

Review of the Foreign Arrangement Scheme – response from the Australian National University

The ANU Foreign Arrangements office, an office within the Deputy Vice Chancellor (Research and Innovation) portfolio, very much appreciates the opportunity to comment on the Foreign Arrangements Scheme.

Executive Summary

The Foreign Arrangement Scheme requires the University to notify the Minister when it enters into an arrangement with a foreign government or a foreign university without institutional autonomy. The University must submit a notification before entering the arrangement and another notification within 14 days after the arrangement is made. This process is time-consuming, taking 1-2 days of work per week for one staff member. Due to the heavy workload, the University finds it challenging to submit these notifications on time and remain compliant with the Scheme.

ANU's process for FAS notification.

ANU reviews all the submissions made through our Foreign Interference review process to determine whether FAS notification is required for the arrangement.

Between 2021-2024, ANU has reviewed more than **3605** 'Arrangements' to determine whether DFAT notification was required under the FA Scheme. This also involves examining the governing documents/organisational charts/academic freedom policies of universities worldwide to determine whether they have institutional autonomy and we have currently assessed over **2600** universities. Please note that this effort will be replicated by all Australian Universities.

Of all the Arrangements reviewed, **2,385** Arrangements were assessed as not requiring DFAT notification and **749** (includes 204 retrospective FAS submissions) FAS notifications were completed by ANU. There are currently **471** Arrangements that pending review to determine whether or not they require a FAS notification.

Challenges in Compliance with the FA Scheme

1. **Lack of clear guidelines:** The Act lacks clear guidelines on what constitutes a Foreign Arrangement that might be subject to review. There is no clarity on what activities are considered as minor logistical or administrative Arrangements. This ambiguity leads to over submission leading to approximately 20% (156 of 749 total submissions) of the submission marked as 'out of scope'.
2. **Non-compliance:** On an average, ANU receives over 25 Foreign Arrangements for review per week. With the huge backlog of submissions, we are unable to keep up with the

requirement to notify the Minister of the proposed foreign agreements 'before' and after' entering into an Arrangement.

3. **Resource intensive:** This process requires significant staff time, with one staff member dedicating 1-2 days per week to assess the Foreign Arrangements submissions to check-whether it constitutes an Arrangement as per the Scheme and whether the foreign University has institutional autonomy.
4. **Lack of feedback:** We understand that the 'out-of scope' assessments are made on a case-by-case basis. However, we could benefit from receiving feedback on whether we can limit submitting similar Arrangements to reduce the burden of submitting Arrangements that may very well be out-of scope. Minimal feedback from DFAT creates uncertainty about the value of submissions.
5. **Inconsistent user experience post FAS portal update and gaps in status change communications:** The ANU Research Compliance Office and the ANU International Office submit the FAS notifications on behalf of the University. However, we have identified that the portal updates have not applied uniformly to all users. While drafting this response, we learned that the ANU International Office does not receive the auto notification for out-of-scope status updates. Moreover, the ANU Research Compliance Office could only view the reasoning for out-of scope assessment only after we contacted DFAT regarding this matter in June 2024.

Requests/suggestions

1. Currently, it is unclear on how many notifications are published on the public register. ANU would appreciate being notified each time an arrangement is published on the public register and a status update on the FAS portal.
2. ANU would like to request that all certified login accounts being informed whenever the status of an arrangement is updated to "Out of Scope." Additionally, providing the rationale for DFAT's decision on this status change would be very helpful.
3. Instead of universities having to review the governing documents of foreign institutes to determine institutional autonomy, it would be beneficial to have DFAT provide us a list of high-risk countries and if we could limit our submissions to the high-risk countries only.
4. We propose excluding FAS submissions for low-risk research activities such as invitations to present at conferences, visiting research students (HDR and Postdoc), research fieldwork, archival research in libraries and museums, informal research engagements, and delegation visits. The risks associated with these engagements could be managed according to the UFIT guidelines.

DFAT supplied questions

ANU appreciates the opportunity to provide feedback on the DFAT supplied questions. ANU also gratefully acknowledges the meetings recently held for staff and the executive to discuss

these matters. ANU aims to be a good collaborative partner with the DFAT in its endeavours on the Foreign Arrangements Scheme.

1. **Has the Foreign Relations Act been effective in delivering against its objectives, to ensure consistent adherence to Australia's foreign policy through foreign engagement?** ANU is unable to comment on the effectiveness of the Foreign Relations Act as the University has received limited feedback from DFAT with regards to our Foreign Arrangements submissions. It would be helpful to be provided with feedback about what DFAT regards as a high risk or low risk arrangements and where the University might improve its approach to Foreign Arrangements e.g. suggested contract terms or advice about interactions with high risk partners.
2. **How could the operation of the Foreign Relations Act be improved? Are there amendments to the Foreign Relations Act that would enhance its operation?** ANU believes that foreign arrangements undertaken by Universities are generally very low risk and do not need to be captured by the Act. A suggested amendment would be to exclude Universities under the non-core section of the Act. This would avoid the high workload of reporting all arrangements regardless of risk level. Government designated high risk activities could instead be reported under a specific direction.
3. **Are there opportunities for the Foreign Relations Act to better support international cooperation in the national interest?** Yes, the Act could provide more clarity on what is designated as a foreign arrangement and what is considered to be a high risk foreign arrangement.
4. **Could the Foreign Relations Act be better calibrated to address foreign policy risks and changing foreign policy settings?** Yes, as mentioned above ANU suggests 1) Universities be excluded from the Act as they undertake generally very low risk arrangements, 2) an arrangement as defined in the Act is unclear and could be amended to help interpretation 3) the Act could better define high risk foreign cooperation 4) DFAT could provide more comprehensive advice on high risk arrangements and partners, suggested mitigation for high risk arrangements and a universal list of non-autonomous entities that need to be reported (to be accessed by all parties captured by the Act).
5. **Should the scope of the Foreign Relations Act be changed to apply to a broader or narrower range of international cooperation?** The Act should be changed to apply to a narrower range of international cooperation. Universities generally undertake very low risk international cooperation activities and should be excluded. Instead it is suggested that designated high risk activities are captured under a specific direction.
6. **Does the Foreign Relations Act strike the right balance between achieving its objectives and the administrative requirements it places on states, territories, local governments, and universities?** No, the Act imposes a very large administrative burden for an unknown level of objective achievement. The University assesses a high volume of largely very low risk activities. ANU has received no feedback on our submissions or those of other Universities in terms of meeting the aims of the Act.

7. Are there additional ways that the Foreign Relations Act can improve transparency and awareness of international engagement, including through the Public Register? ANU requests that DFAT make available parameters for identifying high risk activities and partners. ANU also requests assistance in identifying non-autonomous foreign entities.
8. Are there opportunities to better support compliance with the Foreign Arrangements Scheme, including through publicly available information and outreach initiatives? Yes, please see previous answer.