

<http://www.isdscorporateattacks.org/#!/basics/c66t>

The Basics



If you care about protecting people and the planet, you will be outraged by the latest corporate sneak attack against the public interest: **Investor-State Dispute Settlement (ISDS)**. ISDS empowers corporations to go to secret foreign tribunals to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs.

The ugly reality of the ISDS system can no longer be ignored. [Get outraged](#) when you learn about dozens of real-life ISDS attacks and the billions in taxpayer compensation the tribunals have ordered to be paid to corporations. [Get inspired](#) by governments and public figures who are standing up to say "No!" to this extreme system. [Get engaged](#) to stop attempts to expand these extreme corporate powers at the expense of the rest of us.

ISDS grants foreign corporations shocking new powers to attack the laws we rely on for a clean environment, financial stability, affordable medicines, safe food and decent jobs. Under ISDS, these corporations can bypass domestic courts and directly “sue” governments before tribunals that exist outside of any domestic legal system. The tribunals can order governments to pay millions of our tax dollars to the corporations as

compensation for policies they do not like. Tribunals are comprised of corporate attorneys and there is no outside appeal.

The ISDS system gives transnational corporations special privileges – better treatment than local companies. Among the outrageous grounds foreign firms can assert to demand compensation under this system is that a change in government policy undermined their “expectations.” It does not matter if the change came in response to a major financial crisis or environmental catastrophe or emerging knowledge about a new health risk – or that it applies to domestic and foreign firms alike. Under ISDS, foreign firms can still demand compensation from us taxpayers.

The tribunals deciding ISDS cases are composed of three private attorneys, unaccountable to any electorate. Some attorneys rotate between serving as “judges” and bringing cases for corporations against governments. Such dual roles would be deemed unethical in most legal systems. They are paid by the hour, creating incentives for cases to go on for years, even if they have no merits. Tribunals are not bound by precedent nor by governments' understanding of what the treaties that they signed require of them. There is no outside appeal to their rulings.

Under ISDS, foreign firms alone can launch cases. They also pick one of the lawyers who will act as a "judge". (Imagine if the plaintiff were allowed to pick the judge in a domestic court case.) This creates a perverse incentive for the "judges" – formally called tribunalists – to invent sweeping rights for foreign firms and rule against governments. By helping out the multinational corporations, tribunalists can boost firms' interest in launching more ISDS cases and in picking them for the next lucrative tribunalist gig.

The number of ISDS attacks on public interest policies has been soaring. While treaties with ISDS provisions have existed since the 1960s, just 50 known ISDS cases were launched in the regime's first three decades combined. In contrast, corporations have launched more than 50 ISDS claims in each of the last three years. The types of policies being attacked

are also expanding. Most of these cases are not about a government seizing (expropriating) a mine or factory or land. Rather, most recent ISDS attacks have targeted tobacco, climate, financial stability, mining, medicine, energy, pollution, water, labor, toxins and development policies.

If an ISDS tribunal rules against a challenged policy, there is no limit to the amount of taxpayer money that the tribunal can order the government to pay to the foreign corporation. The amount is based on the “expected future profits” an ISDS tribunal surmises that an investor would have earned in the absence of the public policy it is attacking. Under U.S. pacts alone, tribunals have ordered more than \$3.6 billion in taxpayer compensation to foreign firms. More than \$38 billion remain in pending ISDS claims under U.S. pacts, all of which relate to environmental, energy, financial regulation, public health, land use and/or transportation policies.

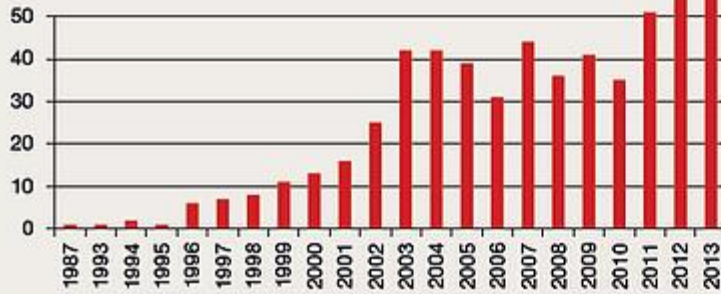
Introduction



By the Numbers

A numerical look at the ISDS regime

Known ISDS cases, annual (1987-2013)



Source: UNCTAD, 2014

In the *first 30 years* that the ISDS regime existed, just 50 cases were launched...

...but in the *last 3 years*, over 50 cases were launched **each** year.

Tribunals can award corporations unlimited amounts of taxpayer money.



Under U.S. pacts alone...

...governments have been ordered to pay over \$3.6 billion in compensation to foreign firms...



...and more than \$38 billion remains in pending cases.



Learn More at: www.ISDSCorporateAttacks.org

[Download One-Pager](#)

[Download One-Pager](#)

[Download One-Pager](#)