

Campaigners dressed as wolves invade Davos in protest against ISDS 'corporate courts'

Davos, Switzerland | Embargoed Until 23.01.2019 | Stop ISDS Coalition

Action will take place on January 23rd at 13h, in front of the [Davos Library](#)

Campaigners dressed as corporate wolves will invade the streets of Davos, on the sidelines of the World Economic Forum (WEF), to protest the rights of corporations to sue governments under controversial "Investor State Dispute Settlement" (ISDS) provisions.

Over forty of the corporations listed as WEF "Industry Partners" have been involved in ISDS cases, often intended to undermine or discourage progressive policy, including environmental protections, minimum-wage increases and public health measures.

ISDS clauses, found within a range of trade and investment agreements including the Trans Pacific Partnership (TPP) and the Comprehensive Economic and Trade Agreement (CETA), enable multinational companies to sue states via secretive international tribunals if governments take actions which impede profits.

The "[Stop ISDS coalition](#)", an alliance of over a hundred NGOs, including Friends of the Earth, Action Aid and Public Services International, organised the action [as a launch for a petition](#), calling on the EU to stop promoting ISDS and support a Binding UN Treaty on Transnational Corporations to give people and governments the ability to hold the private sector to account.

Some examples of the use of ISDS by WEF corporations include:

In 2005 *Cargill* [sued](#) Mexico after the Government implemented a tax on high-fructose corn syrup to address the country's obesity crisis. Cargill used ISDS under NAFTA to extract over US \$70 million in damages from Mexico's public budget. Cargill used the WEF in 2018 to [launch](#) a Corporate Social Responsibility project, claiming to "address social issues using the power of food."

In 2008, *Dow Chemical* [sued](#) Canada after the province of Quebec banned the manufacture and sale of harmful pesticides. Dow declared the subsequent settlement a victory, and [commentators noted](#) the case may discourage other Governments from moving ahead with their own pesticide bans.

In 2016, *Novartis* [threatened](#) to use ISDS to successfully discourage the Colombian government from making a life-saving leukaemia drug more accessible through compulsory licensing. The drug, which has brought in over €40 billion in revenue for Novartis, sold for over \$15,000 per patient per year; twice the average person's income.

94.5% of known ISDS awards go to companies with at least US\$ 1 billion in annual revenue or to individuals with over US\$100 million in net wealth.

Coalition spokesperson Alex Scrivener said:

"While CEOs here at Davos try to present themselves as a force for good in front of politicians, many of them are suing governments to undermine the progressive policies we need. This is nothing less than sheer hypocrisy. ISDS is a huge threat to democracy, human rights and the environment. We need EU leaders to use Davos to commit to ending investor-state arbitration and concentrate instead on securing recourse for the millions of people across the world who are victims of corporate human rights violations."

Rosa Pavanelli, General Secretary of Public Services International (a Coalition member) said:

“In a world facing critical challenges such as climate change and rising inequality, corporations should not be able to trump national sovereignty. Nobody should have the right to sue governments for future profits.”

Press Contact

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Background Information on the Campaign against ISDS and for Corporate Accountability

We are an alliance of over 100 organisations, trade unions and social movements, campaigning in favour of corporate accountability rules for companies, and against Investor to State Dispute Settlement, a parallel, one sided and unfair justice system for corporations.

On January 22, 2019, the coalition launches a European petition across 16 EU Member states, calling on the EU and European governments to end corporate privileges by withdrawing from existing trade and investment agreements containing ISDS clauses, and to exclude them from agreements in the future.

The campaign also calls on the EU and Member States to support the achievement of a UN Binding Treaty on Multinationals and for domestic legislation to hold transnational corporations to account for human rights violations.

ISDS - KEY FACTS

- ISDS cases have led to awards of over \$50 Billion USD from the public purse to private investors - more than the GDP of most nations.
- There has been [an explosion](#) of known cases in the last 20 years, from fewer than 10 in 1994 to 608 in 2014, of which 80% come from global corporations based in the US and Europe.
- US-based companies are by far the most frequent users, with twice as many cases as the country of the next largest users. [Most cases are won by investors.](#)
- Experts including Australia's Chief Justice have [raised serious concerns](#) that ISDS is not independent or impartial.
- The European Court of Justice recently [ruled](#) intra-EU ISDS cases are “incompatible with EU law.”
- The EU Commission's public consultation on ISDS [led to over 97%](#) of respondents rejecting these corporate privileges
- EU Trade Commissioner, Cecilia Malmstrom, recently [described](#) ISDS as “the most toxic acronym in Europe.” This is part of the reason why the EU is currently attempt to create new acronyms for ISDS: [ICS](#) and [MIC](#).
- Under ISDS, foreign investors have more rights than local companies and citizens - they can circumvent domestic courts and sue states directly through international tribunals.
- ISDS cases are usually heard by secretive courts made up of just three private arbitrators, appointed as “judges” - many of whom have previously worked for the companies taking cases.
- Even if a government wins the case, [a 2012 OECD study](#) found ISDS cases last for 3 to 5 years and the average cost is US\$8 million per case, with some cases costing up to US\$30 million.
- The Philippine government [spent US\\$58 million](#) defending two cases against German airport operator Fraport; money that could have paid the salaries of 12,500 teachers for one year.
- A recent [WTO Working Paper](#) found no empirical evidence that ISDS increases investment.
- ISDS has no system of precedents or appeals, so the decisions of arbitrators are final and can be inconsistent.

In short, ISDS is an enormously costly system with no independent judiciary, precedents or appeals, which gives increased legal rights to global corporations, based on legal concepts not recognised in national systems and not available to domestic investors.

Annex: WEF Industry Partners who use ISDS provisions to sue Governments

Case extracts:

Vattenfall, which runs power plants, is [suing](#) Germany for over €4 billion after the Government announced a transition away from nuclear energy. Vattenfall also [sued](#) Germany after Hamburg's Environmental Authority imposed quality controls for the waste waters released into the river from a Vattenfall power plant. Vattenfall claimed that those standards made the investment project unviable. Using ISDS provisions, the company asked Germany for compensation totalling €1.4 billion. The case was eventually settled when the City of Hamburg agreed to lower the environmental requirements previously set.

Chevron [sued](#) Ecuador for attempting to make the company pay for the devastating environmental impact and pollution resulting from mining and drilling activity in the Amazon region.

Glencore [sued](#) the Colombian government for restricting the expansion of a pollutive open-cast coal mine.

Engie [sued](#) Hungary after the government increased taxes on foreign energy companies and attempted to bring down prices for consumers.

Mobil [sued](#) the Canadian government after the province of New Foundland tried to ensure a percentage of profits from offshore gas extraction were re-invested in research and development in the region.

Total is [suing](#) Uganda after the government taxed their purchase of oil-exploration blocks.

Scotia Bank [sued](#) Argentina for over half a billion dollars for measures taken during the 2002 Argentine Financial Crisis.

Mercuria, a Swiss commodity trader, [sued](#) Poland via a Cyprus subsidiary for implementing an EU directive on mandatory fuel reserves which they say negatively affected their profits.

Shell [sued](#) the Philippines, via a Dutch subsidiary curiously named "Shell Philippines," for attempts by the government to make offshore-gas extractors pay their fair share in tax.

Credit Suisse and **Standard Chartered** [sued](#) the Indian Government for "failing to protect investor loans."

Siemens [sued](#) Argentina for cancelling a contract for outsourced public services, after widespread failures. Siemens was awarded over US \$200 million.

Novartis in 2016 [threatened to use ISDS](#) to discourage the Colombian government from attempting to make a life-saving leukaemia drug more accessible through compulsory licensing. The drug, which has brought in over €45 billion in revenue for Novartis, was sold in Columbia for over \$15,000 per patient per year; twice the average person's income.

Cargill, which produces food products, sued the Mexican government for implementing a tax on beverages containing high fructose corn syrup. The tax was an attempt to address the country's spiralling diabetes and obesity crisis – the second highest in the OECD after the USA. Cargill used an ISDS process under NAFTA to extract over \$70million in damages from the Mexican public budget.

Dow Chemical [sued](#) Canada after the province of Quebec banned the manufacture and sale of harmful pesticides. Dow Agrosiences declared the subsequent settlement a victory, and commentators noted the case may discourage other Governments from moving ahead with their own pesticide bans.

Full list of WEF Industry Partners with ongoing or concluded ISDS cases:

Company Name	ISDS Case
Agility Telecommunications	https://investmentpolicyhub.unctad.org/ISDS/Details/793
Airbus	https://investmentpolicyhub.unctad.org/ISDS/Details/907
DP World	https://investmentpolicyhub.unctad.org/ISDS/Details/807
Iberdrola	https://investmentpolicyhub.unctad.org/ISDS/Details/901
Nissan	https://investmentpolicyhub.unctad.org/ISDS/Details/828
Puma Energy	https://investmentpolicyhub.unctad.org/ISDS/Details/820
Engie	https://investmentpolicyhub.unctad.org/ISDS/Details/712
Glencore	https://investmentpolicyhub.unctad.org/ISDS/Details/728
Shell	https://investmentpolicyhub.unctad.org/ISDS/Details/721
Vedanta	https://investmentpolicyhub.unctad.org/ISDS/Details/733
Arcelor Mittal	https://investmentpolicyhub.unctad.org/ISDS/Details/697
Greentech	https://investmentpolicyhub.unctad.org/ISDS/Details/634
Mobil	https://investmentpolicyhub.unctad.org/ISDS/Details/643
Total	https://investmentpolicyhub.unctad.org/ISDS/Details/657
Anglo American	https://investmentpolicyhub.unctad.org/ISDS/Details/605
RWE	https://investmentpolicyhub.unctad.org/ISDS/Details/586
Alghanim	https://investmentpolicyhub.unctad.org/ISDS/Details/527
Repsol	https://investmentpolicyhub.unctad.org/ISDS/Details/490
Vatenfall	https://investmentpolicyhub.unctad.org/ISDS/Details/467
Agility	https://investmentpolicyhub.unctad.org/ISDS/Details/422
Indorama	https://investmentpolicyhub.unctad.org/ISDS/Details/406
Merck	https://investmentpolicyhub.unctad.org/ISDS/Details/437
Chevron	https://investmentpolicyhub.unctad.org/ISDS/Details/341
Deutsche Bank	https://investmentpolicyhub.unctad.org/ISDS/Details/337
Dow	https://investmentpolicyhub.unctad.org/ISDS/Details/345
A.P. Møller-Maersk	https://investmentpolicyhub.unctad.org/ISDS/Details/336
Mercuria Energy	https://investmentpolicyhub.unctad.org/ISDS/Details/322
Turkcell	https://investmentpolicyhub.unctad.org/ISDS/Details/288
Eni	https://investmentpolicyhub.unctad.org/ISDS/Details/265
Cargill	https://investmentpolicyhub.unctad.org/ISDS/Details/204
ArcelorMittal	https://investmentpolicyhub.unctad.org/ISDS/Details/197
Saipem	https://investmentpolicyhub.unctad.org/ISDS/Details/207
ScotiaBank	https://investmentpolicyhub.unctad.org/ISDS/Details/209
ABN Amro	https://investmentpolicyhub.unctad.org/ISDS/Details/149
Credit Suisse	https://investmentpolicyhub.unctad.org/ISDS/Details/150
Standard Chartered	https://investmentpolicyhub.unctad.org/ISDS/Details/152
Telenor	https://investmentpolicyhub.unctad.org/ISDS/Details/158
IBM	https://investmentpolicyhub.unctad.org/ISDS/Details/94
Occidental	https://investmentpolicyhub.unctad.org/ISDS/Details/76
Siemens	https://investmentpolicyhub.unctad.org/ISDS/Details/77
AIG	https://investmentpolicyhub.unctad.org/ISDS/Details/72
UPS	https://investmentpolicyhub.unctad.org/ISDS/Details/51