



The Honourable Scott Morrison MP
Prime Minister
Parliament House
Canberra ACT 2600

4th November 2021

Dear Prime Minister,

Submission regarding Australian National and State Border Controls related to COVID 19 and the Way Forward

Introduction

The Federal Government's policy on border controls has been identified as a business critical issue by our members with the potential to materially impact decisions made by companies and their employees on investing and working in Australia ("Australian Policies").

The purpose of this submission is to provide empirical input and relevant experiences from the members and associates of bilateral business associations operating between Australia and Europe for consideration as the Government considers adapting its future policy on border controls. We also seek to make suggestions on how to mitigate the impact on bilateral business relations.

Such input may not be readily available to governments, and could constitute important 'grass roots' information for the short and longer term economic success of the Government's policy response. Further, confidential feedback based on the significant amount of feedback gathered from our members can be provided, if considered useful for policy development.

Executive Summary

We wish to draw your attention to the following:

Bilateral business relations between Australia and Europe, and Australia's reputation, have suffered significantly as a result of the Australian policies. Significant effort will be required to mend the damage done.

We respectfully make the following **recommendations** to support addressing the issues raised in this Submission:

- provide certainty on the reopening policy framework as soon as possible

- abolish quarantine and removal of caps for fully vaccinated or immune (recovered) people or PCR-tested arrivals similar to the UK and EU easing.
- seek to replicate the current operation of the European health passport which is now allowing free travel between Schengen nations.
- ensure entry from each country is governed by objective reasoning (eg any preference of entry to USA citizens over European citizens (which has similarly high vaccination rates) will lead to further questioning of Australia's commitment to trade with Europe also noting the impact from the French submarine cancellation).
- implement an "open for business" campaign similar to the current "open for education" campaign.

The Australian Business in Europe Network

Australian Business in Europe (ABIE) brings together multiple organisations representing Australian and Australian-interested organisations across Europe with the shared objective of growing and strengthening the trade, investment, business and diplomatic ties between the two regions.

There are currently 19 organisations participating in ABIE, with the following providing input to or supporting this joint submission: Australian Business Council of Sweden, Australia-United Kingdom Chamber of Commerce; Australian Network in Belgium ,ASBL/VZW, Australian Swiss Chamber of Commerce, ABIE Netherlands; ABIE France; Australia Spain Business Association; Finland Australia Business Council, the German Australian Business Council e.V., Irish Australian Chamber of Commerce; Australia New Zealand Chamber of Commerce in Luxembourg asbl; Australasian Business in Europe Czech Republic,;ABIE Austria (in formation), and Bulgarian-Australian Business Council (together, the "ABIE organisations")

Collectively, our remit is very much one of encouraging sustainable international trade and deeper relations between companies and citizens of Europe and Australia. It is important to note that this Submission solely addresses the commercial and professional career related (rather than personal) impacts of Australia's policy framework in line with the remit of the ABIE organisations with the ultimate objective of maximizing the commercial benefit of trade between Europe and Australia.

This submission has been prepared by the ABIE organisations independently of their patrons and sponsors and reflects the view of the boards of the ABIE organisations only, not that of any individual or corporate members.

The Submission reflects input received by the ABIE organisations on the following work items:

- (1) Commercial Impact
- (2) Impact on Reputation for Legal Certainty and Low Sovereign Risk
- (3) Impact on Employment

To gather the feedback we asked the members of the ABIE organisations the following questions:

- (1) Do you believe Australia's policies could have a negative impact on Australia's economy and/or reputation

(2) Your experiences and any other input on the following areas:

- a. Impact on those living, working and / or running companies which span Australia and Europe;
- b. Perception of Australia as a destination for investment or employment including examples of Australian policy impacting a decision to invest or work in Australia; and
- c. Specific recommendations on how restrictions should be eased noting any successful elements of the policy response in different parts of Europe.

1. Commercial Impact

While it is understood the Australian government considered closing the border and imposing 14-day quarantine was Australia's most effective public health response to the pandemic pre-vaccine, it seems increasingly difficult to justify now that safe and effective vaccines are available and noting the policy response of other countries such as United Kingdom, Sweden and Norway which have lifted internal restrictions to varying degrees.

Given the current uncertainty and risk identified above, we have received a number of specific examples of companies and individuals cancelling or delaying investments; and/or reducing current or terminating future employment due to uncertainty on the legal framework and inability to physically visit potential investment targets. Some of these businesses have indicated that these decisions will not be reversed as capital has been reallocated to other investments. One example was a respondent that has a production unit in Victoria who stated that its export led business could not be grown or even maintained at current levels "over the phone or in front of a television screen". This has led the business to reducing a team of 6 full time employees to one part-time resource.

The latest statements from Federal Government about reopening International travel are encouraging. However, it is clear that for Australia to rebuild sufficient certainty to re-incentive Foreign Direct Investment and its reputation as a low risk jurisdiction it will be necessary to provide: clear details of how Australia will manage its re-opening including a clear commitment that no further arbitrary lockdowns will be implemented (or as a minimum outlining clear triggers on when further lockdowns will be considered and that economic and social impacts (in addition to COVID health related considerations) will be assessed as part of Australia's overall decision making framework.

Without any concrete plans, there is a lack of trust and inability to commit to any investment including Australia's potential response to a future pandemic. Anecdotal evidence from members of the ABIE organisations suggests that in addition to opportunities already lost, Australia is at risk of missing the post COVID economic recovery due to lack of specialized resources, inability of managers to travel and an inability to attract needed specialists for key projects. This increasing lack of trust of Australia in Europe has clearly been exacerbated by Australia's cancellation of its submarine deal with France.

2. Impact on Reputation for Legal Certainty and Low Sovereign Risk;

As set out above, we sought feedback from all respondents if they considered Australia's policies could have a negative impact on Australia's economy and/or reputation. On this point, there was unanimous consensus that Australia's response has had such a negative impact including impacting Australia's reputation for legal certainty and low sovereign risk.

More generally, the overall conclusion of this feedback was the potential for “a loss of respect for the decision-making of Australian governments” and “a big effect on whether to view Australia as a mature destination for investment” with the general perception being that if Australia can close its International borders so easily without allowing investors to visit their investment sites or see their employees in person, then Investors will need to see a sustained period of certainty before again having confidence to invest.

Examples cited by members of the ABIE organisations include: (1) the hard border restrictions enforced on citizens both entering and leaving the country (including both civil and criminal penalties for breach) means Australia is now regularly bracketed with authoritarian countries that embrace hard border restrictions on their citizens (2) questions from colleagues and their companies whether developments such as outbound restrictions on citizens are “legal” in a “free country” such as Australia also taking into account relevant tests such as proportionality and whether the ban is “the least restrictive measure” that could have been implemented; and (3) a consensus amongst many of our stakeholders that Australia’s focus appeared to be “zero COVID” in the short term without any apparent consideration of how to manage the issue in the mid to long term including minimal consideration of the economic impact on businesses with investments in Australia.

Another clear finding was the impression that under the current political and regulatory framework, decisions on imposing both Federal and State border controls and lockdowns are being made arbitrarily with zero consultation with impacted stakeholders. A recent example was the Federal Government’s decision to impose stricter requirements on Australian non-residents being able to physically leave Australia with minimal quantitative justification on how this would reduce the spread of COVID within Australia. There are also numerous examples provided by both members and in the press regarding exemptions being provided for private jets, celebrities, and sports stars “crossing the moat” into Australia and across State Borders.

It has also become apparent to many of the members of the ABIE organisations that the perception of their businesses and colleagues in Europe is that under Australia’s current approach, there appears little interest in harmonizing its policy response with European policies which could potentially now be considered best practice and effective.

Further, confidential feedback can be provided on this topic, if considered useful for policy development.

3. Impact on Employment:

The most obvious implications of State and Federal Border closures have been the: (1) impact on the ability of companies to move expatriate personnel in and out of Australia; (2) impact on expatriate Australian personnel living in Europe to return to Australia for personal reasons (affecting their employment and mental health); and (3) skills shortage for filling local roles in Australia.

Another finding is that there is a perception that Australia has not factored in any consideration of non-COVID related health issues on employees and individuals both living in and outside Australia (eg mental health).

We have also been notified of numerous examples of Europeans: (i) deciding to permanently return to Europe from working in Australia; and (ii) deciding not to take positions requiring relocating to Australia because of the extreme uncertainty and risk of further arbitrary

changes in the law with nil consultation or notice. A small sample of specific examples is as follows:

- various EU companies have either terminated the employment of Australians employed within their businesses who have needed to return to Australia for family reasons, or alternatively refused to grant them leave to return to Australia
- a number of examples were cited from members in the Executive Search industry advising that a large number of clients have hesitated or withdrawn their interest in opening up Australian entities or investing in the Australian market due to uncertainty. This has stopped a large number of skilled international talent from relocating to Australia and feedback has been received from the market that this is predominately due to the lack of trust in the Australian government acting “humanely” in their responses. We see this as having a potential long-term impact on attracting skilled and senior hires from abroad.
- a member in the Academic field gave the example that academics and researchers depend on conferences to publish their latest research or collaborate with other research institutes. Consequently, with universities cutting funding due to international students not being able to return to Australia for school, funding for research has been further curtailed. It is expected that this restricted mobility will also affects Australia’s reputation as source of talent.

We remain available for a more detailed discussion to assist with rebuilding Australia’s brand.

Yours sincerely,

Manny Maloney
Board Member
Australian Business Council of Sweden

on behalf of the Australian Business In Europe network (ABIE)

cc:

- Leader of the Australian Labor Party
- Minister for Foreign Affairs
- Minister for Trade, Tourism and Investment
- Minister for Home Affairs
- Shadow Minister for Foreign Affairs
- Shadow Minister for Trade
- Shadow Minister for Home Affairs
- Premier of New South Wales
- Premier of Queensland
- Premier of South Australia
- Premier of Tasmania
- Premier of Victoria
- Premier of Western Australia
- Chief Minister - Australian Capital Territory
- Chief Minister - Northern Territory
- NSW Labor Leader
- QLD LNP Leader
- SA Labor Leader
- TAS Labor Leader
- Leader of the Liberal Party, Victoria
- Leader of The Nationals, WA
- Leader of the Canberra Liberals
- Leader of the Country Liberal Party, NT