

19 November 2021

QB21-000063

CHINA: BILATERAL RELATIONS; CONSULAR CASES; COVID-19; HUMAN RIGHTS (INC XINJIANG/UYGHURS

ISSUES

Ongoing extensive media coverage of China-related issues.

s47E(d)

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BILATERAL RELATIONSHIP

- Our relationship with China remains under considerable strain
 - we have serious concerns about China's conduct in a range of areas, not least its disruption of our bilateral trade
 - that said, China remains our biggest trading partner.
- The Australian Government's approach to China is guided by clear, national-interest objectives.
 - we wish to pursue a mutually beneficial relationship that respects the interests of both sides, consistent with our values and our sovereignty
- We are open to dialogue at any time without preconditions
- We can discuss differences over policy, but we won't reverse decisions taken in the national interest in exchange for dialogue and cooperation.

AUKUS – China engagement and response

- The objective is to preserve a secure, stable and peaceful region from which we have all benefited – and of course China has also been a beneficiary.
- We want to work with all states – including China — to preserve these benefits.

Does AUKUS signal a change in strategy towards China?

- No. As the Prime Minister has said, we seek a relationship that serves the interests of both Australia and China, in which each respects the other's interests, consistent with our values and our sovereignty
 - dialogue, without preconditions, would be a good first step in that direction.

Trade tensions ^{s47E(d)}

- Australia wants a constructive bilateral relationship with China on terms that meet the interests of both sides.
- We have a range of trade issues to work through with China
 - we continue to raise these bilaterally and in WTO committees
 - we stand ready to engage in ministerial dialogue with China to resolve various disruptions to trade.

Prospects for conflict in the Indo-Pacific

- As the Prime Minister has said Australia's interests lie in 'an open, inclusive and resilient Indo-Pacific region'

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- he has made clear our position that ‘competition does not have to lead to conflict’.

Is Australia acting at the behest of the US?

- Australia is a sovereign country.
- We make our own decisions in accordance with our national interests.

Contact with Chinese counterpart/s?

- We have made clear that we stand ready to discuss our differences, without preconditions.
- It is up to Chinese counterparts if they wish to have those conversations.

Australia’s policy position on Belt and Road Initiative

- The Government’s long-standing position has been not to sign an overarching BRI agreement
 - Australia engages on a case-by-case basis with projects that meet our own investment principles (are transparent and open, uphold robust standards, meet genuine need, and avoid unsustainable debt burdens for recipient countries)
 - the Government has set out this position on numerous occasions.

VACCINE RECOGNITION

If raised: Why does the TGA not consider under-18s and over-60s vaccinated with Sinopharm as fully vaccinated?

- The TGA’s advice on recognition of vaccines is made on the basis of rigorous scientific assessments.
- At this time, the TGA does not have sufficient data available to indicate that Sinopharm is of similar clinical effectiveness as those vaccines approved for current use in Australia for those under the age of 18 and those over the age of 60.

Australia’s response to China’s criticisms of the WHO’s proposed next phase of the Origins Study? ^{s47E(d)}

- It is in the interests of all nations to establish the origins of the virus to better protect the world against this pandemic and prevent its recurrence.

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- We welcome the WHO's recommendations for the next phase of this work
 - we believe that further studies must have access to all relevant data.
- Australia has consistently called for a transparent, independent, scientific review into the origins of the virus and for work to progress quickly, including in China
 - we look forward to working with all countries to achieve this.

HUMAN RIGHTS: XINJIANG

- The Australian Government has grave concerns about the growing number of credible reports of severe human rights abuses against Uyghurs and other Muslim ethnic minorities in Xinjiang
 - including restrictions on freedom of religion, mass surveillance, large-scale extra-judicial detentions, as well as forced labour and forced birth control - including sterilisation.
- We consider transparency to be of utmost importance and continue to call on China to grant urgent, unfettered and meaningful access to Xinjiang for independent observers, including the UN High Commissioner for Human Rights
 - I (Minister Payne) have raised this in my discussions with UN High Commissioner Bachelet
- We urge China, as we do all countries, to act in ways consistent with its human rights obligations.
- We will continue to actively monitor and raise concerns about the situation in Xinjiang, at the United Nations, through joint statements with the international community, and directly with China.

Will Australia impose sanctions on entities and individuals involved in China's actions in Xinjiang?

- I have announced that the Government will establish a thematic human rights sanctions regime as part of broader legislative reform to modernise Australia's autonomous sanctions framework
 - which will ensure it is aligned with Australia's contemporary foreign policy objectives.
- Individuals and entities will only be listed when it is in the national interest to do so, and in response to the most egregious situations of international concern, including serious human rights abuses.

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If pressed: Will the Government use sanctions in relation to human rights abuses in Xinjiang?

- It is premature to speculate about the circumstances in which Australia's reformed autonomous sanctions framework will be used.
- At all times, any listings [once the reforms are in place] will reflect that this is an Australian regime, to be applied in our national interest and in response to the most egregious situations of international concern.
- Whether sanctions are the most appropriate measure for responding to a situation of international concern will depend on the particular circumstances.
- Sanctions are one tool of statecraft and do not displace other existing foreign policy measures.

Will Australia determine that genocide is occurring in Xinjiang?

- Australia's long-held position has been that a determination on whether the crime of genocide has been committed is a matter for appropriate courts.

France-led UNGA joint statement on Xinjiang

- Australia remains deeply concerned about the growing number of credible reports of severe human rights abuses against Uyghurs and other Muslim ethnic minorities in Xinjiang.
- Australia was one of 43 countries to support a joint statement in New York on 21 October [during UNGA76 Third Committee], which reiterated our shared concerns about human rights in Xinjiang
 - and called on China to allow immediate, meaningful and unfettered access to Xinjiang for independent observers, including the UN High Commissioner for Human Rights.
- The statement welcomed the UN High Commissioner's announcement that she would present her findings to date on Xinjiang, and encouraged publication of these findings as soon as possible.
- Australia supported and appreciated France's efforts to lead this joint statement.

What is the Government doing to ensure Australian business imports are not using forced labour in Xinjiang?

- We urge any Australian company with links to Xinjiang to undertake due diligence into their supply chains and suppliers and assess their risk profiles

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- important that Australian companies and institutions are able to satisfy themselves their commercial and other arrangements are consistent with Australian legislation and international standards.
- Australia's Modern Slavery Act [in effect as of 1 January 2019] requires large entities to publicly report on their actions to address modern slavery in their operations and supply chains
 - This provides public visibility to businesses, civil society and consumers of identified modern slavery risks and actions taken to address those risks.
- The Australian Government [DFAT, ABF] is proactively engaging with the business community to raise awareness of modern slavery risks as part of the implementation of the Modern Slavery Act [any more specific questions on implementation of the Modern Slavery Act, including reporting requirements should be referred to ABF].

CHINA CONSULAR CASES ^{s47E(d)}

Is China using consular cases to coerce Australia?

- The Government's top concern is for the welfare of the Australians involved
 - it's not helpful in this context to speculate on these issues.

YANG HENGJUN

- Australian citizen Dr Yang Jun faced a closed trial on espionage charges in Beijing on 27 May 2021
 - at the end of proceedings, the court decided to defer its verdict and sentence.
- Australia's Ambassador to China [Graham Fletcher] was not permitted entry to the court.
- We are deeply concerned that access to Dr Yang's trial was refused to Australian officials
 - in line with China's obligations under the Australia-China consular agreement, Australian officials should have been permitted access to the hearing
 - as a basic standard of justice, access to the trial for observers should be a bare minimum to conform with international norms of transparency.
- Given our enduring concerns about this case, including the lack of details as to the charges and the investigation made available to

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Dr Yang and to Australia, we consider this to be an instance of arbitrary detention of an Australian citizen.

- We have conveyed to Chinese authorities, in clear terms, our concerns about Dr Yang's treatment, and the lack of procedural fairness in the management of his case
- We will continue to strongly advocate for Dr Yang's rights and interests, and provide consular assistance and support in line with the *Consular Services Charter*
 - our most recent visit was 28 September 2021.
- Due to privacy obligations we are unable to provide further information.

If asked: Why has Dr Yang's verdict hearing again been delayed, to 9 January 2022 [Bill Birtles tweet, 17 October]

- Chinese law allows for the extension of verdict hearings in this way.
- Dr Yang's verdict may be handed down by 9 January, or the time for this may be extended further.
- We are not aware of the reason for the extension and will not speculate.

CHENG LEI ^{s47E(d)}

- The Australian Government holds serious concerns for Ms Cheng
 - we have consistently expressed our concerns about Ms Cheng's detention, including her welfare and conditions of detention, at senior levels.
- We expect that basic standards of justice, transparency, procedural fairness and humane treatment be afforded to Ms Cheng in the resolution of her case, in accordance with China's international legal obligations and other relevant international norms.
- We will continue to advocate for Ms Cheng's interests and provide consular assistance to Ms Cheng and her family
- Consular officials continue to visit Ms Cheng in accordance with our bilateral consular agreement with China, most recently on 29 October 2021.
- Due to privacy obligations we are unable to provide further information.

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OLYMPICS**If Asked: Will Australia boycott the 2022 Winter Olympic Games in Beijing?**

- Australian athletes will participate in the Games
 - as the Australian Olympic Committee (AOC) and Paralympics Australia have made clear.
- No decisions have been taken on Australian Government representation at the Games.
 - Organisers have yet to provide details of invitations for foreign dignitaries.
 - We note coronavirus-related travel restrictions in China remain tight.

If Asked: Is Australia in discussions with the US government on a diplomatic boycott of the Games?

- The Australian Government is in close contact with the US Administration on a range of issues.
- We will make our own decision on Australia's approach, as we always do.

If Asked: Would the Government support Australian business to attend or sponsor the Beijing Games?

- Questions about sponsorship are for the businesses concerned.
- Business and people-to-people ties are important elements of our relationship with China.

If raised: Ms Peng Shuai (*Sh-why*)

- There is significant concern about this around the world.
- This is a matter for China to account for.

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Background

Bilateral relationship

On 5 August, you (FM) made the following comments on the bilateral relationship at the Australia China Business Council: 'Australia is following a clear strategy informed by clear objectives and principles. In working with China we seek a relationship that serves the interests of both countries in which each respects the other's interests, consistent with our values and our sovereignty. Our relationship with China will continue to be based on four key principles:

- a commitment to open markets with trade relationships based on rules;
- protecting our sovereignty, strengthening democratic institutions and processes, and building resilience to coercion;
- respect for international law and the peaceful resolution of disputes;
- and supporting a strong and resilient regional architecture.'

Prime Minister Morrison last met Premier Li Keqiang in November 2019 on the sidelines of the East Asia Summit in Bangkok. He last met President Xi Jinping in the margins of the G20 in Osaka in June 2019.

You (Foreign Minister) last met Chinese Foreign Minister and State Councilor Wang Yi on 24 September 2019 in New York (in the margins of UNGA) and before that, in Bangkok on 2 August, in the margins of the East Asia Summit Foreign Ministers' meeting. You last spoke to State Councilor Wang Yi on 29 January 2020 by phone ^{s33(a)(iii)}

Human Rights – Xinjiang

On 21 October, Australia joined a France-led statement expressing concern about the situation in Xinjiang, delivered during the Third Committee of the UN General Assembly in New York. Forty-three countries joined the statement: Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Eswatini, Finland, France, Germany, Honduras, Iceland, Ireland, Italy, Japan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Marshall Islands, Monaco, Montenegro, Nauru, Netherlands, New Zealand, Northern Macedonia, Norway, Palau, Poland, Portugal, San Marino, Slovakia, Slovenia, Spain, Sweden, Turkey, United Kingdom, and United States. China's counterstatement, delivered by Cuba, was signed by 62 signatories. Australia has raised concerns about Xinjiang at all sessions of the Human Rights Council since September 2018.

On 16 November, the ABC reported that the Government was under pressure to provide assurance that Australia's solar industry was not exposed to forced labour in Xinjiang. According to public reports, 45 per cent of the world's solar-grade polysilicon supply (a key component for making solar cells) comes from Xinjiang, with a further 30 per cent coming from other regions in China. In 2020, around 87 per cent of the assembled solar arrays and solar cells Australia imported were sourced from China. ^{s33(a)(iii)}

Magnitsky-style sanctions

The JSCFADT report was tabled in the House of Representatives on Monday 7 December 2020. The report recommends the establishment of a Magnitsky-style regime enabling the imposition of targeted financial sanctions and travel bans against perpetrators of serious human rights abuse and serious corruption.

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On 5 August, you (FM) said in a media release that the Australian Government will reform and modernise Australia's autonomous sanctions laws to enable the imposition of targeted financial sanctions and travel bans against the perpetrators of egregious acts of international concern. The reforms will expand upon Australia's current country-based autonomous sanctions framework to specify themes of conduct to which sanctions could be applied, such as the proliferation of weapons of mass destruction, gross human rights violations, malicious cyber activity and serious corruption.

US, UK, Canada, EU sanctions relating to China's actions in Xinjiang

The US, UK, Canada and the EU have listed Chinese officials and entities in relation to human rights abuses in Xinjiang (US in July 2020; UK, Canada and the EU in March 2021).

Winter Olympics

President Biden [told reporters](#) on 18 November that a diplomatic boycott is "something we are considering".

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CHINA: BILATERAL RELATIONSHIP; OLYMPICS; HUMAN RIGHTS (INCLUDING XINJIANG/UYGHURS)

s47E(d)

BILATERAL RELATIONSHIP

- The Australian Government's approach to China is guided by clear, national-interest objectives
 - we seek a constructive relationship with China, but one in which our sovereignty and interests are respected.
- We seek a mutually beneficial relationship with China, but we will never compromise our national interests or national security.

Claims that Chau Chak Wing is the 'puppeteer' in a foreign interference plot s47E(d)

- We will not comment on intelligence matters.
- I will not comment on allegations concerning individuals
 - Our operational agencies remain focussed on detecting, investigating and disrupting foreign interference.

ASPI/KAS report on China's influence in Australian states and territories s47E(d)

- Welcome the report's contribution to the national debate on foreign policy.
- It reinforces the multifaceted relationship between Australia and China, including between state and territory governments and Chinese counterparts.
- DFAT has regular consultation with State and Territory governments, and universities, including on China.
- The Government has put in place a comprehensive domestic resilience framework, including the Foreign Arrangements Scheme

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- which provides me (Foreign Minister Payne) with important visibility of international arrangements, and the ability to intervene where an arrangement is inconsistent with Australia's foreign policy or could adversely affect our foreign relations.
- Other resilience mechanisms address foreign interference
 - including new legislation, the establishment of a CFI Taskforce, the appointment of a CFI Coordinator and the development of Guidelines to Counter Foreign Interference in the Australian University Sector.

China-Russia 4 February Joint Statement

- The statement sets out a vision of the global order at odds with that of Australia and our allies and partners.
- We stand for openness, the rule of law and the right of all countries large and small to pursue their own interests free of coercion.

Arrival of China's new Ambassador to Australia

- The Australian Government welcomes China's new Ambassador-designate [XIAO Qian, pron. Shiao Chen]
 - and we also welcome his statement that he will work to increase engagement and communication.
- As the Prime Minister has said many times, we stand ready for dialogue with the Chinese Government without preconditions
 - to date, the Chinese Government hasn't taken up our offers.

Prospects for conflict in the Indo-Pacific

- As the Prime Minister has said Australia's interests lie in 'an open, inclusive and resilient Indo-Pacific region'
 - he has made clear our position that 'competition does not have to lead to conflict'.

AUKUS – China engagement and response

- The decision for Australia to acquire nuclear-powered submarines is not about any other nation
 - it is about what is best for our security and prosperity in a region undergoing rapid strategic change.

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- Australia remains committed to working with all partners to achieve a stable, secure and prosperous Indo-Pacific which benefits us all – of course China has also been a beneficiary.
- We want to work with all states – including China — to preserve these benefits.

Does AUKUS signal a change in strategy towards China?

- No. As the Prime Minister has said, we seek a relationship that serves the interests of both Australia and China, in which each respects the other's interests, consistent with our values and our sovereignty
 - dialogue, without preconditions, would be a good first step in that direction.

China's '14 grievances'

- Australia places no conditions on dialogue.
- We are ready to talk anytime, but we can't and won't meet the conditions in the '14 grievances', as the Prime Minister and I (Foreign Minister) have said
 - no sovereign country would do that.

OLYMPICS

- The Australian Government is working closely with the Australian Olympic Committee (AOC) and Paralympics Australia to support our teams.
- The Australian Government has not sent official representation, but Australian athletes are participating, as announced by the Prime Minister on 8 December 2021.
 - The Australian Embassy in Beijing is providing all necessary consular assistance and support to Australians participating in the Games.

Did DFAT advise athletes not to criticise China?

- The Australian Government's role is to work closely with the Australian Olympic Committee and Paralympics Australia to ensure our athletes are well informed about the context in which the Beijing Games will be held.

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- The AOC (CEO Matt Carroll) has said it backs athletes' freedom of speech, as long as they show respect and follow IOC rules.

PENG SHUAI

- It is understandable that many people have raised serious concerns about Ms Peng's welfare and her allegations
 - as I (Foreign Minister Payne) have said [25 January 2022], we respect her strength in making those disclosures and hope that the matter is handled appropriately by Chinese authorities

HUMAN RIGHTS: XINJIANG/UYGHURS

- As I (Foreign Minister) have consistently said [AUKMIN statement, 21 January 2022], the Government holds grave concerns about credible reports of severe and egregious human rights violations against Uyghur and other Muslim ethnic minorities in Xinjiang
 - including restrictions on freedom of religion, mass surveillance, large-scale extra-judicial detentions, forced labour and forced birth control including sterilisation.
- We continue to call on China to grant urgent and meaningful access to Xinjiang for independent observers, including the UN High Commissioner for Human Rights.
- We will continue to actively monitor and raise concerns about the situation in Xinjiang, at the United Nations, through joint statements with the international community, and directly with China.

Will Australia impose sanctions on those involved in China's actions in Xinjiang?

- It is premature to speculate about the circumstances in which Australia's reformed autonomous sanctions framework will be used.
- At all times, any listings will reflect that this is an Australian regime, to be applied in our national interest and in response to the most egregious situations of international concern.
- Whether sanctions are the most appropriate measure for responding to a situation of international concern will depend on the particular circumstances.
- Sanctions are one tool of statecraft and do not displace other existing foreign policy measures.

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What is Australia doing about the situation in Xinjiang?

- I (Foreign Minister Payne) have set out the Australian Government's grave concerns in a joint statement with New Zealand [23 March 2021].
- Australia has consistently raised our concerns in multilateral forums, including at the last nine sessions of the UN Human Rights Council
 - Australia was one of 43 countries to join a statement delivered at the UN General Assembly [Third Committee, on 21 October 2021]
 - the statement welcomed the UN High Commissioner's announcement that she would present her findings to date on Xinjiang and encouraged release of these findings.
 - Australia supported and appreciated France's leadership of this joint statement.
- We urge China, as we do all countries, to act in ways consistent with its human rights obligations.

What is the Australian Government doing to assist Uyghur Australians who have requested government assistance to contact missing/detained relatives in China?

- The Australian Government has received enquiries from Uyghur Australians about the welfare of family members who are Chinese citizens, who are uncontactable or unable to depart Xinjiang.
- For privacy reasons, we cannot comment on support provided on individual cases.

Will Australia determine that genocide is occurring in Xinjiang? [Or questions on US determination of genocide/other international parliamentary votes on genocide]

- Australia's long-held position has been that a determination on whether the crime of genocide has been committed is a matter for appropriate courts.

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Is China using consular cases to coerce Australia?

- The Government's top concern is for the welfare of the Australians involved
 - it's not helpful in this context to speculate on these issues.

Background

Prime Minister's comments on Ukraine and MFA response

On 13 February, the Prime Minister said that 'Australia has been criticised by the Chinese Government for peacefully coming together with our partners in the Quad ... but it remains chillingly silent on Russian troops amassing on the Ukrainian border'. On 16 February, in response to a question, China's MFA spokesperson said 'self-serving acts that shift the blame on others will not only hurt one's own country and people but also all people of the world', and 'We urge the parties concerned to stop making comments that exacerbate tensions. It is immoral and very dangerous to seek selfish political gains by whipping up confrontation and spreading disinformation'.

Claims that Chau Chak Wing is the 'puppeteer'

On 14 February Senator Kitching asked DG ASIO in parliament to confirm that Chau Chak Wing was the puppeteer referred to in his recent National Threat Statement. DG ASIO declined to comment. Prime Minister Morrison was asked about the matter during a radio interview on 15 February and also declined to comment on the details. Dr Chau has described the claims as 'baseless'.

Bilateral relationship

On 8 February 2022, you (Foreign Minister Payne) made the following comments when asked about bilateral tensions between China and Australia, "there are a number of issues on which China and Australia have been expressing different views in recent times. But our ultimate goal is to ensure that we have a constructive relationship with China; one of our largest trading partners, a close neighbour in the Indo Pacific region and also the genesis of one of the most extraordinary diverse parts of the multicultural community in Australia. There is no question that our Chinese Australian diaspora is a fabulous part of our country ... We also have an important National Foundation for Australia China Relations ... We cooperate where we are able to and we pursue a relationship that ensures that our sovereignty and our interests are respected in which no party is coerced or subject to pressures that breach international rules and norms."

On 1 January 2022, when asked about reporting that China's Foreign Minister wanted the bilateral relationship back on-track, the Prime Minister said "I'm always optimistic, I'm always hopeful, I'm always positive. I would certainly welcome that. That would begin with leader-level and ministerial-level discussions which we're ready and open for, and we're happy to do those. And as soon as those occur, then I think you would see that being fulfilled. That's not an obstacle at the Australian end."

On 5 August 2021, you (Foreign Minister Payne) made the following comments on the bilateral relationship at the Australia China Business Council: 'Australia is following a clear strategy informed by clear objectives and principles. In working with China we seek a relationship that serves the interests of both countries in which each respects the other's

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- a commitment to open markets with trade relationships based on rules;
- protecting our sovereignty, strengthening democratic institutions and processes, and building resilience to coercion;
- respect for international law and the peaceful resolution of disputes;
- and supporting a strong and resilient regional architecture.'

Ministerial contact

Prime Minister Morrison last met Premier Li Keqiang in November 2019 on the sidelines of the East Asia Summit in Bangkok. He last met President Xi Jinping in the margins of the G20 in Osaka in June 2019.

You (Foreign Minister Payne) last met Chinese Foreign Minister and State Councilor Wang Yi on 24 September 2019 in New York (in the margins of UNGA) and before that, in Bangkok on 2 August, in the margins of the East Asia Summit Foreign Ministers' meeting. You last spoke to State Councilor Wang Yi on 29 January 2020 by phone ^{s33(a)(iii)}

ASPI/KAS report on China's influence in Australian states and territories

On 15 February 2022, ASPI and the Konrad Adenauer Stiftung-Foundation launched a report on 'Taking the low road: China's influence in Australian states and territories'. Senator Kimberly Kitching, Chair of the Foreign Affairs, Defence and Trade References Committee, and Senator James Paterson, Chair of the Parliamentary Joint Committee on Intelligence and Security, delivered remarks. The editor of the report John Fitzgerald published an [op-ed](#) on the ASPI website on 15 February.

Arrival of new Chinese Ambassador XIAO Qian [*pron. SHIAO Chen*]

China's new Ambassador-designate to Australia, XIAO Qian, arrived on 26 January. XIAO released a statement saying he looked forward to working with the Australian government and others to "increase engagement and communication, enhance mutual understanding and trust, eliminate misunderstanding and suspicion, promote mutually beneficial exchanges and cooperation in all areas between the two sides, and jointly push the China-Australia relations back to the right track." Mr Xiao presented his credentials to the Governor-General on 10 February.

Beijing Winter Olympics (4-20 February) and Paralympics (4-13 March)

Prime Minister Morrison announced the Australian Government would not send official representation to the Beijing Games on 8 December 2021. He put Australia's decision in the context of bilateral difficulties and human rights abuses in Xinjiang. He also confirmed Australian athletes would go and encouraged the separation of sport and political issues.

On 9 December 2021, Australian Olympic Committee CEO Matt Carroll said: "[not sending official representation] will have no impact whatsoever on our athletes...we welcome the Prime Minister's statement yesterday to say yes there is a diplomatic boycott, but the Australian Government is supporting us."

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On 18 January a Beijing Organising Committee official said at a press conference: "Any expression that is in line with the Olympic spirit I'm sure will be protected...Any behaviour or speech that is against the Olympic spirit, especially against the Chinese laws and regulations, are also subject to certain punishment." On 22 January 2022, Minister for Sport Colbeck said "The IOC has made it clear that all athletes have the right to political opinions and the freedom to express them....any threat aimed at Australian athletes for speaking out, therefore, is very concerning. AOC CEO Matt Carroll said on 28 January: "Athletes are under the Olympic Charter, and are entitled to make comments as long as it is not on the podium or in the field of play...Our advice for them is to take care, but they are entitled to make comment. That is our position... don't think this is going to be an issue during the games; the athletes are very focused."

Peng Shuai

In an interview on 7 February, Peng Shuai denied having accused former Vice-Premier Zhang Gaoli of sexual assault and said that concerns over her wellbeing had been "an enormous misunderstanding." IOC President Thomas Bach had dinner with Ms Peng on 5 February.

On 8 February, the Women's Tennis Association (WTA) stated "It's always good to see Peng Shuai, whether in an interview or attending the Olympic Games. However, her recent in-person interview does not alleviate any of our concerns about her initial post from November 2nd. We continue to hold firm on our position."

Human Rights – Xinjiang

On 21 October 2021, Australia joined a France-led statement expressing concern about the situation in Xinjiang, delivered during the Third Committee of the UN General Assembly in New York. Forty-three countries joined the statement. China's counterstatement, delivered by Cuba, was signed by 62 signatories. Australia has raised concerns about Xinjiang at all sessions of the Human Rights Council since September 2018.

Magnitsky-style sanctions

On 2 December, Parliament expanded Australia's autonomous sanctions laws to enable the establishment of Magnitsky-style and other thematic sanctions through the Autonomous Sanctions (Magnitsky-style and Other Thematic Sanctions) Amendment Bill 2021, and the Autonomous Sanctions (Magnitsky-style and Other Thematic Sanctions) Amendment Regulations 2021.

US, UK, Canada, EU sanctions relating to China's actions in Xinjiang

The US, UK, Canada and the EU have listed Chinese officials and entities in relation to human rights abuses in Xinjiang (US in July 2020; UK, Canada and the EU in March 2021).

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China Bilateral Relations, Trade and Investment

Handling Note: FAS EAD [Elly Lawson] to lead on China bilateral relations, trade and investment, China human rights and the Beijing Winter Olympics.

Foreign Arrangements Scheme: FAS LGD [Adam McCarthy]; Trade and economic impacts of China's trade: FAS OCE [David Woods]; Economic coercion: FAS OTN [James Baxter]; ChAFTA, CPTPP and RCEP: FAS RTD [Elisabeth Bowes]; WTO disputes: Chief Trade Law Officer [Jonathan Kenna]

Strategic Message

- The Australian Government is following a considered and deliberate strategy on China, informed by clear national interest objectives and principles.
- We seek a constructive bilateral relationship that serves and respects both countries' interests, consistent with our values and our sovereignty.
- We are very concerned with China's trade actions against Australia and the impact they've had on Australian exporters and are seeking to resolve them bilaterally and through the WTO.
- We encourage business to spread their risk and are supporting efforts to expand to other markets.

Bilateral Relationship

What is the state of the bilateral relationship?

- Our relationship with China remains under considerable strain
 - we have serious concerns about China's conduct in a range of areas, not least its disruption of our bilateral trade
 - that said, China remains our biggest trading partner (\$246 billion in two-way goods and services trade in 2020; \$268 billion in two-way goods trade in 2021)
 - the Australian Government's approach to China is guided by clear, national-interest objectives
 - : as the Foreign Minister has said [*5 August 2021 speech to Australia China Business Council*], we seek a relationship that serves the interests of both countries, in which each respects the other's interests, consistent with our values and our sovereignty
 - : we are open to dialogue at any time without preconditions.
 - we can discuss differences over policy, but we won't reverse decisions taken in the national interest in exchange for dialogue and cooperation.

Do we have a functional China strategy?

- Yes. It is based on:
 - a measured and deliberate approach that prioritises the national interest;
 - a commitment to agreed rules, including trade rules;
 - a willingness to engage with China in dialogue at any time, without preconditions.

Shouldn't the Government be doing more and speaking less?

- The Government has committed to standing firm to protect our sovereignty, values and principles.
 - Sometimes that will mean speaking out on matters of principle and concern – including where we expect commitment to agreed rules.
- We continue to explain our decisions to Chinese counterparts and take a strategic approach to managing issues in the relationship with China.

s33(a)(iii), s47E(d)

When was the last direct contact with the Chinese Ambassador to Australia?

- FAS East Asia Division was in regular contact with the Chinese Chargé (Acting Ambassador)
 - The new Chinese Ambassador arrived late last month [26 January 2022] and presented credentials on 10 February.
- The Foreign Minister's last direct contact with the former Chinese Ambassador to Australia was 23 June 2021.

Arrival of China's new Ambassador

Who has the new Ambassador met?

- China's new Ambassador [XIAO Qian, pron. Shiao Chen] presented credentials to the Governor-General on 10 February.
- Per standard practice for new ambassadors to Australia, he met DFAT's Chief of Protocol on 8 February, before presenting credentials.
- Ambassador Xiao [has met/will soon meet] senior DFAT officials, as per standard practice
 - *If pressed on who:* expect he will meet with the DFAT Deputy Secretary responsible for China, Justin Hayhurst.

s33(a)(iii)

Will Australia raise 'X' during meetings with the new Ambassador?

- Not appropriate to go into the details of diplomatic discussions.
- Both sides are expected to raise positions on key issues in the relationship.

Australia's participation in the Winter Olympics [4–20 February 2022] and Winter Paralympics [4–13 March 2022]

Was DFAT consulted on the 'diplomatic boycott'?

- PM&C consulted DFAT in the lead up to the Prime Minister's announcement on 8 December 2021 that Australia would not send ministers to the Games.

Did we tell China in advance of the decision not to send official representation?

- As noted by the Prime Minister on 8 December 2021, the Chinese Government has consistently turned down offers for ministers to engage in dialogue on a range of issues, so it should have come as no surprise that ministers or officials would not travel to the Beijing Winter Olympics.
 - he also stressed that athletes would attend, and that Australia separates issues of sport and politics.

s33(a)(iii), s47E(d)

Have Australia's Ambassador or any other government officials attended the Games?

- No.
- Embassy officials have continued working to provide a full range of consular services to Australians involved in the Games, including athletes, officials and the media contingent.

What advice did DFAT provide to athletes ahead of the Olympics?

- DFAT provided briefings to the Australian Olympic Committee (AOC) and media
 - on 14 January 2022 for the AOC; on 9 December 2021 for Channel 7 (broadcast rights holder); and on 13 January 2022 for the remaining media accredited to the Games. [*A briefing with Paralympics Australia is being arranged*]
- Briefings included information on consular services, current travel advice (including the COVID-19 environment) and advice on the context in which the Beijing Games would be held.
 - this briefing was consistent with DFAT's Smartraveller advice, which currently advises Australians in China to 'exercise a high degree of caution'.

s33(a)(iii), s47E(d)

Did DFAT advise athletes not to criticise China?

- As the Minister for Sport has said [22 January 2022], we would be concerned by any threats aimed at limiting athletes' freedom of expression.
- DFAT's role is to work closely with the AOC and Paralympics Australia to ensure our athletes are well informed about the context in which the Beijing Games are being held.
- As DFAT's Smartraveller advice states: Australians travelling overseas are subject to all local laws and penalties
 - including those that may appear harsh by Australian standards.

Peng Shuai [pron: *Pung Sh-why*]**Has the Australian Government raised concerns regarding Peng Shuai's wellbeing with China?**

- It is understandable that many people, including in the international sporting community, have raised serious concerns about Ms Peng's welfare and her allegations
 - as Foreign Minister Payne said on 25 January 2022, "we respect her strength in making those disclosures and hope that the matter is handled appropriately by Chinese authorities."

ASPI report on China's influence in Australian states and territories**Does DFAT have a response to the recommendations/findings provided in the report?**

- Responses to individual policy recommendations are a matter for the relevant Australian Government department and/or state and territory governments.
- Department of Home Affairs leads on countering foreign interference issues.
- DFAT has regular consultation with State and Territory governments, including on China.

Trade and Investment**Can you provide an update on trade developments since last Estimates?**

- China is our top trading partner and will remain important to Australia's economic future
 - In 2021 goods exports to China increased by 21 per cent (\$30 billion) to \$177 billion compared to 2020
 - but if you exclude iron ore, goods exports to China decreased 2 per cent (\$1 billion) to \$51 billion over the same period.
 - We still have a range of **trade issues** to work through with China (coal, barley, wine, meat, rock lobsters, logs, cotton, among others)
- s33(a)(iii)

: the Department of Agriculture, Water and the Environment is working with the impacted exporters to seek further clarification from Chinese authorities.

- The Government is proceeding with clear, national interest objectives in mind
 - DFAT continues to raise concerns with China s33(a)(iii)
 - and advocate for our exporters
 - while supporting exporters to manage increased risk in the China market and to expand their other market options.
- On **barley** and **wine**, Australia has initiated WTO dispute settlement proceedings against China's imposition of anti-dumping and countervailing duties [16 December 2020 for barley; 22 June 2021 for wine]
 - for its part, China has initiated WTO dispute settlement proceedings [24 June 2021] against our trade remedies on Chinese imports of **railway wheels, stainless steel sinks and wind towers**.

- On **students**, we are confident that now borders have re-opened, Chinese students will continue to choose Australia as a preferred study destination
 - we are working to ensure we have the systems in place here in Australia and offshore to promote the ‘Australia’ brand in China.
- Chinese authorities reported some importation of Australian coal in October, November and December 2021
 - this coal had been waiting at port in China for some time, and was probably imported to meet demand for energy in China
 - it is unlikely to represent a change in policy as industry reports indicate there have been no significant new export contracts for Australian coal sales to China
 - we understand there are no ships carrying coal of Australian origin waiting to unload in China.
- China’s actions hurt specific industries and regions but overall our economy is resilient
 - Treasury estimates China’s trade actions have affected exports equivalent to 5.9 per cent of our total exports and 1.2 per cent of nominal GDP in 2019.
- Many affected firms and industries have diverted their goods to other markets
 - compared to 2020, exports of targeted goods to China fell by \$13.6 billion in 2021, while exports of these goods to the rest of the world grew by \$34.0 billion. Compared to 2019 [pre-COVID, pre-trade restrictions], in 2021 exports of targeted goods to China fell \$21.0 billion, while exports of these goods to the rest of the world increased by \$19.2 billion.
 - despite this, we don’t underestimate the challenges faced by some exporters, including in the wine, lobster and logs sectors.

Is China using economic coercion against Australia?

- We are concerned by the significant increase in disruptive and restrictive measures implemented by China on a wide range of Australian exports
 - China’s comments linking its trade actions to political issues are very troubling.
- As Minister Tehan has said [*17 December 2021 Interview with ABC Radio National*], we want to work constructively with China to resolve trade disruptions
 - and remain open to dialogue without preconditions.
- China has said it is committed to open trade and the multilateral trading system
 - we expect China to conduct its trade relationship with Australia and all countries in a manner consistent with that commitment.

What is Australia doing to push back against economic coercion?

- As the Prime Minister has said, “we want to maintain an open, rules-based international system that allows all nations to flourish – free from coercion” [*World Economic Forum, 21 January 2022*]
 - we need to take a collective approach in calling out unfair trade practices, and ensure there are costs when countries use economic coercion
 - : we are working with like-mindeds, particularly at the WTO, to question trade practices that do not appear consistent with rules-based trade

- while also working with business to manage risks generated by uncertainty in the current environment.
- as Minister Payne has said, “by standing clearly on our values, our interests and sovereignty, we can give confidence to others... we can support the resilience of those countries in fields in which they might be vulnerable to malign influence or coercion, areas such as cyber security and critical technology, infrastructure, trade, economics and defence.” [AUKMIN Press Conference, 21 January]
- as Minister Tehan has said, we have “taken a very strong stand when it comes to our current disputes with China, because of our strong belief in the global trading rules” [AFR, 27 January]

Background

Bilateral

Most recent ministerial interaction

Foreign Minister Payne last spoke with Foreign Minister Wang Yi in January 2020 ^{s33(a)(iii)}

Their last in-person meeting was on 24 September 2019 in New York on the sidelines of the United Nations General Assembly.

^{s33(a)(iii)}

Prime Minister Morrison last met with Premier Li in November 2019 during the East Asia Summit in Thailand.

China’s 14 Grievances

In November 2020, the Chinese Embassy in Canberra ‘leaked’ a list of grievances, as follows:

- | | |
|--|---|
| • Foreign investment decisions | • Siding with the US on COVID-19 |
| • Huawei ban | • Belt and Road Initiative cancellation under the Foreign Arrangements Bill |
| • Counter foreign interference legislation | • Funding for ASPI |
| • Visa cancellations of Chinese scholars | • Raids on Chinese journalists |
| • Call for independent COVID-19 inquiry | • Cyber attributions |
| • Interference on Xinjiang, Hong Kong and Taiwan | • Racist attacks on ethnically Chinese people and the CCP |
| • South China Sea statements | • Negative media reporting on China |

Peng Shuai

In an interview on 7 February, Peng Shuai denied having accused former Vice-Premier Zhang Gaoli of sexual assault and said that concerns over her wellbeing had been “an enormous misunderstanding.” IOC President Thomas Bach had dinner with Ms Peng on 5 February.

On 8 February, the Women’s Tennis Association (WTA) released a statement saying “It’s always good to see Peng Shuai, whether in an interview or attending the Olympic Games. However, her recent in-person interview does not alleviate any of our concerns about her initial post from November 2nd. We continue to hold firm on our position.”

s33(a)(iii), s47E(d)

Supporting information

Questions on Notice

Estimates: 28 October 2021

- In QoN 018, Beijing Olympics, Senator Rex Patrick (IND, SA) asked about attendance by Australian ministers and officials at the Olympics.
- In QoN 106, Senator Rex Patrick (IND, SA) asked about the Foreign Minister's direct contact with the Chinese Ambassador.
- In QoN 008, Senator Rex Patrick (IND, SA) asked about when the Foreign Minister last had direct contact with her Chinese counterpart.

Freedom of Information (FOI) Requests

- On 17 December 2021, Treasury released documents relating to the economic impact of China's trade restrictions on the Australian economy. Prior to release, EEB reviewed the documents and did not identify any material which should be withheld from release.

Recent Ministerial Comments

- On 1 February 2022, the Defence Minister said "I don't want to see a clash, particularly between great powers. And I think again, we're better off to be frank in our assessments and to argue from a position of strength, not weakness, because otherwise, we will find ourselves in conflict in the Indo-Pacific, and that's not what anybody wants."
- On 27 January 2022, the Trade Minister said "What we are seeing more and more is clear evidence that economic coercion doesn't work. That does work to Australia's favour because obviously we have taken a very strong stand when it comes to the current disputes we have with China because of our strong belief in the global trading rules."
- On 25 January 2022, the Prime Minister said "The Australia-China relationship is important to Australia... we will, of course, remain absolutely open and available to meet, to discuss, any of the issues that have been identified. But those discussions, as I've made clear won't take place on the base of any sort of pre-emptive concessions on Australia's part on those matters... It's an important relationship, but it is a relationship that will be pursued on the basis of Australia's national interests, and without in any way compromising Australia's sovereignty."
- On 24 January 2022, the Treasurer said "Australia has certainly been at the receiving end of economic coercion... from China, when they've targeted our exports."
- On 21 January, in his World Economic Forum address, the Prime Minister said "We want to maintain an open, rules-based international system that allows all nations to flourish - free from coercion" and "Australia has experienced the effects of economic protectionism and coercive interests targeted towards Australia. As a trading nation, we have simply sought to held firm to our values. But this has not been without cost. I believe it has also come at a significant cost to the countries which implement such measures."
- On 21 January 2022, at the AUKMIN press conference, the Foreign Minister said "we can support the resilience of those countries in fields in which they might be vulnerable to malign influence or coercion, areas such as cyber security and critical technology, infrastructure, trade, economics and defence."
- On 21 January 2022, at the AUKMIN press conference, the Defence Minister said "And if you look at... other countries where there's been economic coercion or activities otherwise, it takes, I think, many countries to come together to call out that behaviour."
- On 1 January 2022, when asked about reporting that China's Foreign Minister wanted the bilateral relationship back on-track, the Prime Minister said "I'm always optimistic, I'm always hopeful, I'm always positive. I would certainly welcome that. That would begin with leader level and ministerial level discussions which we're ready and open

for, and we're happy to do those. And as soon as those occur, then I think you would see that being fulfilled. That's not an obstacle at the Australian end."

- On 17 December 2021, the Trade Minister said "Obviously, we're very keen for that [meeting between Australian business and Chinese business through the Australia China Business Council] constructive engagement. I wrote to my Chinese counterpart at the beginning of this year seeking that constructive engagement, and we're waiting patiently for that response."
- On 10 December 2021, the Defence Minister said "I don't think people can turn a blind eye any longer to the human rights abuses we are seeing with the Uyghurs. People are gravely concerned... We've seen an international tennis star claim to be sexually assaulted and raped, and then we see her social media account cleared. She's effectively under house arrest and trotted out for scripted lies... We want to see a fantastic games. We want China to be the best possible friend and neighbour and participant. They're a great world power. For our country, though, we have joined with others, including the United States and Canada, to send a very clear message... I think there will be many other countries who do the same."
- On 8 December 2021, when asked about the diplomatic boycott of the Winter Olympics, the Prime Minister said "the human rights abuses in Xinjiang and many other issues that Australia has consistently raised ... the Chinese government has consistently not accepted those opportunities for us to meet about these issues. So it is not surprising, therefore, that Australian government officials would, therefore, not be going to China for those Games" and "Australia's a great sporting nation and I very much separate the issues of sport and these other political issues. They're issues between two governments."
- On 25 November 2021, when asked about Peng Shuai and Australian Government representation at the Olympics, the Minister for Sport said "this is a matter that needs to be responded to with transparency and accountability...A decision on Commonwealth representation at the Beijing Winter Olympics is yet to be made."

Relevant Media Reporting

- High level of media interest on a range of China-related issues.

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| Division: EAD | |
| PDR No: SB22-000026 | |
| Prepared by: s22 Mob: s22 Ext: s22 Date: 7 February 2022 | Cleared by Branch/Division Head: FAS EAD Elly Lawson Mob: s22 Ext: s22 Date: 7 February 2022 |
| Consultation: N/A | |
| Cleared by CFO / CPO: N/A | |
| Cleared by Deputy Secretary: Justin Hayhurst Date: 9 February 2022 | |

Questions on notice referred to within the hot topic brief:

018 – Supplementary Budget Estimates

Topic: Beijing Olympics

Senator Rex Patrick

Question

Will any Australian Ministers or officials be attending the Beijing Winter Olympics?

Answer

As the Prime Minister said on 8 December 2021, the Australian Government will not send official representation to the Beijing Winter Olympics or Paralympics. Australian athletes are participating.

The Australian Embassy in Beijing is providing all necessary consular assistance and support to Australians participating in the Games.

106 – Supplementary Budget Estimates

Topic: Contact with Chinese Ambassador

Senator Rex Patrick

Question

When was the Foreign Minister's last direct contact with the Chinese Ambassador to Australia?

Answer

The last direct contact between the Minister for Foreign Affairs and the former Ambassador of China, His Excellency Mr Cheng Jingye, was 23 June 2021 at the farewell for the former Secretary of the Department of Foreign Affairs and Trade, Frances Adamson.

[008 – Supplementary Budget Estimates](#)

[Topic: Contact with Chinese counterpart](#)

[Senator Rex Patrick](#)

Question

When was the Foreign Minister's last direct contact with her Chinese counterpart?

Answer

The last direct contact between the Minister for Foreign Affairs and her counterpart, State Councilor and Minister for Foreign Affairs Wang Yi, was a telephone conversation in January 2020.

Between 1 January 2021 and 28 October 2021, the Minister for Foreign Affairs sent two letters to State Councilor Wang Yi, and State Councilor Wang Yi sent one letter to the Minister for Foreign Affairs.

