TOOLKIT: CHALLENGING CORPORATE POWER IN TRADE DEALS

www.ISDScorporateattacks.org
The North American Free Trade Agreement (NAFTA) gave vast new powers for corporations that make it easier to offshore jobs and attack the environmental and health laws on which we all rely.

Deals like NAFTA give multinational corporations the power to sue the U.S. government in front of a tribunal of three corporate lawyers. These lawyers can order U.S. taxpayers to pay the corporations unlimited sums of money, including for the loss of expected future profits.

The multinational corporations only need to convince the lawyers that a law protecting public health or the environment violates their special NAFTA rights. The corporate lawyers' decisions are not subject to appeal.

This corporate power grab is formally called Investor-State Dispute Settlement (ISDS).

ISDS is also rife with conflicts of interest. One day a corporate lawyer can sit on a tribunal deciding cases, and the next day they can attack our laws on behalf of a corporation. Not only do corporations get a special system of “justice” outside our courts, but it’s totally rigged in their favor.

There is one clear way to judge whether a trade agreement is designed to benefit people or if it has been hijacked by special interests to expand corporate power: Does the deal include ISDS?

If ISDS is included, no matter what else is in the deal, the trade agreement obviously puts corporations before people and the planet.

GET YOUR MEMBER OF CONGRESS ON THE RECORD

These corporate powers are at the heart of NAFTA and were the foundation of the Trans-Pacific Partnership (TPP). Yet many members of Congress still haven’t taken a position on ISDS.

This toolkit will help you educate your members of Congress about the expansion of corporate power through the ISDS system and find out where they stand.

We recommend that you focus your energy on advocacy with your Representative, though in some cases it may make sense to focus on your Senators.

Email Contact@ISDScorporateattacks.org for guidance.

WHY THIS MATTERS

Any trade policy that puts working people and the planet first must not empower corporations to attack our laws in shady tribunals and make off with unlimited amounts of taxpayer money. The ISDS system is a power grab that puts corporations before people.

WHAT YOU WILL FIND IN THIS TOOLKIT

- Sample Letter for Your Member of Congress
- Petition to Your Member of Congress
- How to Write a Letter-to-the-Editor
- How to Plan a Visit to Your Representative’s Office
- How to Hold Your Member of Congress Accountable in Public
TIPS FOR WRITING YOUR LETTER

Write your letter using the model letter on the next page.

- We encourage you to personalize the letter by adding in a personal story or why this matters to you.
- Your letter should be concise and clearly state what you wish your Representative to do.

Actual letters sent in the mail have more impact, but you can also send an email.

- Download a Word version of the letter on the following page at replacenafta.org/letter. Fill in your Representative’s information and mail it to their office. To look up your member of the House of Representatives and their mailing address:
  - Go to house.gov/representatives/find/
  - Enter your zip code and click FIND YOUR REP BY ZIP.
  - When the new page loads, click on your Representative’s name. You will be taken to their website.
  - When their website loads, scroll to the bottom of the page. Typically, you will find your Member of Congress’ mailing address at the bottom of their home page.

- It’s even better if you send your letter to your Representative and your two Senators.
- Or, find and email your Representative and Senators here: replacenafta.org/email/
- We will be tracking all responses so we can list which Members of Congress are with us and which put corporations first. For questions/comments and to report back on the response you get, please email: Contact@ISDScorporateattacks.org
The Honorable [First Name] [Last Name]
U.S. House of Representatives
[Street Address]
Washington, D.C. 20215

Dear Representative [Last Name],

I am a constituent writing to ask if you have taken a position on rules — formally known as Investor-State Dispute Settlement (ISDS) — that expand corporate power in trade deals.

These provisions at the heart of the North American Free Trade Agreement (NAFTA) promote job offshoring and expose the laws we all rely on to attack by foreign corporations.

NAFTA empowers thousands of multinational corporations to sue the U.S. government before a tribunal of three corporate lawyers. These lawyers can order U.S. taxpayers to pay unlimited sums to these corporations, including for the loss of expected future profits. These corporations only need to convince the lawyers that a U.S. federal, state or local law or court ruling violates the special rights NAFTA gives corporations. Their decisions are not subject to appeal. This is a one-way system benefitting corporations; Governments cannot use this system to sue corporations.

There is one clear litmus test to judge whether NAFTA or any agreement is designed to benefit people or if it has been hijacked by special interests to expand corporate power: Does the deal include ISDS?

If these corporate rights are included, no matter what else is in the deal, the agreement obviously puts corporations above working people and healthy communities.

ISDS should be eliminated from past agreements, such as NAFTA. And it certainly should not be included in new deals. The Trump administration [will soon start NAFTA renegotiations/ began NAFTA renegotiations on August 16 of this year] and must decide whether to continue ISDS negotiations initiated by the past administration with Europe and China.

Please commit to oppose any trade or investment agreement that includes ISDS. I look forward to your response.

Sincerely,

[Your Signature]
[Your Name]

P.S. Can you please tell me when your next town hall in my area is?
The North American Free Trade Agreement (NAFTA) gave vast new powers for corporations that make it easier to offshore jobs and attack the environmental and health laws on which we all rely.

Deals like NAFTA give multinational corporations the power to sue the U.S. government in front of a tribunal of three corporate lawyers. These lawyers can order U.S. taxpayers to pay the corporations unlimited sums of money, including for the loss of expected future profits.

The multinational corporations only need to convince the lawyers that a law protecting public health or the environment violates their special NAFTA rights. The corporate lawyers’ decisions are not subject to appeal.

This corporate power grab is formally called **Investor-State Dispute Settlement (ISDS)**.

**Dear Representative:**

There is one clear litmus test to judge whether NAFTA or any agreement is designed to benefit people or if it has been hijacked by special interests to expand corporate power: Does the deal include Investor-State Dispute Settlement (ISDS)? Please commit to oppose any NAFTA renegotiation or any other agreement that includes ISDS.

Name: ___________________________ Email: _______________ Phone: __________
Zip_________________ Signature________________________

Name: ___________________________ Email: _______________ Phone: __________
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When you see an article in your local paper on NAFTA or trade, it’s a great idea to respond with a 
letter-to-the-editor (LTE) calling on your Members of Congress to oppose any deal that includes 
ISDS. Sometimes this means writing in support of the article that was written and adding the ISDS 
perspective. Other times it means providing an opposing perspective or correction to the facts.

TIPS FOR WRITING YOUR LTE

- Research the newspaper’s guidelines for LTEs, including word limit, type of contact information 
  requested, and format of the letter. A quick internet search for “[YOUR PUBLICATION NAME] letter to the editor” should help you find this information. Make sure to follow those guidelines because your letter may be automatically rejected if you don’t.

- Be as concise as possible. Many newspapers limit LTEs to 150 words, so it is important to 
  choose your words carefully.

- It is easy to be angry and riled up about NAFTA’s expansion of corporate power, but it is 
  important to maintain a respectful tone in your letter. Your goal is to persuade other readers and 
  your Member of Congress.

- Be original! If you say exactly what everyone else is saying, then your letter might not get 
  chosen. Find a way to put a new spin on the information.

STEPS FOR WRITING YOUR LTE

Step One – Reference the article to which you are responding.

Examples:

- Last week, an article titled “Local business works to save NAFTA” highlighted the way one local 
  business benefits from NAFTA, but it missed the bigger picture.

- The April 20 column, “NAFTA bad for Michigan workers,” hit the nail on the head.

Step Two – Clearly state the position you’re taking on the issue.

Example:

- The North American Free Trade Agreement (NAFTA) gave corporations vast new powers that 
  make it easier to offshore jobs and attack the environmental and health laws on which we all rely. 
  Deals like NAFTA give multinational corporations the power to sue the U.S. government in front
of a tribunal of three corporate lawyers. These lawyers can order U.S. taxpayers to pay the corporations unlimited sums of money, including for the loss of expected future profits. The multinational corporations only need to convince the lawyers that a law protecting public health or the environment violates their special NAFTA rights. The corporate lawyers' decisions are not subject to appeal.

**Step Three – Provide evidence by using an ISDS case.**

Examples:

- TransCanada Corporation demanded $15 billion in compensation from U.S. taxpayers, under NAFTA, after the historic victory by indigenous people and environmentalists to stop construction of the Keystone XL pipeline. The case was only withdrawn after Donald Trump allowed the pipeline to go forward.

- In Mexico, a NAFTA tribunal of three corporate lawyers ordered the Mexican government to pay $15.6 million to U.S. toxic waste company, Metalclad. The community of San Luís Potosí had decided not to grant a construction permit to Metalclad unless the firm cleaned up existing pollution at the site.

- Canadian taxpayers were forced to pay $13 million to Ethyl Corporation after Ethyl sued Canada in a tribunal of three corporate lawyers. Canada had banned MMT, a carcinogen also banned in the United States. As part of Canada’s settlement with the company, it also reversed its ban on the chemical.

- Find more examples here: [ISDScorporateattacks.org/attacks](http://ISDScorporateattacks.org/attacks)

**Step Four – State what should be done.**

Tip: Using the name of your Representative in your LTE increases the chances that it will be seen by them because their staff review local papers and prepare daily press clips that mention the boss.

Examples:

- Rep. [Last Name] must commit to oppose any trade deal that includes this insidious corporate power grab.

- A local coalition is calling on Rep. [Last Name] to commit to oppose any trade deal – including a NAFTA replacement – that allows multinational corporations to sue U.S. taxpayers.

- Now is the time for us to take a stand against any trade deal – including a renegotiated NAFTA – that allows corporations to attack our laws.

*For questions/comments, and to share your LTE, please email: Contact@ISDScorporateattacks.org*
Below are some helpful tips about how to secure and conduct a meeting with your Member of Congress when he or she is home in the district. As we have seen over and over again, we win when we are able to exert real pressure and hold our elected representatives accountable at a grassroots level.

If we can gather under the ReplaceNAFTA umbrella and bring together labor unions and environmental groups, people of faith, consumer activists, farmers and small business owners to meet with their Representatives and deliver our demands in person, we will continue to win victories towards our vision of trade policy that puts working people first!

1. Call the district office.

Google your Representative and call the office closest to your home. Ask for the scheduler. Tell the scheduler that you are seeking a meeting with the Representative to discuss NAFTA renegotiation and that you will be bringing in other people. The objective of this initial contact is to secure a time and date when you can meet with your Representative.

Many of you are organizing veterans and know that getting a meeting can sometimes be a long and difficult process with staffers giving you the run-around. Be persistent yet polite, and make it clear that YOU, the constituent, are the most important person they will ever hear from.

Don't give up even if you are told that “the Representative has no time to meet with your group” and even if they don't return your phone calls. In most cases, if you are persistent, you will eventually be able to sit down with your Representative.

2. Determine your agenda and goals for the meeting.

The group attending the meeting should gather 30 minutes before meeting with the Representative in order to determine the agenda and delegate agenda items to be raised by different people. Very important: Limit the obligatory small talk with your Representative because your time could be short. The Representative may try to get you off message. Proceed directly to making your ask and explaining why the issue is important.

Have different people cover different issues so that the Representative can see the breadth and depth of the coalition, but make sure that all introductions are kept brief, allowing more time for conversation with the Representative.

3. Listen carefully.

You will hear occasional indications of your Representative’s views. Respond to issues they raise.
4. Be prepared.

Review your talking points, but don’t feel that you need to be an expert. Most Representatives are
generalists, like many of us. Be open to counterarguments, but don't get stuck on them.

If you don't know the answer to a question, offer to look into the question and get back to the
Representative. This is also an excellent opportunity to stay in touch.

5. Leave time for them to talk!

Representatives sometimes use a strategy of letting you talk so they don’t have to. Ask specifically
if the Representative will oppose any trade agreement that has ISDS and specifically a NAFTA
renegotiation that has ISDS. Try to get closure, but also leave room to continue the discussion at
another time by saying, “We would like to keep this conversation going and hope we can meet
again soon.”

6. Build the relationship.

If your Representative has supported you or your coalition’s positions in the past, be sure to thank
them. If the opposite is true, consider your Representative’s motivations and how you can animate
them to support this work.

7. Follow up.

Send a thank you note after the meeting, and if commitments were made during the meeting, repeat
your understanding of them.


Send us an email at Contact@ISDScorporateattacks.org to let us know how your meeting went and
what you learned about your Representative’s position. This information is extremely useful as we
continue to design our strategy to replace NAFTA to put workers first!

For questions/comments, please email us at: Contact@ISDScorporateattacks.org