

**National Interest Analysis [2021] ATNIA 5**  
**with attachment on consultation**

**Global Convention on the Recognition of Qualifications concerning Higher Education**  
*(Paris, 25 November 2019)*

**[2021] ATNIF 8**

# NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

## SUMMARY PAGE

### Global Convention on the Recognition of Qualifications concerning Higher Education

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#### Nature and timing of proposed treaty action

1. It is proposed that Australia ratify the UNESCO *Global Convention on the Recognition of Qualifications concerning Higher Education 2019* (the Convention) by depositing an instrument of ratification with the Director-General of UNESCO (the depositary) in accordance with Article XVI.2 of the Convention.
2. This action would be taken as soon as practicable following scrutiny by Parliament and Federal Executive Council approval.
3. The Convention will enter into force three months after the date of deposit of the 20<sup>th</sup> instrument of ratification, acceptance, approval, or accession, but only with regard to those State Parties, which have deposited their respective instruments of ratification, acceptance, approval, or accession on or before that date (Article XVIII.1). It is unknown when this will occur. Should Australia ratify the Convention after it enters into force, the Convention would enter into force for Australia three months after the deposit of its instrument of ratification (Article VXIII.2).
4. This treaty action does not terminate any existing treaty upon entry into force. This treaty action builds on, and fully complements the UNESCO regional recognition conventions Australia is already Party to, including the:
  - *Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific 1983* (Bangkok Convention)
  - *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education 2011* (Tokyo Convention) i.e. the revised Bangkok Convention; and
  - *Convention on the Recognition of Qualifications concerning Higher Education in the European Region 1997* (Lisbon Recognition Convention).

#### Overview and national interest summary

5. The Convention is the world's first treaty in higher education with a global scope. It commits parties to an international framework for co-operation based on best principles and practices in qualifications recognition, to support interregional mobility. Currently, the conventions in force are limited to supporting mobility through qualifications recognition within a region only.
6. The recognition of Australian qualifications supports sustainable growth and diversification of Australia's international education industry, and the recognition of overseas qualifications supports skilled migration and employment in Australia.
7. Becoming a Party to the Convention will enable Australia to engage in a framework for

cooperation in a global setting, based on enhanced qualifications recognition settings. The Convention is relevant to current challenges and opportunities in education, containing new provisions for the recognition of quality assured qualifications gained through, for example, online learning, offshore campuses, and joint degrees. This supports Australian education providers to grow, diversify and innovate. The Convention will also provide a dedicated platform for Australia to promote its best practices, and to help build a shared global understanding of what is fair and reasonable in the recognition of overseas qualifications, including Australian qualifications. Early ratification will demonstrate Australia's continued international leadership in this strategically important policy area, and its commitment to fair and transparent recognition.

### ***BODY OF NIA***

#### **Reasons for Australia to take the proposed treaty action**

8. The Convention will put in place an effective and sustainable mechanism to better manage global mobility by committing Parties to best principles and practices in qualifications recognition, focusing on fairness, transparency and non-discrimination. The Convention will provide a dedicated international platform where Australia can contribute towards building a shared global understanding of what is fair and reasonable in the recognition of overseas qualifications and studies, where it can support positive recognition of Australian qualifications and studies.
9. Global mobility through strengthened qualifications recognition arrangements and international cooperation will support the sustainable growth and diversification of Australia's international education sector, foster education innovation and will provide opportunities for Australia to engage with key education partners and access new and emerging markets.
10. Ratification of the Convention will provide a dedicated global platform for international cooperation in the area of qualifications recognition and, when required, will provide an avenue to seek to overcome trade barriers arising for Australian qualifications. The Convention will also support the future landscape of education and provide opportunities for market growth for Australian education providers. Its provisions work to minimise unreasonable barriers to student and worker mobility, and facilitate the recognition of non-traditional forms of learning (including transnational delivery modes such as online learning, offshore provision and joint degrees) and recognition for general employment purposes.
11. Ratifying the Convention will leverage Australia's commitment to the UNESCO regional recognition conventions including the Bangkok, Lisbon Recognition and Tokyo Conventions, to which Australia became a Party in 1985, 2002 and 2014 respectively. As the Global Convention builds on and fully complements the regional conventions, Australia already meets the Convention's substantive obligations.
12. Like the regional conventions, the Global Convention fully respects the autonomy of recognition decision-makers involved in assessing overseas qualifications, including Australian universities and other education providers, skilled migration authorities and employers. It does not prescribe how decision-makers should recognise overseas qualifications and it does not entitle an overseas-trained individual to study, migrate or work in Australia.

13. Australia is recognised as a regional and world leader in overseas qualifications recognition and has a mature and highly regarded qualifications recognition system. Ratifying the Convention will provide Australia with the opportunity to demonstrate its leadership, strengthen its diplomatic relationships with like-minded countries, and make a meaningful contribution on the world stage.

### **Obligations**

14. In Australia, the recognition of overseas qualifications is decentralised and recognition decisions for specific purposes, such as admission to study, employment and skilled migration, are made by competent recognition authorities as defined by the Convention. These authorities are fully autonomous in their decisions and in determining standards/requirements, policies and procedures for their particular purpose. The responsible authority for:

- admission to study is the education institution
- employment is the employer
- skilled migration is the appointed assessing authority.

As explained at paragraph 23, Australia also maintains a national information centre (NIC) through the Australian Government Department of Education, Skills and Employment. Australia's NIC provides information on Australia's higher education system and quality assurance arrangements, qualifications and institutions, as well as issues qualifications assessments to individuals in accordance with obligations established under the Convention.

15. The Australian Government will be required to provide the depository with a brief statement of its constitutional situation or structure at the time of depositing its instrument of ratification, and on any changes thereafter (Article X.3). Australia will also be required to provide the depository with official notification of the competent authorities that make decisions on the recognition of studies and qualifications in its jurisdiction (Article X.1).
16. Australia's central competent recognition authorities will be immediately bound by the provisions of this Convention and will be required to take the necessary measures to ensure the implementation of the provisions of this Convention in Australia (Article X.2). Where the competence to make decisions on the recognition of studies and qualifications lies with individual higher education institutions or other entities, Australia will be required to transmit the text of the Convention to these institutions or entities and to take all necessary steps to encourage its favourable consideration and application (Article X.4).

17. Other obligations are to:

#### *Recognition of qualifications giving access to higher education*

- recognise, for the purposes of access to Australia's higher education system, qualifications acquired in other Parties that meet the general access requirements for higher education programs in those Parties, unless substantial differences (as defined in the Convention) can be shown between the general access requirements in the Party in which the qualifications were obtained, and those in Australia. This includes documented or certified prior learning acquired in other Parties (Article IV.1). Alternatively, Australia may satisfy this obligation by enabling the holder of the relevant qualification to obtain an assessment of that qualification (Article IV.1).

- assess qualifications acquired through recognised non-traditional learning modes using the same criteria as those qualifications acquired through traditional learning modes, subject to similar quality assurance arrangements being in place (Article IV.2).
- grant access to similar specific types of institutions or programs in Australia's higher education system, if available, in circumstances where a qualification gives access only to specific types of institutions or programs in higher education in a Party where the qualification was obtained, unless substantial differences can be demonstrated (Article IV.3).

#### *Recognition of higher education qualifications*

- recognise a higher education qualification conferred in another Party, unless substantial differences can be shown between the qualification for which recognition is sought, and the corresponding qualification in Australia. Alternatively, Australia may satisfy this obligation by enabling the holder of the relevant qualification to obtain an assessment of that qualification upon request (Article V.1).
- assess higher education qualifications acquired through recognised non-traditional learning modes and considered part of a Party's higher education system, using the same criteria as those applied to similar qualifications acquired through traditional learning modes, with similar quality assurance arrangements being in place (Article V.2).
- assess higher education qualifications acquired through cross-border education with international joint degrees or through another joint program undertaken in multiple countries, of which at least one is a Party to this Convention, using the same criteria as those applied to qualifications acquired in a single country (Article V.3).
- recognition in Australia of a higher education qualification issued by another Party will have at least one of two outcomes: it will provide the holder of the qualification with the right to apply for admission to further higher education study under the same conditions as those applicable to holders of higher education qualifications issued in Australia; and/or it will provide the holder of the qualification with the right to use the title associated with a higher education qualification in accordance with Australian laws or regulations (Article V.4).
- consider if partial recognition can be granted where a competent recognition authority demonstrates substantial differences between the qualification for which recognition is sought and the corresponding qualification in Australia (Article V.5).

#### *Recognition of Partial Studies and Prior Learning*

- assess documented or certified partial studies or prior learning undertaken in another Party, upon request (Article VI.1).
- assess documented or certified partial completion of higher education programs delivered by recognised non-traditional learning modes which are subject to comparable quality assurance arrangements and are considered part of a Party's higher education system, using the same criteria as those applied to partial studies delivered by traditional learning modes (Article VI.2).

- assess documented or certified partial completion of higher education programs delivered through cross-border education with international joint degrees or any other joint programme undertaken in multiple countries, of which at least one is a Party to this Convention, using the same criteria as those applied to partial studies acquired in a single country (Article VI.3).

*Recognition of Partial Studies and Qualifications Held by Refugees and Displaced Persons*

- take necessary and feasible steps, within Australia's educational system and in conformity with its constitutional, legislative and regulatory frameworks, to develop reasonable procedures for fair and efficient assessments of whether refugees and displaced persons fulfil the relevant requirements for access to higher education, to further higher-education programs, or to seeking employment opportunities. This includes instances where documentary evidence of partial studies, prior learning, or qualifications acquired in another country cannot be provided (Article VII).

*Information for Assessment and Recognition*

- establish transparent systems to provide complete descriptions of Australian qualifications and learning outcomes (Article VIII.1).
- promote confidence and trust in Australia's higher education system by implementing objective and reliable systems for the approval, recognition and quality assurance of its higher education institutions (Article VIII.2).
- establish and maintain a NIC or similar entity to provide access to relevant, accurate and current information about its higher education system (Article VIII.3).
- encourage the use of technologies to ensure easy access to information (Article VIII.4).
- provide access to authoritative and accurate information on Australia's higher education system, qualifications, quality assurance and qualification frameworks; facilitate dissemination of and access to accurate information on the other States Parties' higher education systems, qualifications, and qualifications giving access to higher education; provide information and advice, where appropriate, on recognition matters, including criteria and procedures for the assessment of qualifications and the development of materials for good recognition practices in accordance with Australia's regulatory framework; and provide adequate information within a reasonable timeframe on any institution belonging to Australia's higher education system or any program administered by such institutions, in order to inform recognition decisions (Article VIII.5).

*Assessment of an application*

- ensure that institutions belonging to Australia's education system provide upon request, within a reasonable timeframe and free of charge, relevant information to the holder of a qualification or to the institution or the competent recognition authorities of a Party in which recognition is sought (Article IX.2).
- ensure that a body undertaking assessment demonstrates the reasons for which an application does not fulfil requirements or where substantial differences are identified (Article IX.3).

### *Additional requirements for admission to higher education*

- ensure procedures for assessing overseas qualifications for admissions purposes are designed in line with the principles of fairness, transparency and non-discrimination described in Article III (Article XI.4).
18. Parties agree and undertake to implement the Convention through or in cooperation with relevant organisations, including NICs or similar entities (Articles XII and XIII.1). Australia will be obliged to notify the Secretariat of the Intergovernmental Conference of the State Parties of its national implementation structures (which includes NICs) and any subsequent changes to them (Article XIII.2).
  19. Australia will be obliged to support the practical implementation of the Convention through participation in networks composed of national implementation structures (Article XIV.1). The networks are to provide for information exchange, capacity building and technical support to Parties upon request (Article XIV.2), and strengthen interregional cooperation under the Convention (Article XIV.3). Australia already participates in Asia Pacific and European regional networks as it is a Party to the Bangkok, Tokyo and Lisbon Recognition conventions.
  20. Australia will be obliged to participate in the Intergovernmental Conference of the State Parties, established under Article XV of the Convention.
  21. Australia is not required to have ratified, accepted, approved or acceded any of the UNESCO regional recognition conventions to ratify, accept, approve, or accede to this Convention. However, Australia is already party to the Bangkok, Tokyo, and Lisbon Recognition conventions. Australia will be obliged to ensure the Convention complements these regional conventions, and that the Convention does not take precedence over any provisions in these conventions (or any other current and future bilateral or multilateral agreements, treaties or conventions) that are more favourable to recognition, particularly regarding provisions on NICs, networks and substantial differences (Article XIX).

### **Implementation**

22. No changes to domestic law or policy are required to implement the Convention. Australia already meets its obligations under the majority of the articles in the Convention, including articles imposing substantive obligations, and can implement any other obligations through administrative changes.
23. Australia has already established and maintains a NIC or ‘national implementation structure’ as defined in the Convention (Section V), through the Australian Government Department of Education, Skills and Employment. Australia’s NIC provides information on Australia’s higher education system and quality assurance arrangements, qualifications and institutions. Australia’s NIC provides overseas qualifications assessments to individuals in accordance with obligations established under the Convention. It also supports higher education institutions and other entities that have the competence to make decisions on recognition matters, by providing qualifications recognition information services and policy advice, in line with the obligations of the Convention. Australia’s NIC encourages higher education authorities and other entities that have the competence to make decisions in recognition matters to act in accordance with the Convention.

## **Costs**

24. There are no financial costs that will be incurred by Australia in complying with its obligations under the Convention, beyond those associated with attendance at the Intergovernmental Conference of the State Parties.

## **Future treaty action**

25. Amendments to the Convention must be in written form and addressed to the Director-General of UNESCO who will circulate such communication to all Parties. If within six months of the date the communication is circulated, at least half of the Parties to the Convention reply favourably to the request, the Director-General will present the proposal to the next session of the Intergovernmental Conference of the Parties for discussion and possible adoption (Article XXIII.1).
26. A two-thirds majority of Parties present and voting is required for amendments to the Convention to be adopted (Article XXIII.2), and the adopted amendments must be submitted to all Parties for ratification, acceptance, approval, or accession (Article XXIII.3). After two-thirds of the Parties deposit their instruments of ratification, acceptance, approval or accession to the amendments, the amendments will come into force for those Parties after three months. For any other Parties that ratify, accept, approve or accede to the amendments thereafter, the amendments will come into force three months after they deposit the relevant instrument (Article XXIII.4).
27. A State which becomes a Party to this Convention after the entry into force of amendments as per Article XXIII.4 will, unless otherwise indicated, be considered a Party to this Convention as amended, and a Party to the unamended Convention in relation to any Party not bound by the amendments (Article XXIII.5).
28. Any future treaty action would be subject to Australia's domestic treaty process and requirements, including tabling and consideration by the Joint Standing Committee on Treaties (JSCOT).

## **Withdrawal or denunciation**

29. Any Party to the Convention may at any time, denounce the Convention, which is notifiable by an instrument in writing deposited with the Director-General of UNESCO (Article XXI.1-2).
30. The denunciation will take effect 12 months after the receipt of the instrument of denunciation and will not affect the obligations to which the denouncing Party is bound under the Convention until the date on which the withdrawal takes effect (Article XXI.3).
31. The denunciation of the Convention will not have any impact on recognition decisions taken previously under the provisions of the Convention or the recognition assessments still in progress under it (Article XXI.4).
32. Any decision to denounce the Convention would be subject to Australia's domestic treaty process and requirements, including tabling and consideration by JSCOT.

## **Contact details**

International Division  
Australian Government Department of Education, Skills and Employment



## **ATTACHMENT ON CONSULTATION**

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#### **CONSULTATION**

33. Following the adoption of the Convention, written advice was sent from the Minister for Education in 2019 to peak education bodies and relevant Australian Government ministers in their capacity as members of the Council for International Education. This advice informed key stakeholders of the recent adoption of the Convention and emphasised the importance of the Convention in committing State Parties to best principles and practices in the recognition of Australian qualifications. It also highlighted its future focus for international cooperation that will support sustainable growth of Australian education internationally.
34. Key stakeholders who were sent this written advice included the Convenor of the Expert Members of the Council for International Education and peak education bodies such as the Independent Tertiary Education Council Australia, Universities Australia, TAFE Directors Australia, and the Council for Private Higher Education. The relevant ministers who were contacted were the then Minister for Foreign Affairs; the Minister for Trade, Tourism and Investment; the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs; the Minister for Employment, Skills, Small and Family Business; the Minister for Industry, Science and Technology; and the Assistant Minister for Vocational Education, Training and Apprenticeships. The advice encouraged stakeholders to raise the importance of the Convention through global networks or international activities as appropriate.
35. Australian skilled migration assessing authorities were also notified of the adoption of the Convention.
36. Positive feedback was received from stakeholders about the Convention's adoption.
37. The Australian Government Department of Education, Skills and Employment has introduced and explained the Convention to stakeholders through its regular engagement with the sector. This has included the formal stakeholder consultation process in 2021 that has been undertaken to inform the development of the new Australian strategy for international education 2021-2030.
38. Australia can already demonstrate that it meets the majority of obligations under the Convention, including its key articles. The treaty action will have minimal impact on Australian stakeholders, including state and territory governments. No changes to domestic law or policy are required to implement this treaty action and there would be no additional legal, policy or administrative impacts on the various business sectors and industries in Australia, or the general public. Any new obligations imposed can be implemented through administrative changes, which will be a matter for the Australian Government Department of Education, Skills and Employment. Accordingly, additional broader sector-wide consultation is not deemed necessary.