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# ISDS claims: Public Interest and Climate Policy under Pressure


## Summary

The UK now faces international arbitration claims under investor-state dispute settlement (ISDS) provisions in investment and trade agreements. **These claims challenge measures taken to protect national security, preserve Britain's primary steelmaking capacity and respond to the climate crisis**, including sanctions linked to Russia's war in Ukraine, the public ownership of British Steel and decisions affecting new coal extraction. One claim alone is reportedly worth more than £1 billion. The cases expose a structural risk: ISDS gives foreign investors a parallel route to seek substantial compensation when democratic institutions act in the public interest. Countries in the Global South, including Colombia, have warned for decades that this system can constrain decisions to protect fundamental rights, water, biodiversity and the climate.


## Labour Party Should Review UK's Exposure to ISDS Claims

ISDS is a system that allows foreign investors to bring claims against states before international arbitration tribunals under investment and trade agreements. **The cases in this briefing show that ISDS is not confined to arbitrary or discriminatory state conduct: it can also be used to challenge public-interest decisions on national security, industrial policy and climate action.** Even when governments ultimately prevail, they may incur substantial legal costs, face limited transparency and operate under the threat of exceptionally large awards.

*The Labour Party should urgently review the UK's exposure to ISDS, exclude the mechanism from new trade and investment agreements, and establish a clear, orderly plan to withdraw from or renegotiate existing treaties that constrain public-interest and national security decision-making.*

## Sanctions and investor claims against public-interest measures

Sanctions are a core instrument of foreign, security and financial policy. They allow governments to isolate harmful actors, disrupt illicit financial networks and deter threats to peace and security without resorting to military force. ISDS creates a distinct risk by enabling sanctioned investors to challenge these measures through international arbitration, potentially exposing governments to large claims outside domestic legal processes.

## Ukraine-Russian War

The Fridman case shows how an investment treaty can provide a sanctioned investor with a separate international route to contest measures adopted in response to war and national security concerns.

On 15 March 2022, the UK sanctioned Mikhail Fridman in relation to Russia's war in Ukraine. Fridman has interests in banking and other industries. A year later, in 2023, Fridman challenged HM Treasury in the High Court after the Office of Financial Sanctions Implementation refused requests linked to his sanctioned assets.

In November 2025, the UK government disclosed that Fridman had brought an ISDS claim against the British state. Almost no public information is available about the amount claimed or the precise basis of the dispute. Fridman is likely relying on the 1989 UK–Russia bilateral investment treaty, **which grants ISDS protections but contains no general national security exception**. The claim therefore illustrates how an older treaty can expose contemporary sanctions policy to international arbitration.

This parallel route matters because ISDS proceedings are generally conducted with limited public scrutiny, even when they concern measures central to foreign and security policy. The lack of transparency makes it difficult for Parliament and the public to assess the legal arguments, financial exposure and potential consequences for the UK's response to Russia's invasion of Ukraine.

## The UK case is not Fridman's only use of ISDS to challenge sanctions

Companies linked to Fridman are pursuing several claims against Ukraine in relation to sanctions and national security measures.

These disputes form part of a wider pattern: more than 40 ISDS cases identified in connection with sanctions, with known claims running into tens of billions of dollars. Russian businesses and individuals sanctioned by the UK, EU and Ukraine have used arbitration to besiege courts with parallel proceedings. Each case costs an average of $5.3 million to defend, meaning that the burden on public finances can arise even where a state ultimately wins.

The same structural risk extends beyond sanctions. ISDS can also be invoked when governments intervene to **protect strategic industries, employment and essential national capabilities**, placing public authorities under financial pressure precisely when urgent action is required.

## British Steel: ISDS and the cost of public-interest action

The British Steel dispute demonstrates how ISDS can create an additional and potentially more lucrative compensation route for a foreign investor when a government acts to protect critical industrial capacity. Jingye, British Steel's former Chinese owner, has initiated an ISDS dispute under the 1986 UK–China investment treaty and is reportedly seeking more than £1 billion.[i]

In April 2025, the UK government took control of British Steel after Jingye planned to close the Scunthorpe blast furnaces. Citing **national security, the economy and thousands of jobs**, Parliament passed emergency legislation to keep the furnaces operating. British Steel entered public ownership in July 2026.

In June 2026, Jingye initiated a dispute under the 1986 UK–China investment treaty. The treaty gives Chinese investors access to international arbitration. The UK had already established a domestic compensation process under which an independent assessor would determine British Steel's value and any compensation due. Jingye nevertheless chose ISDS, creating a **parallel legal route** unavailable to UK businesses and bypassing UK courts and the independent assessment process.

This route also permits a much larger claim: Jingye is reportedly seeking more than £1 billion from the UK.

*This case raises clear difficulties for Andy Burnham's mission to "safeguard sovereign manufacturing". The UK must exit ISDS if it is to revitalise British industry, protect public services and address security.*

*Decisions to protect national security, safeguard employment and maintain critical industrial capacity should be accountable through democratic institutions **a**nd domestic law—not constrained by parallel legal privileges available only to foreign investors.*

## West Cumbria Coal Mine

The West Cumbria coal mine dispute illustrates the direct tension between **climate action** and **investor-state dispute settlement (ISDS)**: a project that did not secure the permissions required to operate may nevertheless generate a claim for hundreds of millions of pounds.

West Cumbria Mining sought to develop the Woodhouse Colliery near Whitehaven, which would have been the UK's first deep coal mine in decades. Planning permission was granted in December 2022, but local communities and environmental groups successfully challenged the decision. Although West Cumbria Mining argued that the project could operate on a "net zero" basis, its assessment excluded the emissions produced when the coal itself was burned.

In September 2024, the High Court ruled that the environmental assessment should have considered the emissions produced when the coal was ultimately burned ('Scope 3' emissions). The company's applications for coal-mining licences were subsequently refused, citing concerns including mining subsidence and the project's financial viability. West Cumbria Mining did not appeal the High Court ruling and later withdrew its planning application. Instead, in August 2025, the mine's Singapore-based investor, Woodhouse Investment Pte Ltd, together with West Cumbria Mining (Holdings) Ltd, launched the first climate-related ISDS claim against the UK under the 1975 UK–Singapore bilateral investment treaty.

The mine was never built, no longer has planning permission and never obtained the coal-mining licences required to operate. Despite this, investors estimate the claim to be worth between **£150 million and £300 million**. The dispute shows how investors can seek compensation for **expected future profits** even where a project never secured the initial permissions needed to begin extraction.

**The central policy question:** Should *investment treaties allow companies to seek hundreds of millions or billions of pounds when climate-related policy decisions prevent fossil-fuel projects from proceeding.*

## Is there a link between FDI and ISDS?

Supporters of ISDS argue that it promotes growth by reassuring investors considering markets with political or economic uncertainty. However, the evidence does not support that claim. A meta-analysis drawing on 2,107 estimates from 74 studies found robust evidence that **the effect of ISDS on foreign investment is so small as to be effectively zero.** As ISDS does not materially increase investment, its significant fiscal and democratic costs are hard to justify.

The burdens of ISDS fall particularly heavily on countries in the Global South and can restrict sovereign economic and environmental policy. Over the last nine years, Colombia has faced 29 ISDS claims, many connected to policy changes intended to address the climate crisis. This exposure is especially troubling because Colombia is also a key UK government partner on climate and biodiversity: cooperation in these areas is undermined when investment treaties penalise the very measures needed to protect them.

*The ISDS system as a form of "legal terrorism," carried out by transnational corporations against the economically dependent and debt-saddled countries in which they invest.*[ii] *Joseph Stiglitz (economist)*

## Why are the Claims so High?

ISDS claims can reach extraordinary levels because companies seek the projected profits, they say they would have earned over the full life of a contract—often 25 to 30 years—even where a mining project never became operational. In Colombia, three claims arose from the Constitutional Court's decision to uphold a ban on mining in the páramos, high-altitude wetlands that are a primary source of the country's water supply.

Eco Oro Minerals Corp. claimed US$1.1 billion incl. interest; Red Eagle US$130 million; Montauk Metals, US$196 million. All three companies lost their cases, yet Colombia still incurred substantial legal and arbitration costs. **The Eco Oro case alone, Colombia's arbitration costs amounted to about US$6.2 million.** Although the tribunal did not rule against Colombia, it nevertheless ordered the state **to pay half of Eco Oro's declared costs of US$33.3 million.** The case demonstrates that even a successful defence can impose a heavy burden on the public purse.

All three cases were brought under a free trade agreement containing a strong environmental clause intended to preserve each party's policy space to protect the domestic environment and address climate issues without fear of arbitration. Yet investors were still able to initiate claims. This exposes the limits of such safeguards: general environmental exceptions or statements affirming the right to regulate may not prevent arbitration or shield governments from the legal costs, financial exposure and policy pressure created by ISDS.

As the world breaches the 1.5°C threshold, governments need the freedom to respond decisively to the climate crisis. They must be able to protect water, biodiversity and the wider environment without facing claims worth tens of millions—or even billions—of pounds. Because environmental harm crosses borders, effective climate action depends on international cooperation. ISDS works against that objective by allowing measures such as returning essential public services to public control or protecting vital ecosystems to trigger costly claims. Countries in the Global South, including Colombia, already face substantial exposure for protecting the Amazon and the páramos, which supply water to millions of people. The financial burden, whether through awards or defence costs, ultimately falls on taxpayers.

## Recommendations

The evidence in this briefing is clear: ISDS restricts the policy freedom governments need to confront the climate crisis, protect national security, safeguard jobs and preserve critical industries. By giving foreign investors privileged access to parallel tribunals, it exposes taxpayers to substantial claims and legal costs while deterring or delaying legitimate government action. Other countries are choosing a different path: New Zealand and Australia have committed to excluding ISDS from future agreements and reviewing, renegotiating or terminating existing provisions, while Brazil has never adopted the system.

## To safeguard its promise of economic transformation, the Burnham Government should:

- **Exclude ISDS** from all future trade and investment agreements.
- **Establish a time-bound plan** to terminate, withdraw from or renegotiate ISDS provisions in existing UK investment treaties.
- **Promote coordinated international reform** to end ISDS globally and protect governments' right to regulate in the public interest.

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