



REVIEW OF THE FOREIGN ARRANGEMENTS SCHEME

Introduction

The ACT Government appreciates the opportunity to provide feedback on the review of the Foreign Arrangement Scheme (FAS) (the Scheme). Below, we discuss key points and recommendations aimed at enhancing the Act's effectiveness while balancing its cost to comply. We would also like to extend our thanks to DFAT for their work with us, particularly when FAS was initially introduced, and to the FAS team at DFAT for their assistance to the Office of International Engagement (OIE).

The FAS has been beneficial in several ways:

- It has allowed the OIE and the ACT to maintain a comprehensive database of all foreign contracts to date, enhancing our ability to manage and review these engagements.
- By engaging with DFAT, we are better protected from entering into obligations that may not align with our interests or national policies. DFAT's guidance ensures we are aware of all agreements and helps us understand their implications.
- DFAT's insights have helped us understand where foreign interference or influence might lie. This has been beneficial in building awareness and safeguarding our engagements.
- The FAS supports a coordinated approach to foreign policy, which is crucial for maintaining a cohesive and unified stance in international relations. A centrally coordinated foreign policy ensures that all engagements are aligned with national interests and policies.

Discussion Points

- **Compliance vs. Objective of the FAS Scheme:** The Scheme aims to align foreign engagements with Australia's foreign policy is important. However, its current application may need to better balance foreign policy risks with the regulatory demands placed on stakeholders. The compliance requirements have the potential to delay engagements and affect partnerships, impacting cultural and commercial opportunities.

Example: Common FAS arrangements in ACT public schools facilitated by the Education Directorate include:

- Sister-school arrangements that promote friendship and collaboration between schools.
- Memoranda of Understanding (MOUs) with foreign embassies to enhance language programs in ACT public schools, advance the language abilities of students, and support ACT public school teachers. The most frequently requested form of MOU in 2024 has been for the provision of Language Teaching Assistants (LTAs) from other countries, with some embassies requesting an exchange of LTAs between Australia and their country).
- Pen pal exchanges for students to practice writing in French and exchange letters with other students who are living in France.



- **Cost of Compliance:** There are considerable costs associated with complying with the Scheme for low-risk engagements, which warrants reconsideration. Currently, 'core' foreign arrangements require detailed reporting regardless of their risk level or simplicity, leading to excessive administrative costs for low-risk engagements.

Example: Government schools must notify all international sister-school arrangements, creating a burden for individual schools and agencies in low-risk scenarios. This requirement results in several types of administrative costs, such as:

- *Staff Time and Resources:* Significant time and resources are devoted to preparing and submitting detailed reports, diverting attention from educational activities and strategic planning.
 - *Training and Compliance:* Staff need to be trained on FAS protocols, and ongoing compliance requires regular monitoring and updates.
 - *Delays in Program Implementation:* The lengthy approval process can delay or even cancel programs, disrupting educational activities and international partnerships.
- **DFAT Timelines and Delays in Receiving Advice:** We recognise the internal DFAT processes required to manage a FAS arrangement. However, such delays can discourage ACT divisions and departments from pursuing arrangements due to the challenge of adhering to extended timelines. Additionally, delays in receiving advice can further hinder ACT Directorates from meeting their internal deadlines, potentially impacting the overall engagement and effectiveness of the Scheme.

Example: Some ACT public schools run a pen pal program for a school term. If the FAS arrangement falls under a 'core' arrangement, the 60-day approval process means that the school is unable to get approval within that school term (average school term runs for 9.5 to 10 weeks). Consequently, the program must be delayed to another term or dropped altogether. The complexity of the system and timeframes for obtaining approval can deter teachers from pursuing these valuable learning opportunities for students.

- **Ambiguity of Definitions and Clarity of the Scheme:** The broad scope and complex definitions in the Act create confusion and ambiguity in how the Scheme is interpreted. Terms such as 'foreign entity,' 'core,' and 'non-core' make it difficult to ascertain if an organisation falls into these categories. Frequently, the OIE has had to reach out to DFAT's FAS Team for clarification, further delaying the lodging of FAS arrangements.

Example: Common activities and associated FAS requirements would be beneficial to help schools and other stakeholders to better understand and comply with the requirements of the Act.

- **Improve Awareness and Knowledge of the Scheme:** While the OIE works closely with ACT Directorates to provide awareness and advice regarding the Scheme, it would be beneficial for DFAT to offer periodic outreach programs and updated materials. Such initiatives would enhance compliance and provide opportunities for Directorates to raise questions and concerns about the Scheme.



There have also been instances where the Education Directorate has experienced heightened expectations from foreign embassies seeking to establish an arrangement in short timeframes. It would be beneficial for DFAT to communicate information about the FAS to stakeholders, more broadly, to raise awareness of FAS processes and to assist in the management of stakeholder expectations.

Recommendations

- **Calibrate Compliance Requirements to Risk Levels:** Adjust the reporting and compliance requirements based on the risk level of the foreign arrangements. This approach would reduce unnecessary administrative burdens for low-risk arrangements (such as school-based educational opportunities), promoting more efficient and effective international engagements.
- **Enhance Stakeholder Engagement and Communication:** Increase DFAT's engagement with stakeholders to provide timely advice and clear reasoning for determinations. Ensure the turnaround for urgent sensitive advice is within two business days due to reporting timeframes/project deadlines.
- **Simplify Definitions and Interpretation:** Review and simplify the definitions within the Scheme to ensure clarity and ease of interpretation. This would reduce uncertainty and compliance burdens, particularly for entities engaging in low-risk or subsidiary arrangements. It would be helpful if a definitions/glossary with examples of different parties and 'case studies' to provide clear guidelines for users.
- **Arrangement Renewal Process:** Additionally, consider introducing an 'express' or simplified process for entering contracts that are being renewed.
- **Promote Awareness:** Implement measures to improve awareness of international engagements, such as conducting outreach initiatives and providing examples of common arrangements and processes. This will support compliance and foster a greater understanding of Australia's foreign policy among stakeholders.
- **Conduct Periodic Reviews:** Schedule regular reviews of the Act to ensure it remains responsive to changing foreign policy settings and international cooperation opportunities. This will allow for timely adjustments to the legislative framework, maintaining its effectiveness in meeting objectives.
- **Improve DFAT Support:** Provide a list of contacts within the DFAT team for specific questions on FAS to streamline communication.
- **Portal Improvements:** Implementation of suggested improvements to the portal, particularly by incorporating advanced search options in the backend and adding the ability to download reports.

Conclusion

The ACT Government recommends a targeted approach to refining the Foreign Relations Act. By exempting low-risk arrangements, legislating reforms for clarity and efficiency, and clarifying definitions, the Scheme can better balance its objectives with practical implementation. These changes will reduce unnecessary administrative burdens, enhance international engagement, and ensure that Australia's foreign policy interests are effectively safeguarded. We appreciate the opportunity to provide our input and look forward to continued collaboration in this review process.