dispute Settlement (ISDS) provisions in trade agreements allow wealthy individuals and corporations to seek to enrich themselves at the expense of ordinary people. The ISDS provisions allow super-rich foreign investors to sue governments in special tribunals for billions of dollars if they can argue that a change in law or policy had reduced their future profits, they were not consulted fairly about the change or it did not meet their expectations of the legal environment at the time they made the investment.

Therefore, we strongly support the Government's intention to remove ISDS provisions from the bilateral investment treaties and support this as part of the renegotiation of the bilateral investment treaties with Argentina, Pakistan and Türkiye.

We note that ISDS tribunals do not have independent judges but are ad hoc panels of part-time arbitrators who are permitted to have conflicts of interest. The tribunals operate with a high degree of secrecy, are expensive, have no appeal mechanism and make inconsistent

decisions. They accept claims for future lost profits which are unacceptable in World Bank accounting practice. Thus, ISDS cases can undermine the decisions of democratically elected governments that are in the public interest.

In July 2023, the number of ISDS cases reported was 1,303. Super-rich investors bring cases against public health measures like tobacco control, environmental protections, First People land rights, minimum wage regulation, and actions to reduce greenhouse gas emissions. The 12 largest pay-outs awarded by ISDS tribunals have totalled \$148 billion. There are 64 known cases where ISDS tribunals have awarded more than \$150 million.

There are now speculator third parties that fund ISDS cases in return for a share of any payments then obtained.

The Australian Government has 15 bilateral investment treaties and ten out of 18 broader trade agreements which include ISDS provisions. Positively, more recent agreements with the UK, India and the Regional Comprehensive Economic Partnership (RCEP) with 14 Asia-Pacific countries, have excluded ISDS.

### **ISDS holding back action on climate change**

Fossil fuel corporations are pursuing ISDS cases to try and prevent governments from reducing greenhouse gas emissions. For example, US corporation Ruby River Capital filed an ISDS claim against the Canadian Government after its gas project was rejected because of concerns about greenhouse gas emissions. It is seeking \$30 billion from the Canadian Government in the case, despite having only spent \$190 million on the project.

A 2023 report of the UN Special Rapporteur on human rights and the environment found “overwhelming evidence that ISDS is a major barrier to addressing climate change and is incompatible with the urgent action needed to transform the global energy system.”

### **ISDS cases brought by Clive Palmer corporations**

Billionaire Clive Palmer is using the ISDS provisions in the 2012 ASEAN-Australia-New Zealand Free Trade Agreement and the amended 2017 Singapore-Australia Free Trade Agreement to try and claim \$420 billion from the Australian people. Through his corporation Zeph Investments, a mining company registered in Singapore, he has two cases suing the Australian Government for \$110 billion after the corporation’s Queensland coal exploration permits were refused for environmental reasons, including climate impacts.<sup>1</sup>

Mr Palmer’s third case under the ISDS provisions is for \$300 billion in which he alleges that the Commonwealth is responsible for a Western Australian law that prevented him from seeking damages for a rejected mining project.<sup>2</sup> The Australian High Court has already rejected his claim, but the ISDS allows him to have another shot by arguing that a Singapore corporation made his investment.

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<sup>1</sup> [International trade and investment law | Attorney-General's Department](#)

<sup>2</sup> <https://www.unsw.edu.au/newsroom/news/2023/04/what-you-need-to-know-about-clive-palmer-s--300bn-lawsuit-agains>

He has made a fourth claim for another \$10 billion for the refusal of a license for a coal-fired power plant<sup>3</sup>, which became public in December 2024.

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<sup>3</sup> <https://pca-cpa.org/en/cases/336/>