



Bilateral Investment Treaty Reform Coordinator
Trade Law and Economic Security Division
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

Date: 20 Mar 2025

By email: BITreformsubmissions@dfat.gov.au

Dear Bilateral Investment Treaty Reform Coordinator at DFAT

Subject: Renegotiation of Australia's Bilateral Investment Treaties with Argentina, Pakistan, and Türkiye

I am reaching out on behalf of the [Business Council for Sustainable Development Australia \(BCSDA\)](#), in our role as a pivotal advocate for sustainable development within the business sector and as a global network partner of the [World Business Council for Sustainable Development \(WBCSD\)](#).

Our collective mission is to champion sustainable business practices that are not only globally recognized but also carefully adapted to meet the unique demands of the Australian landscape.

Outlined in the following pages is our feedback to the Consultation you have requested on the **Subject**. We thank you for the opportunity to make these submissions.

We confirm our submission can be made public.

Our submission includes separate feedback documents for each country with following titles:

- Australia-Argentina BIT
- Australia-Pakistan BIT
- Australia-Türkiye BIT

Yours faithfully,



Business Council for Sustainable Development Australia

Executive Summary

BCSDA welcomes the Department of Foreign Affairs and Trade's initiative to modernise and update Australia's Bilateral Investment Treaties (BITs) with Argentina, Pakistan, and Türkiye. In line with Australia's long-term domestic and international sustainability commitments, BCSDA's recommendations centre on promoting a balanced approach that safeguards regulatory autonomy, fosters responsible and future-oriented investment, and upholds the national interest.

Across all three treaties, BCSDA advocates for **explicit right-to-regulate provisions** that protect legitimate public policy measures related to health, environment, and broader societal objectives. Further, **clear carve-outs** for sensitive sectors—such as national security, cultural industries, and taxation—are emphasized to ensure policy space is maintained. Investor protections should remain robust, particularly regarding Fair and Equitable Treatment and expropriation clauses, but these must be carefully calibrated to avoid undermining Australia's regulatory autonomy or encouraging speculative claims.

BCSDA supports **reformed dispute settlement mechanisms** that incorporate modern safeguards, including transparency, mandatory exhaustion of local remedies, and the option of mediation or conciliation. Such reforms would strengthen procedural fairness, discourage frivolous claims, and preserve governments' capacity to implement legitimate public interest measures. Building on shared strategic and economic interests, each revised BIT should **prioritise sector-specific facilitation** in key areas—such as renewable energy, sustainable mining, digital innovation, and infrastructure—to attract high-quality foreign direct investment aligned with Australia's environmental and developmental objectives.

Finally, BCSDA underscores the importance of **future-proofing** these agreements. Regular treaty reviews, dynamic references to emerging standards (e.g., ESG criteria), and alignment with international climate commitments will ensure that the BITs can adapt to evolving economic, social, and technological landscapes. By modernising these treaties in a way that balances openness with regulatory safeguards, Australia can foster sustainable growth, advance its national interests, and reinforce its position as a responsible global economic partner.

Acknowledging the Evolution of Australia's Bilateral Cooperation with Argentina, Pakistan, and Türkiye

Argentina

Since 1997, both countries have undergone significant changes, impacting the BIT's relevance and implementation:

- **Economic Developments in Argentina:** Argentina's economy has seen fluctuations, with GDP growth varying from -10.9% in 2002 (post-2001 crisis) to peaks like 8.8% in 2010. The services sector has grown, and agriculture remains vital, but challenges like high inflation and external debt persist. Australian trade and investment have focused on agribusiness and sustainable mining, as noted in [Argentina country brief](#).
- **Political Landscape:** Argentina has experienced periods of civilian and Peronist governments, with ongoing tensions over economic policy and social unrest affecting investor confidence. Australia's engagement has evolved, with increased focus on counterterrorism cooperation, as seen in multilateral forums like the G20.
- **Disputes Under the BIT:** No high-profile disputes have been reported under the Australia-Argentina BIT, but Argentina has faced numerous investment arbitrations under other BITs, such as those with the US and Germany, highlighting the BIT's role in protecting investments. This absence of disputes under this specific BIT is an unexpected detail, given Argentina's history of investment disputes.
- **Geopolitical Dynamics:** The geopolitical landscape has shifted, with China's increasing influence in Argentina affecting bilateral relations. Australia's foreign policy has adapted, focusing on regional stability and economic partnerships, which may influence future negotiations under the BIT.

Pakistan

Since 1998, both countries have undergone significant changes, impacting the BIT's relevance and implementation:

- **Economic Developments in Pakistan:** Pakistan's economy has seen fluctuations, with GDP growth varying from -0.04% in 2023 to peaks like 6.51% in 2021. The services sector has grown, and agriculture remains vital, but challenges like high inflation and external debt persist. Australian trade and investment have focused on agribusiness and sustainable mining, as noted in [Pakistan country brief](#).
- **Political Landscape:** Pakistan has experienced periods of civilian and military rule, with ongoing tensions over Kashmir and security issues affecting investor confidence. Australia's engagement has evolved, with increased focus on counterterrorism cooperation, as seen in the Pakistan-Australia Joint Working Group on Border Management.
- **Disputes Under the BIT:** A significant development was the Tethyan Copper Company v. Pakistan case, initiated under the BIT, where an ICSID tribunal awarded over USD 5.9 billion to the Australian company in 2019 for breaches related to a mining joint venture in Balochistan. This case, detailed at [Tethyan Copper v. Pakistan](#), underscores the BIT's role in protecting investments and resolving disputes, but also highlights tensions over resource governance in Pakistan.

- **Geopolitical Dynamics:** The geopolitical landscape has shifted, with the war on terror and China's increasing influence in Pakistan affecting bilateral relations. Australia's foreign policy has adapted, focusing on regional stability and economic partnerships, which may influence future negotiations under the BIT.

Türkiye

Since 2009, both countries have undergone significant changes, impacting the BIT's relevance and implementation:

- **Economic Developments in Turkey:** Turkey's economy has seen fluctuations, with GDP growth varying from -2.8% in 2009 (due to the global financial crisis) to peaks like 11.1% in 2011 but also facing a financial crisis in 2018 with high inflation and currency depreciation. Australian trade and investment have focused on agribusiness, mining, and energy, as noted in [Turkey country brief](#). In 2012, Australian investment in Turkey was \$989 million, and by 2023, exports to Turkey reached \$1.17 billion, with imports at \$991 million.
- **Political Landscape:** Turkey has experienced continued governance by the AKP, with Recep Tayyip Erdoğan as president since 2014, and increasing authoritarianism, affecting investor confidence. Australia's engagement has evolved, with increased focus on counterterrorism cooperation, as seen in multilateral forums like the G20 and MIKTA (Mexico, Indonesia, Korea, Türkiye, Australia) forum.
- **Disputes Under the BIT:** No high-profile disputes have been reported under the Australia-Turkey BIT, which is an unexpected detail given Turkey's history of investment disputes with other countries.
- **Geopolitical Dynamics:** The geopolitical landscape has shifted, with Turkey's relations with NATO and the EU affecting bilateral relations. Australia's foreign policy has adapted, focusing on regional stability and economic partnerships, which may influence future negotiations under the BIT.

BCSDA's Responses to Specific Feedback Sought in Consultation

Please refer the accompanied documents

- Australia-Argentina BIT
- Australia-Pakistan BIT
- Australia-Türkiye BIT

References

- [Agreement text between Australia and Argentina on Promotion and Protection of Investments](#)
- [Australia's bilateral investment treaties overview](#)
- [Argentina country brief by DFAT](#)
- [Economic history of Argentina detailed analysis](#)
- [Discussion Paper on BIT Review by DFAT](#)
- [World Bank Data on Argentina](#)
- [Australia - Pakistan BIT \(1998\) details](#)
- [Australia's bilateral investment treaties overview](#)
- [Agreement text on AustLII](#)
- [Pakistan country brief by DFAT](#)
- [BHP Billiton in Pakistan details](#)
- [Pakistan Economy Report 1998](#)
- [Tethyan Copper v. Pakistan case details](#)
- [Discussion Paper on BIT Review by DFAT](#)
- [World Bank Data on Pakistan](#)
- [Agreement text between Australia and Turkey on Reciprocal Promotion and Protection of Investments](#)
- [Australia's bilateral investment treaties overview](#)
- [Turkey country brief by DFAT](#)
- [Discussion Paper on BIT Review by DFAT](#)
- [Economic history of Turkey detailed analysis](#)
- [World Bank Data on Turkey](#)