Ending the UK's exposure to corporate courts (ISDS)

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Investor State Dispute Settlement (ISDS) lets foreign investors sue governments through international arbitration, bypassing domestic courts. The UK faces multiple ISDS disputes linked to climate action, sanctions and industrial strategy, exposing taxpayers to costly compensation claims and threatening the Government's ability to deliver its policy priorities. It should rule out ISDS in future trade and investment agreements, begin terminating existing treaties containing ISDS, and champion international efforts to move away from this unjust system.

What is ISDS?

Investor State Dispute Settlement (ISDS) is a mechanism in many bilateral investment treaties (BITs) and some free trade agreements. It lets foreign investors bring claims against host states where they believe treaty protections have been breached. In practice, this means suing governments over policies that hurt their profits. Claims are decided by secretive international arbitration tribunals rather than domestic courts. Today, the UK is party to around 80 treaties containing ISDS provisions.

The case against ISDS

Despite being developed to protect investors, ISDS is increasingly being used to challenge progressive policies. The UN Special Rapporteur on Human Rights and the Environment called ISDS "a major obstacle to the urgent actions needed to address the planetary, environmental and human rights crises." Risks include:

- **Undermining democracy:** ISDS creates a parallel legal system, letting foreign investors contest government decisions using a route domestic businesses and citizens can't access.
- **Regulatory chill:** The fear of lengthy arbitration and high costs deters governments from introducing progressive policies, meaning investors get leverage over government decisions on climate or workers' rights before ISDS cases are even filed.
- **High costs, no reward:** Corporations have won over $114 billion through ISDS claims globally, while governments spend around $5 million defending each case. Meanwhile, a 2020 analysis of 74 studies found the effect of investment treaties on foreign investment to be "so small as to be considered zero."
- **Threatening climate action:** Climate measures are among the most common targets of ISDS claims. Fossil fuel and mining firms have sued governments over coal phase outs, mining taxes and stronger environmental protections, delaying action.
- **Weakening rights and protections:** ISDS has been weaponised against measures protecting communities, public health and workers' rights. Unlike domestic courts, it lacks safeguards like rights of appeal and democratic oversight.

Current UK ISDS cases

Historically, the UK has faced relatively few ISDS claims. But as the Government seeks to accelerate climate action, strengthen national security and pursue a more progressive industrial strategy, ISDS exposure is a growing risk. These cases show how ISDS is already being used to challenge government decisions.

Whitehaven Case: Sued for blocking a new coal mine

In August 2025, Woodhouse Investment and West Cumbria Mining, the investors behind the Whitehaven coal mine, made an ISDS claim under the 1975 UK Singapore BIT, in the first known claim against the UK linked to climate action. The Government had rightly withdrawn support for the mine after the High Court quashed its planning permission on the grounds that its climate assessment excluded emissions from burning the coal. The investors are reportedly seeking £150-£300 million in compensation, despite only investing £50 million into the project.

Fridman Case: Sued by a sanctioned Russian oligarch

In November 2025, the Government confirmed it faced a second ISDS claim, brought by Mikhail Fridman, a Russian billionaire sanctioned following Russia's invasion of Ukraine. Few details have been disclosed, although the claim is understood to relate to UK sanctions and is widely assumed to have been brought under the 1989 UK Russia BIT. Fridman has also brought similar ISDS claims against other European countries, including a €15 billion claim against Luxembourg.

Jingye case: Retaliation for nationalising British Steel

In June 2026, Jingye Group, the Chinese owner of British Steel, initiated consultations under the 1986 UK China BIT following the Government's decision to bring the Scunthorpe steelworks into public ownership. The Government took control of the site in April 2025 after Jingye announced plans to close its blast furnaces, with British Steel formally returning to public ownership in July 2026. Jingye reportedly seeks more than £1 billion in compensation. The dispute is at consultation stage, the first step before formal arbitration if no agreement is reached.

Ending UK exposure to ISDS

The UK has a clear pathway to reduce its exposure to ISDS. No new primary legislation or change to international law is required. Responsibility for the UK's investment treaty programme sits with the Department for Business, Investment, Science and Trade, who can negotiate or terminate the relevant agreements using their existing powers.

The UK has already shown its willingness to leave investment treaties that no longer serve the national interest. In 2024, it withdrew from the Energy Charter Treaty after concluding that continued membership could undermine the transition to net zero. Nor would the UK be acting alone; over 40 countries have taken steps to reduce their exposure to ISDS, including South Africa, India, Indonesia and Ecuador, while EU Member States agreed to terminate their intra-EU BITs in 2020.

Recommendations

1. **Rule out ISDS in future agreements:** Commit to excluding ISDS provisions in future UK trade or investment agreements.
2. **End existing UK ISDS commitments:** Begin terminating existing investment treaties containing ISDS, working with partner countries where possible to neutralise "sunset clauses."
3. **Lead international reform:** Champion international efforts to reform and ultimately move away from the ISDS system, while supporting fair and effective alternatives to protect investment.

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