



31 July 2024

Ms Rosemary Huxtable AO PSM
Lead, Review of the Australia's Foreign Relations (State and Territory Arrangements) Act 2020
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

via email: AFRA.Review@dfat.gov.au

Dear Ms Huxtable

Subject: Review of the Australia's Foreign Relations (State and Territory Arrangements) Act 2020

The University of Melbourne welcomes the opportunity to contribute to the legislative review of the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act), which underpins the Foreign Arrangements Scheme (FAS). The University recognises the role the higher education sector plays in Australia's foreign relations and securing the national interest.

The FAS commenced in December 2020. Its stated purpose is to ensure that arrangements between State and Territory governments (and their entities) and foreign entities do not adversely affect Australia's foreign relations and are not inconsistent with Australia's foreign policy. Australian public universities are considered State and Territory entities under the Act, and they are required to notify the Minister for Foreign Affairs if they propose to enter or have entered into a foreign arrangement.

The University understands and appreciates the importance of the Minister having oversight of Australia's foreign arrangements. However, we are concerned that the FAS places a large administrative burden on universities. This is despite the low likelihood of their activities and arrangements adversely affecting Australia's foreign relations or being inconsistent with Australia's foreign policy. Since the commencement of the Act, the University has internally assessed an estimated 6,400 arrangements and submitted more than 800 notifications to DFAT in that time. Additionally, the University assessed over 10,000 arrangements and made approximately 600 notifications as part of the pre-existing arrangement notifications that were due in 2021. Yet, no declarations have been made in relation to any of the University's notified arrangements to date.

The legislation can also be difficult to apply in practice. This is partly because there is little transparency around DFAT's process of, and reasoning in, assessing in-scope arrangements (e.g., assessing whether a foreign university has "institutional autonomy" or assessing when a proposal to enter into a foreign arrangement is notifiable). In instances where universities have received responses from DFAT that specific notifications are considered out-of-scope, there is little or no accompanying information provided to the recipient as to why the DFAT assessment diverges from that of the university. Instead, it is incumbent on universities to seek clarification from DFAT in these instances, involving further delay and administrative action.

DFAT's reluctance to provide advice to inform and guide FAS assessments exacerbates the administrative burden the FAS places on the higher education sector. The lack of DFAT guidance increases the likelihood that





universities submit notifications that may not meet DFAT's assessment and hence results in the inefficient use of administrative resources. **Greater guidance and transparency would significantly reduce the administrative burden on universities.** Greater information sharing regarding threats and risks can also improve the risk literacy and management across the sector, with flow-on benefits for reporting entities.

If FAS is to continue to apply to Australian public universities, the Government could also streamline the Scheme by **developing a list of low-risk university arrangements that are exempt based on the FAS's objectives and by adopting the Department of Defence's Foreign Country List so that foreign arrangements with these countries do not require notification.** For example, DFAT has previously advised the University that Letters of Understanding relating to Australia Awards programs are notifiable under the FAS, despite DFAT administering the program. This would appear to run counter to the objectives of the FAS.

Additionally, in some cases compliance with the letter of the Scheme's notification requirements is incompatible with legitimate funding opportunities. This is because the structure of the Scheme requires prospective notification of arrangements, which creates substantial operational challenges for universities, noting that research funding is largely drawn from competitive grant schemes with inflexible deadlines. Conversely, it is not clear that prospective notification is necessary to meet the Scheme's objectives. **Transparency of transactions with in-scope entities could be achieved through post-facto notification.**

The University submits that a review of the Scheme should consider whether settings strike a reasonable balance between achieving the objectives of the Scheme and diluting focus from higher risk activities by being overly broad in scope. International engagement is already heavily regulated in the higher education sector, but other regulatory schemes, such as Defence Trade Controls, sanctions and the University Foreign Interference Taskforce Guidelines, adopt a more nuanced, risk-based approach. A targeted approach enables resources of both universities and regulators to be targeted at activities of material concern, and compliance efforts to be focussed on areas of impact.

Finally, **the Government should consider introducing a model similar to the Research Collaboration Advice Team (RCAT) in the UK.** This provides a single point of contact for official advice about national security risks linked to international research. RCAT works across government to make national security advice accessible and digestible for the academic community. A similar arrangement in Australia would have benefits not just for FAS but across the board for the Foreign Influence Transparency Scheme, sanctions, Defence Export Controls, and other related schemes. It would also enable Government to establish real-time insights into the issues encountered by universities and provide a mechanism for handling issues arising under multiple schemes across multiple agencies.

I would welcome the opportunity to discuss this further with you and can be contacted via email at

[REDACTED] or phone at [REDACTED]

Yours sincerely

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