

# Australia-China monthly wrap-up

February 2024



## Key points:

- **A Beijing court gives Australian citizen Yang Hengjun a suspended death sentence, with the possibility of commutation to life imprisonment subject to good behaviour.** Dr Yang waives his right to appeal. Australian government advocacy continues on Dr Yang's behalf
- **High-level bilateral dialogue continues: Australia invites PRC Foreign Minister Wang Yi to visit in the second half of March; Trade Minister Don Farrell meets PRC Commerce Minister Wang Wentao**
- **The PRC's review of tariffs on Australian wine is 'on track' for completion at the end of March,** Australia will resume its challenge at the WTO if the duties are not lifted
- **Foreign interference test case results in conviction.** A Victorian businessman becomes the first person tried and convicted for preparing or planning an act of foreign interference in Australia, sentenced to a minimum of one year in jail
- **ASIO's annual threat assessment states that espionage and foreign interference have 'surpassed terrorism as Australia's principal security concern'**
- **Australia deepens maritime security cooperation with the Philippines as Beijing intensifies aggressive tactics in the South China Sea**
- **In the face of the PRC's military expansion, Australia decides to more than double its naval surface fleet.** Concerns are raised about a capability gap in the short to medium-term
- **A group of prominent Australians urge the Albanese government to support détente between the PRC and the US** through activist middle power diplomacy

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## Sentencing of Yang Hengjun

On February 5, the Beijing No. 2 Intermediate People's Court [handed down](#) a suspended death sentence to Yang Hengjun, an Australian citizen detained in the People's Republic of China (PRC) since January 2019 on charges of espionage.

The final verdict and sentence had been subject to repeated delays since Dr Yang's closed-door trial in May 2021, a secretive affair that [denied](#) Australian diplomatic representatives entry. The sentence could be commuted to life imprisonment after two years subject to good behaviour.

In announcing the decision, Foreign Minister Penny Wong [stated](#) that the Australian government was 'appalled' at the decision, describing it as 'harrowing news'. She said the government would be 'communicating our response in the strongest terms' and that it '[would] not relent' in its advocacy for Dr Yang.

Prime Minister Anthony Albanese [said](#) that 'we have conveyed, firstly, to China our dismay, our despair, our frustration, but to put it really simply, our outrage at this verdict.'

In a [media release](#), Opposition Leader Peter Dutton and Shadow Foreign Minister Simon Birmingham described the development as ‘deeply distressing’ and called on the Australian government to ‘defend the rights of Dr Yang and apply the most effective diplomatic steps to ultimately secure his release and return to Australia.’

Senator Birmingham also [characterised](#) Dr Yang’s detention to date as ‘arbitrary detention’, and his charge as ‘politically motivated’. He [added](#) in a later interview that ‘This is a real reality check moment in relation to the relationship’.

Foreign Minister Wong, asked whether the sentence was ‘also about sending a message to people who would criticise the regime, or is it any way targeted at Australia’, [replied](#), ‘I don’t think it’s helpful to Dr Yang, or necessarily for Australia’s national interest, for the Foreign Minister to engage in those sorts of hypotheticals.’

In brief [remarks](#) on the Australian government response, a PRC Foreign Ministry spokesperson stated, ‘Chinese judicial authorities handle cases in accordance with the law. We urge Australia to fully respect China’s judicial sovereignty.’

The language used by Australian government ministers in reaction to Beijing’s decision was a departure from its usual studiously neutral, restrained public rhetoric. The Foreign Minister [explained](#) that ‘the nature of this sentence was such that it was important for us to speak publicly and directly from me and to make those representations – ahead of those representations being made in private.’

However, further public comment on the matter by the Australian government beyond what had already been expressed is likely to be minimal. Asked, for example, whether the government would cancel its invitation to PRC Premier Li Qiang following the sentence, the Prime Minister said, ‘We’ll respond directly and clearly and unequivocally to China. What we won’t do is conduct diplomatic negotiations through the media.’

While the PRC Ambassador to Australia was summoned to a meeting with Department of Foreign Affairs and Trade Secretary (DFAT) Jan Adams for an explanation, Senator Wong [ruled out](#) recalling Australia’s ambassador from Beijing. She said, ‘We’ve made it very clear that we will continue to engage with China’. Later in the month she [told](#) Senate Estimates:

We disagree with China on this outcome. .. We do know we have vastly different systems. It doesn’t mean that we won’t continue the dialogue. I would say that our national interest requires us to engage. I would say that Dr Yang’s interests require us to continue to engage.

Asked on the same day how she saw Dr Yang’s plight in the context of the Australian government’s pursuit of stabilisation, the Foreign Minister [replied](#), ‘When we said we wanted to stabilise ties, we didn’t assume it wouldn’t mean we would have differences or we wouldn’t experience problematic developments. It did mean that we would work to have avenues to be able to navigate those issues.’

DFAT Secretary Jan Adams [said](#) at the same hearing:

[W]e will use all channels of communication to advocate for Dr Yang’s interests... I think it is important that we have been able to re-establish quite a few of our previously routine touchpoints with the Chinese system.

The [Opposition Leader](#) and [Shadow Foreign Minister](#) also refrained from suggesting an ambassadorial recall. Senator Birmingham [said](#) that while it was important that ‘the outrage felt across Australia is heard very clearly in Beijing’ it was also important ‘make sure that each step is calibrated... in a way that puts [Dr Yang’s] best interests first and foremost’.

Dr Yang waived his right to appeal the verdict, with the February 15 appeal deadline passing without action. An [open letter](#) from his family and supporters explained the rationale for the decision: ‘There are no grounds to believe that the system that enabled Yang’s sustained torture and fabricated the charge against him is capable of remedying the injustice of his sentence’. The letter went on to say, ‘Commencing an appeal would

only delay the possibility of adequate and supervised medical care, after five years of inhumane treatment and abject medical neglect.’

While the government has been reticent to share granular details pertaining to Dr Yang’s health, Foreign Minister Wong said the government was ‘very seized’ of his condition and would ‘continue to advocate... to obtain treatment’. DFAT officials [noted](#) they ‘share[d] the concerns of Dr Yang’s family regarding access to appropriate healthcare and his conditions in detention.’

A DFAT official [told](#) Senate Estimates that ‘To date, in the order of 200 representations have been made on behalf of Dr Yang. We will continue that now.’

At the end of the month, Trade Minister Don Farrell raised the case during a meeting with PRC Commerce Minister Wang Wentao, [stating](#) ‘We made it very clear that we disprove of the decision that the Chinese authorities made in respect of Dr Hengjun.’

### **Expected visit by PRC Foreign Minister Wang Yi**

At the end of the month, the *South China Morning Post* [reported](#) that PRC Foreign Minister Wang Yi had been invited to Australia for a two-day visit in the second half of March. The visit would come ahead of a visit by PRC Premier Li, which the ABC [reported](#) could possibly occur in the middle of the year.

Asked about the expected visit by Mr Wang, the PRC Foreign Ministry [said](#) they had ‘nothing to offer at the moment’.

### **The economic relationship overall**

#### *Meeting between Australian and PRC trade ministers*

Trade Minister Farrell [travelled](#) to Abu Dhabi to attend the 13<sup>th</sup> World Trade Organization Ministerial Conference on February 26-29, meeting with PRC Commerce Minister Wang Wentao on the conference sidelines.

The Trade Minister in [comments](#) to *The Australian Financial Review* said that the February 26 meeting had gone ‘very well’ and that he and his counterpart were ‘talking about more meetings, more discussions, more trade.’ He said further, ‘Just because we’re doing \$300 billion worth of two-way trade at the moment doesn’t mean that figure can’t be \$400 billion.’

He also expressed confidence that political issues that had emerged over the month would not have a major impact on the bilateral trade relationship. The same *Financial Review* article stated that Senator Farrell told the news outlet ‘that the latest fracas over Chinese espionage and interference in Australia was unlikely to throw up a new obstacle to his target [of dismantling Beijing’s remaining trade restrictions] because trade and security issues were typically largely siloed.’ (For further discussion see ‘Foreign interference’).

#### *Wine*

With the end of the PRC’s five-month review of tariffs on Australian wine looming, the Trade Minister [said](#) that his PRC counterpart ‘made it clear’ during their meeting in Abu Dhabi Beijing’s processes were ‘on track’ and the review expected to be completed by the end of March.

Senator Farrell said that Australia would ‘immediately resume’ its challenge against the PRC’s tariffs in the WTO if the PRC did not remove its tariffs on Australian wine by March 31.

#### *Lobster*

Commenting on the PRC’s continuing restrictions on Australian lobster exports, the Trade Minister [said](#) the issue was multi-layered, necessitating at first instance the lifting of restrictions by Beijing, then the organisation of air freight flights: ‘Firstly, we’ve got to get the approval to get back into to China. But secondly,

Cathay Pacific has to start flying again. And they haven't been since COVID. So there are a few issues there that we need to resolve'.

### *Meat*

On February 15, the Trade Minister [told](#) Senate Estimates that while 'There are still a couple of small companies which have some difficulties with labelling but, by and large, we have largely resolved the meat issue.'

## **Comprehensive and Progressive Agreement for Trans-Pacific Partnership**

Questioned at Senate Estimates on whether there had been 'any discussion about linking China's membership of the CPTPP [Comprehensive and Progressive Agreement for Trans-Pacific Partnership] to removing [remaining trade impediments on Australian exports]', Senator Farrell [replied](#), 'No, we do not do those types of transactions. This is not a transactional arrangement.' He also stated that such a linkage had not been put to him in his meetings with PRC representatives.

## **Critical minerals**

### *Trade talks with the United Arab Emirates*

While in Abu Dhabi, Trade Minister Farrell started discussions with his United Arab Emirates (UAE) counterpart on a new trade deal with a major focus on investment in Australia's renewable energy sector, including in the extraction and processing of critical minerals. He [said](#), 'The UAE have massive sovereign wealth funds. We need investment in our mines to extract the mines, to process the minerals, to export the minerals.'

A major [objective](#) of the Australian government's [Critical Minerals Strategy 2023–2030](#) is to reduce the PRC's dominance of global supply chains.

### *Lithium processing hurdles*

On February 27, [The Australian Financial Review reported](#) that lithium producer Albemarle had flown in workers from the PRC in order to address issues with its lithium processing plant in Western Australia.

Albemarle's chief executive told the news outlet that 'China is good at this ... there's a machine in China that's just very good at this', adding that the company was now training its plant workforce 'more or less from scratch for chemical processing'.

## **Foreign interference**

### *Foreign interference test case*

On February 29, after a month-long trial, Victorian businessman Di Sanh Duong was convicted of preparing or planning an act of foreign interference in seeking to influence former Coalition minister Alan Tudge. Mr Duong was the first person to be tried and convicted under Australia's foreign interference legislation, passed in 2018.

Central to the case was a \$37,450 donation for the Royal Melbourne Hospital handed to Mr Tudge. The [judgement](#) stated that Mr Duong 'deliberately selected Minister Tudge' because he 'believed that [Mr Tudge] could potentially be persuaded to influence Australian Government policy in a manner favourable to the Chinese Communist Party.'

The judgement noted that it was 'sufficient for the jury to have found that [Mr Duong] intended that the relevant future conduct would be engaged in "on behalf of" the Chinese Communist Party', and that a finding that Mr Duong 'intended that the relevant future conduct would be engaged in in "collaboration" with the Chinese Communist Party was not essential'.

The judgement also stated that the case ‘amounts to a serious example of an inherently serious offence’ and ‘the degree of need for a sentence that has the capacity to deter others from similar offending conduct is high.’

Mr Duong was sentenced to two years and nine months imprisonment, with possible release after serving a year with the payment of a \$3,000 four-year good behaviour bond.

#### *ASIO annual threat assessment*

On February 28, Australian Security Intelligence Organisation (ASIO) Director-General Mike Burgess delivered his [annual threat assessment](#). He stated that espionage and foreign interference had ‘surpassed terrorism as Australia’s principal security concern’. He said:

We have come full circle. While the terrorism threat level is possible, if we had a threat level for espionage and foreign interference it would be at certain – the highest level on the scale.

...

Australians need to know that the threat is real. The threat is now. And the threat is deeper and broader than you might think.

Mr Burgess said his speech aimed ‘to shine a disinfecting light on the tactics our adversaries use, so potential targets are better able to identify and resist overtures.’

He spoke of a spy ring from an unnamed country who ‘trawl[ed] networking sites looking for Australians with access to privileged information’, as well as made approaches ‘through email, social media and messaging platforms.’ He also cited a case ‘several years ago’ of the same spy ring cultivating and recruiting a former Australian politician, asserting that ‘This politician sold out their country, party and former colleagues to advance the interests of the foreign regime.’

Mr Burgess also made specific mention of a situation in which the spy ring used a conference to build relationships with academics and political figures, resulting in one academic providing ‘information about Australia’s national security and defence priorities’ and an aspiring politician providing ‘insights into the factional dynamics of his party, analysis of a recent election and the names of up-and-comers’.

While Mr Burgess in his speech, and subsequent interviews, had refrained from naming the spy ring’s country of origin, *The Sydney Morning Herald* [reported](#) it had confirmed the unit in question was a division of the PRC’s Ministry of State Security.

Mr Burgess also expressed concerns about cyber sabotage, saying that ASIO was ‘aware of one nation state conducting multiple attempts to scan critical infrastructure in Australia and other countries, targeting water, transport and energy networks.’ He stated, ‘We assess this government is not actively planning sabotage, but is trying to gain persistent undetected access that could allow it to conduct sabotage in the future.’

While the nation remained unnamed, the observation seemed to echo an American assessment from the beginning of the month. On February 1, FBI Director Christopher Wray [told](#) a US congressional committee that ‘China’s hackers are positioning on American infrastructure in preparation to wreak havoc and cause real-world harm to American citizens and communities, if or when China decides the time has come to strike’.

The ASIO Director-General provided an update on Australia’s Counter Foreign Interference Taskforce, stating it had conducted more than 120 operations since its formation in mid-2020, with many of its activities focused on stopping ‘attempts to monitor and harass members of Australia’s diaspora communities’.

He also flagged that ASIO would later in the year ‘publish a framework to help organisations build and maintain a robust security culture.’

## Regional relationships – Southeast Asian nations

### *Philippines*

President Ferdinand Marcos Jr travelled to Canberra for his first official [visit](#) to Australia on February 28-29. The issue of maritime security in the South China Sea featured prominently during the trip.

In his [welcome remarks](#), Prime Minister Albanese said that for both Australia and the Philippines ‘the United Nations Convention on the Law of the Sea is not an abstract notion or a theoretical question.’ He said further, ‘Freedom of navigation is fundamental to our sovereignty, our prosperity, our security and our territorial integrity.’

In an [address](#) to a joint sitting of parliament, President Marcos said:

I shall never tire of repeating the declaration that I made from the first day that I took office: I will not allow any attempt by any foreign power to take even one square inch of our sovereign territory.

The challenges that we face may be formidable, but equally formidable is our resolve.

We will not yield.

Then as now, the security and continued prosperity of the region – of countries like Australia – relies upon that effort.

During the visit, Prime Minister Albanese and President Marcos [signed](#) three memoranda of understanding (MoUs) including an MoU on enhanced maritime cooperation to ‘strengthen... existing civil and defence maritime commitments’.<sup>1</sup> The Prime Minister [said](#) this encompassed ‘civil maritime security, marine environment protection, maritime domain awareness and promoting respect for international law.’

## Regional relationships – Pacific Island nations

### *Papua New Guinea*

During a [visit](#) to Australia on February 7-9 for the fifth Papua New Guinea–Australia Annual Leaders’ Dialogue, Papua New Guinea’s Prime Minister James Marape became the first Pacific Island leader to address Australian parliament. He was also the first foreign leader to deliver an in-person address since 2020. This followed Prime Minister Albanese delivering the first ever address by a foreign head of government to Papua New Guinea’s parliament in January 2023.

In an [interview](#) with *The Australian* ahead of his visit, Mr Marape re-emphasised Papua New Guinea’s ‘friends to all, enemies to none’ approach. He said that Australia was Papua New Guinea’s main domestic security partner and the US its ‘sovereign security partner’, adding that ‘These security arrangements in no way compromise our arrangements with other nations with their peculiar needs, but rather give security to their interests in PNG.’

He elaborated on the matter in an [appearance](#) at the Australian National University on February 8, saying that Papua New Guinea ‘will not compromise our relations with China just as much as we will not compromise our relations with the USA.’ He stated, ‘[W]e also believe that someone else’s enemy is not my enemy.’

Prime Minister Marape also spoke about economic necessity as a major foreign policy driver for Papua New Guinea. He noted that ‘we export big into China and the Asian market... [W]e can’t ignore the fact that market is opening big, not just in China but Southeast Asia, India, West Asia. This market needs to be tapped, and for PNG, as a nation needing economic sustenance, I cannot compromise market unless another market opens big time for me.’ He said market access ‘cannot be compromised [by] dogmas and political worldviews.’

<sup>1</sup> The other two MoUs focused on strengthening cooperation on cyber and critical technology; and competition law and policy. See Anthony Albanese, ‘Realising Australia’s strategic partnership with the Philippines’, media release, February 29 2024 <<https://www.pm.gov.au/media/realising-australias-strategic-partnership-philippines>>.

On the PRC factor in Australian engagement with Pacific Island nations, Australian government ministers kept the focus high-level. Foreign Minister Wong [stated](#), '[W]e know we live in a region that is, where there is much more competition. We know that China is a great power asserting its interests. What we are doing is re-emphasising our part in the Pacific family and the importance of that engagement'.

Opposition Leader Dutton was more forthright. He spoke in his [welcome remarks](#) of the need for Australia and Papua New Guinea to 'become stronger together through our defence and security cooperation' in a time of 'emboldened autocrats who have no hesitation in using inducements, coercion, and outright force against other nations to realise their zero-sum ambitions.' He was even plainer in a later [interview](#): 'China is certainly very aggressive in relation to smaller nations in our region. They're desperate to set up a military base closer to Australia, and that's why it's important for us to continue the friendship that we have.'

Ahead of Mr Marape's visit, Deputy Secretary of State Richard Verma during a visit to Australia [told](#) the *Sydney Morning Herald* said that 'it is a competition' for influence in the region between the PRC on the one hand and the US and allies such as Australia on the other, stating that 'we have to compete aggressively'.

### Australian navy to grow larger

In its response to the Surface Fleet Review commissioned in 2023, the Australian government on February 20 [announced](#) that a fleet of 17 'Tier 2' warships<sup>2</sup> would be built to complement 'Tier 1' combatants, thereby [increasing](#) the number of Australian warships from 11 to 26 by the mid-2040s. An additional \$11 billion in funding over the next 10 years was allocated to the fleet. In parallel, the government cut the number of Hunter class frigates being built from nine to six, and Offshore Patrol Vessels from 12 to six.

Deputy Prime Minister and Defence Minister Richard Marles indicated that surface fleet changes were being introduced in response to the PRC's military build-up. He [said](#) that changes were 'not about imagining that Australia is going to be invaded' but rather to 'ensure that no matter what potential threats there are of coercion, we are in a position to maintain our way of life, that we have the capability to deter coercion.'

The new plan will see Australia's fleet decline in the short-term. With this in mind, concerns regarding a looming capability gap were [raised](#) in the wake of the announcement. Mr Marles [acknowledged](#) that 'there is definitely a challenge there and we need to be getting our surface fleet into shape as quickly as we can.'

### Sonar incident

During Senate Estimates on February 14, senior Australian defence figures were asked for further information regarding an [incident](#) in the East China Sea on November 14 2023 involving a People's Liberation Army Navy destroyer emitting sonar pulses while Australian navy divers from the HMAS Toowoomba were in the water nearby.

General Angus Campbell, Chief of the Australian Defence Force, [stated](#) there was no possibility that the details provided regarding the incident were incorrect, noting, 'We are very confident of the analysis and the due care in that analysis to come to the conclusions that we have come to.'

Air Vice Marshal Stephen Chappell provided a [detailed summary](#) of the incident, while Vice Admiral Hammond, Chief of Navy, pointed to a number of factors [informing](#) Australian analysis including visual correlation, the uniqueness of every sonar – 'quite often peculiar to a particular nation' – as well as records from the HMAS Toowoomba's the inertial navigation system.

Beijing has continuously denied responsibility for the incident.

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<sup>2</sup> These include eleven new general purpose frigates and six new Large Optionally Crewed Surface Vessels (LOSVs). See Richard Marles and Pat Conroy, 'Navy's enhanced lethality surface combatant fleet', joint media release, February 20 2024 <<https://www.minister.defence.gov.au/media-releases/2024-02-20/navys-enhanced-lethality-surface-combatant-fleet>>.

## Command post exercise with Japan and the US

At the beginning of this month, Australian forces [participated](#) in Exercise Keen Edge 24, historically a bilateral command post exercise between Japan and the US, for the first time. Japan had [invited](#) Australia to join in October 2023.

On February 4, *Kyodo News*, citing Japanese government sources, [reported](#) that Japan and the US had ‘named China as a hypothetical enemy for the first time’ in this exercise. The report noted that ‘a provisional name was previously used when referring to an enemy.’

The chief of the Japanese Defense Ministry’s Joint Staff had [said](#) last month that the exercise ‘did not envision a particular country or region.’

## A call for détente

A [group of 50 prominent Australians](#), including former Labor foreign ministers Bob Carr and Gareth Evans, former federal Liberal ministers Fred Chaney and Ian McPhee, former Greens leader Bob Brown, former state premiers Carmen Lawrence and Mike Rann, economists Ken Henry and Saul Eslake, Nobel laureate Peter Doherty, legal academic Larissa Behrendt and actor Miriam Margolyes, among others, signed a [statement](#) calling on the Albanese government to ‘support the goal of détente – a genuine balance of power between the United States and China’ through ‘activist middle power diplomacy’.

In a corresponding [opinion piece](#), former foreign ministers Carr and Evans wrote that ‘Supporting detente and doing everything within our power to bring it about does not mean appeasement, pacifism or mindless optimism. What it does mean is recognising that lasting peace is always best achieved with others, rather than against them.’

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