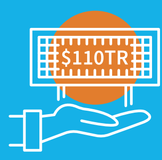
Are IIAs and ISDS helping or hindering progress towards renewable energy goals?



The global transformation of the energy system will need USD 110 trillion in investments by 2050 to keep the rise in global temperatures to well below 2°C.

The private sector and private finance will play an important role in scaling renewable energy generation, transmission, and storage.

The use of international investment agreements (IIAs) and their investor-state dispute settlement (ISDS) provisions are promoted as tools to encourage investments in renewables.

To date, there have been well over 1190 publicly-known ISDS cases, about ⅓ of them involving the energy sector.

What are IIAs and ISDS for?

IIAs provide broad protections to investors from one state investing in another (host) state, including recourse to ISDS based on alleged treaty violations.

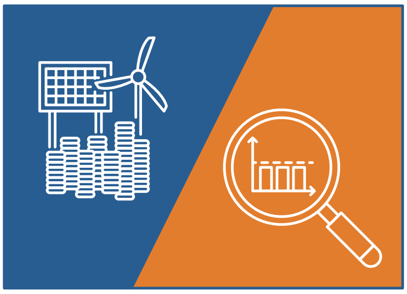
Many foreign investors have relied on IIAs to claim that public policy measures, including policies to protect the environment, undermine the profitability of their investments.

States have paid huge sums in compensation — on the order of tens of millions of dollars and occasionally billions — for sunk costs & hypothetical profits that an investment might have generated.

So do IIAs really deliver their promised benefits?

1

IIAs allegedly help drive investment in renewables…



BUT

our research confirms that IIAs do not have a discernible impact on foreign investment flows, including in renewables.

2

Investors allegedly consider ISDS an important form of dispute settlement mechanism…

BUT

our research shows that ISDS does not feature as one of the top risk mitigation tools for foreign investors in renewables.

3

IIAs allegedly protect the climate by holding states accountable to their renewable energy commitments…

BUT

the majority of "renewable energy" investors relying on ISDS and winning large compensation awards are speculative investors looking for windfall profits.

Conclusion

There is simply no clear evidence of a link between IIAs and foreign investment flows, including in the renewable energy sectors.

The costs of IIAs to governments are incredibly steep — and not just in monetary terms. The fear of an adverse ruling constrains their freedom to develop sound policy tools to attract and govern renewables investments.

States in favor of achieving renewable energy targets by 2050 should withdraw from their IIAs. There is little to lose, and walking away is the best way to maintain the necessary policy space to implement effective and urgent climate action policies.

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