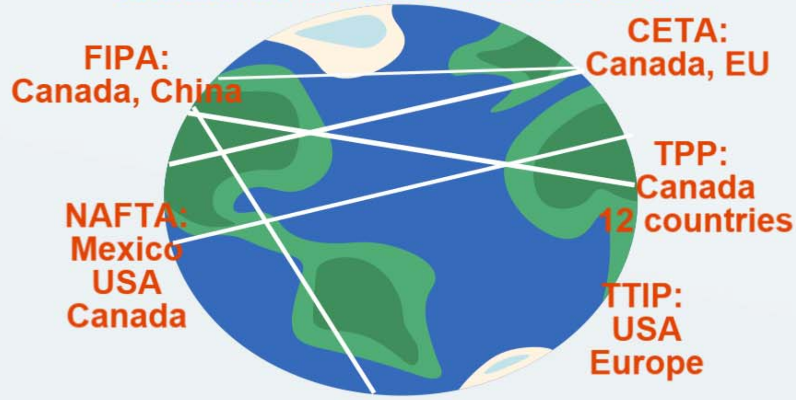
The Council of Canadians | Le Conseil des Canadiens

ISDS 101

strange but **TRUE**

In trade agreements, the investor-state dispute settlement provision allows foreign corporations to sue states if legislation or policies interfere with profit.

WHERE IN THE WORLD IS ISDS?



ISDS arbitration takes place outside of the domestic court processes and is held entirely in private.

More than 1 in 3 ISDS cases worldwide relate to oil, mining or gas. In over 50% of the cases companies are fully or partly successful.

ISDS first appeared in a trade agreement between Germany and Pakistan in 1959. The intention was to encourage foreign investment by protecting investors from discrimination or expropriation. But its implementation was disastrous.
The Economist, Oct 2014

Of the 3 parties in NAFTA, Canada has suffered the most under ISDS. 35 claims have cost over $200 million in damages and fees.

ISDS has challenged Canadian patent laws and environmental regulations. In other countries, labour codes and human rights have been targeted.

Any future law or policy created by the Canadian government will be vulnerable to challenge by investors from the US, Europe, or Asia.

Case Study

In 2012, Lone Pine, an American company, sued the Canadian government for $250 million over Quebec's moratorium on oil exploration in the St Lawrence (which applies equally to foreign and domestic companies). Under NAFTA ISDS provisions, Lone Pine argued it was not consulted before the ban nor compensated for its investment or loss of potential revenue. The case is currently being held behind closed doors.

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