1. John W H Denton AO, Secretary-General of the International Chamber of Commerce (ICC); former DFAT; and former CEO of Corrs Chambers Westgarth

Comments received 11 November 2026

Whatever one's views on the particular features of ISDS, Australian businesses investing abroad must benefit from access to neutral and effective dispute resolution where adequate remedies may not otherwise be available. From a business perspective, I would favour preserving Australia's flexibility to negotiate appropriate protections on a treaty-by-treaty basis, rather than excluding one category of dispute resolution in advance. There is also considerable scope today to design mechanisms that encourage consultation and mediation at an early stage, while retaining arbitration as an ultimate means of resolving disputes where settlement is not possible. In my view, that more calibrated approach would better protect Australia's interests, including those of Australian businesses investing overseas.

The International Chamber of Commerce (ICC) has participated in the UNCITRAL discussions on reform of investor-State dispute settlement. ICC has recognised the need to address legitimate concerns about the functioning of the existing system and has been supportive of meaningful reform. At the same time, our approach has been to favour a framework that preserves choice and flexibility, both for investors and for States, rather than prescribing a single model for the resolution of investment disputes. In our view, a modern investment dispute resolution framework should offer an appropriate range of mechanisms, allowing the parties and States negotiating investment agreements to determine which mechanisms are best suited to their circumstances.