



Senator the Hon Simon Birmingham

Minister for Trade, Tourism and Investment
Deputy Leader of the Government in the Senate
Senator for South Australia

Our Ref: MC20-005044

The Hon Madeleine King MP
Shadow Minister for Trade
Federal Member for Brand
Parliament House
CANBERRA ACT 2600

Dear Ms King

Madeleine,

Thank you for your letter of 15 June 2020 regarding the commitments I made in my letter to you of 21 October 2019. I am pleased to advise the following:

- Since October 2019, the Government has taken steps to terminate four of Australia's older-style bilateral investment treaties (BITs). The BITs with Hong Kong and Peru were terminated in January and February respectively, following the entry into force of FTAs with those countries. An Exchange of Letters to terminate the Indonesia BIT was tabled in Parliament in May and, subject to the conclusion of the relevant Joint Standing Committee on Treaties (JSCOT) process, the Government is hopeful that this BIT will terminate when IA-CEPA enters into force on 5 July. After tabling its response to the JSCOT report on the updated Uruguay BIT on 16 June, the Government will shortly send its Third Party Note to Uruguay notifying them of our completion of our ratification process. The Government is liaising with Uruguay to bring this treaty into force and thereby terminate the 2002 Uruguay BIT as soon as possible. The Government also tabled on 16 June its response to the JSCOT report on the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (Mauritius Convention). The Mauritius Convention improves transparency in certain investment treaties. Australia plans to complete its ratification process on the Mauritius Convention in the near future. Late last year the Government announced funding, from 1 July 2020, to review and update, where possible, Australia's remaining network of 14 older-style BITs. Additionally, the Government will take the opportunity, as part of the periodic reviews of existing FTAs, to review FTA investment provisions.
- The Government established the Migrant Workers Interagency Group within the Attorney-General's Department (AGD) to guide implementation of the Migrant Workers Taskforce's recommendations. Work on implementation is ongoing. Responses to Taskforce recommendations concerning changes to the industrial relations compliance framework, including legislating criminal penalties for the worst forms of worker exploitation, are being progressed through the compliance and enforcement working group established as part of the Government's JobMaker initiative. I also note that serious forms of labour exploitation are

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covered by the human trafficking and slavery-like offences set out in the Criminal Code Act, and are referred to the Australian Federal Police via an established referral protocol.

- The Department of Home Affairs (DHA) has implemented a number of initiatives to enhance awareness of workplace rights and entitlements, via: inclusion of information in visa grant notices; distribution of information brochures to visa holders; provision of Fair Work Ombudsman (FWO) contact details via emails and on DHA's website; and a social media campaign, sharing website notifications with FWO related to Migrant Workers and the COVID-19 pandemic.
- DHA and the FWO are continuing implementation of a number of actions from a 2018 review of the inter-agency Assurance Protocol to support and encourage migrant workers to come forward with their workplace complaints in order to improve its design, operation and promotion. In accordance with the Assurance Protocol, temporary visa holders who have breached the work-related conditions of their visa will generally not have their visa cancelled if they: have reported their circumstances to the FWO and are actively assisting with an investigation; commit to abiding by visa conditions in the future; and there are no other grounds for visa cancellation (such as on national security, character, fraud or health grounds).
- The Government continues to monitor the situation in Hong Kong and regularly raises our support for its autonomy under the One Country, Two Systems framework, including following recent announcements that Beijing will introduce National Security Legislation for Hong Kong. Earlier this year, as you are aware, I welcomed the entry into force of the Australia-Hong Kong Free Trade Agreement (A-HKFTA) and associated Investment Agreement, which reaffirmed Hong Kong's unique status under One Country, Two Systems. We see these agreements as supporting Hong Kong's autonomy that has underpinned Hong Kong's success. In recognition of Hong Kong's unique status Senator the Hon Marise Payne, Minister for Foreign Affairs and Minister for Women, along with the Honourable Francois-Philippe Champagne, Minister of Foreign Affairs, Canada, the Rt Honourable Dominic Raab, MP, Secretary of State for Foreign and Commonwealth Affairs and First Secretary of State, United Kingdom, and Mr Mike Pompeo, Secretary of State, United States issued a joint statement regarding our deep concern with Beijing's decision to impose a national security law in Hong Kong.
- The Minister for Foreign Affairs and Minister for Women, Senator the Hon Marise Payne, has referred to the Joint Standing Committee on Treaties (JSCOT) an inquiry into the following matters: considering the role of JSCOT in respect of trade-related agreements, including during the negotiation phase; considering the consultation process undertaken by the Department of Foreign Affairs and Trade (DFAT) before and during the negotiation of trade agreements; considering the effectiveness of independent analysis to inform negotiation or consideration of trade agreements; and reviewing process around the categorisation of treaty actions. The Government proposed a reporting date of end-2020 for JSCOT's inquiry.

In further support of improving transparency in trade agreements, we have also recently instituted a pilot of briefings on the European Union (EU) Free Trade Agreement (FTA) with the Trade Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT). The first of these briefings took place on Thursday 11 June. This week, we have also announced the establishment of a Ministerial Advisory Council (MAC) which will provide its members, drawn from across industry and community and including the Australian Workers' Union, the opportunity to engage directly with our negotiators and have robust two-way dialogue on the shape of the developing agreement.

I confirm there has been no change to the Government's position on the other commitments made to you in my letter of 21 October relating to the inclusion of ISDS in the mandated review of IA-CEPA,

labour marketing testing, privatisation of public services and assets, and to maintain the safeguards negotiated ahead of the passage of the China-Australia Free Trade Agreement (ChAFTA).

I thank you for your continued constructive engagement on these issues.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Simon Birmingham', with a long, sweeping horizontal stroke extending to the right.

Simon Birmingham

18 JUN 2020