

**National Interest Analysis [2013] ATNIA 9  
with attachment on consultation**

**Asia-Pacific Regional Convention on the Recognition of Qualifications in  
Higher Education**

(Tokyo, 26 November 2011)

[2013] ATNIF 8

## NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

### SUMMARY PAGE

#### **Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education**

(Tokyo, 26 November 2011)  
[2013] ATNIF 8

#### **Nature and timing of proposed treaty action**

1. It is proposed that Australia become a Party to the *Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education* (the proposed Convention) by depositing an instrument of ratification with the Director-General of UNESCO (the depositary) in accordance with Article X.1.2-3 of the proposed Convention.
2. It is proposed that this action be undertaken as soon as practicable following scrutiny by Parliament and the granting of Executive Council approval.
3. The proposed Convention shall enter into force on the first day of the month following the expiration of the period of one month after five UNESCO Member States of the Asia-Pacific region have expressed their consent to be bound by it (Article X.2). There is no indication yet of when this is likely to occur. Should Australia ratify the proposed Convention after it enters into force generally, the proposed Convention would enter into force for Australia on the first day of the month following the expiry of one month from the date of ratification.
4. This treaty action replaces, but does not terminate, the UNESCO *Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific* (1983), [1985] ATS 33 (the 1983 Convention). Australia will remain a Contracting State to the 1983 Convention and will continue to apply the 1983 Convention in its relations with any other Contracting State to the 1983 Convention that is not a Party to the proposed Convention in accordance with Article X.3.2 of the proposed Convention.

#### **Overview and national interest summary**

5. The proposed Convention provides a mechanism for countries in the Asia-Pacific region to facilitate recognition of higher education qualifications through increased information provision and transparency.
6. Becoming a Party will demonstrate Australia's commitment to improved mobility of students, academics and workers within the Asia-Pacific and provide a platform for greater educational engagement between Australia and other countries. It will also provide a stronger underpinning for Australia's international education sector and build on developments in recognition practices and international cooperation

resulting from Australia's membership of other UNESCO regional recognition conventions.

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

7. The proposed Convention will provide a mechanism for countries in the Asia-Pacific region to facilitate recognition of higher education qualifications through increased information provision and transparency. Becoming a Party will demonstrate Australia's commitment to improved mobility of students, academics and workers within the Asia-Pacific. Confidence in the improved mobility that enhanced recognition processes bring will provide a stronger underpinning for the continuing success of Australia's international education sector, facilitate offshore experiences for Australian higher education students and improve employment prospects for individual holders of Australian higher education qualifications within the region.

8. The proposed Convention will provide a platform for greater educational engagement between Australia and other countries on issues that have become increasingly important within the Asia-Pacific and motivated the development of the proposed Convention: mass higher education, student mobility, qualifications recognition, qualifications frameworks, accreditation and quality assurance, cross-border education, distance education and the need to build national capacity in higher education. As an advanced economy that has successfully established systems to manage these issues, Australia is well-positioned to engage in information provision to and further learning from its regional partners through the mechanism of the proposed Convention.

9. Becoming a Party to the proposed Convention will demonstrate Australia's commitment to UNESCO's agenda of strengthening engagement between countries and regions through higher education. Further, it will build on the existing recognition practices and international cooperation that are reflected in the 1983 Convention, to which Australia became a Party in 1985, and the UNESCO *Convention on the Recognition of Qualifications concerning Higher Education in the European Region* (1997) [2003] ATS 5, to which Australia became a Party in 2003.

### **Obligations**

10. In Australia, responsibility for recognition of qualifications is shared between the federal, state and territory governments as well as higher education institutions and other entities. Where competence to make decisions in recognition matters lies with the Federal Government, Australia shall be immediately bound by the proposed Convention and must take the necessary measures to ensure implementation of the relevant provisions (Article II.1.1). Similarly, where competence to make decisions in recognition matters lies with the states and territories, they must take the necessary measures to ensure implementation of relevant provisions of the proposed Convention. Australia will also be required to provide the depositary with a brief statement of its constitutional situation or structure at the time of accession, or any time thereafter (Article II.1.2). Where the competence to make decisions in recognition matters lies with individual higher education institutions or other entities, Australia is obliged only to transmit the text of the proposed Convention to these

institutions or entities and take all possible steps to encourage its favourable consideration and application (Article II.1.3). Relevant provisions include:

- making appropriate arrangements for the assessment of applications for recognition of qualifications with the main focus on knowledge and skills achieved (Article III.1.2);
- using procedures and criteria in the assessment and recognition of qualifications that are transparent, coherent, reliable, fair and non-discriminatory (Article III.2), with decisions made on the basis of appropriate information on the qualifications for which recognition is sought (Article III.3.1);
- making assessments of qualifications available in a timely manner (Article III.1.1);
- recognising, for the purpose of access to each of Australia's higher education programs, the qualifications issued by the other Parties that meet the general requirements for access to these respective higher education programs, unless a substantial difference can be shown between the general requirements for access in the Party in which the qualifications were obtained and those in Australia (Article IV.1). This includes the recognition, or at least assessment, of partial studies completed within the framework of a higher education program in another Party (Article V.1);
- recognising, to the extent that a recognition decision is mainly based on the knowledge and skills certified by a qualification in higher education, the qualifications in higher education conferred in another Party unless a substantial difference can be shown (Article VI.1). This extends to qualifications in higher education obtained through non-traditional modes within the framework of a Party's education system and in conformity with domestic regulatory requirements (Article VI.3);
- making all reasonable efforts, within the framework of Australia's education system and in conformity with its constitutional, legal and regulatory requirements, to develop procedures, including recognition of prior learning, designed to assess fairly and expeditiously whether refugees, displaced persons and persons in a refugee-like situation fulfil the relevant requirements for access to higher education programs or for recognition of qualifications for employment activities, even in cases in which the qualifications obtained in one of the Parties cannot be proven through documentary evidence (Article VII);
- providing relevant, accurate and up-to-date information on Australia's higher education system and qualifications, and on its quality assurance system, to facilitate the recognition of qualifications in higher education by other Parties (Article VIII.1-2);
- taking adequate measures for the development and maintenance of a national information centre (NIC) that will provide higher education information, the exact form of which could vary (Article VIII.3);
- promoting the use of the *UNESCO Diploma Supplement* or any other comparable qualification supplement and the *UNESCO/OECD Guidelines for Quality Provision in Cross-border Higher Education* and/or any comparable document produced by the Parties' respective higher education institutions, subject to its respective national laws and regulations (Article VIII.4).

11. Article IX.1 establishes the Committee of the Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (the Committee) to oversee, promote and facilitate the implementation of the proposed

Convention. Although not bound by recommendations, declarations, protocols and models of good practice adopted by the Committee, Australia is obliged to use its best endeavours to apply them and to bring them to the attention of its competent recognition authorities and encourage their application (Article IX.2).

12. Australia is obliged to appoint a member of its NIC to the network of NICs established under the proposed Convention to collect relevant information from the Parties on academic recognition and mobility and assist the practical implementation of the proposed Convention by the competent recognition authorities (Article IX.3).

### **Implementation**

13. No changes to domestic law or policy are required to implement the proposed Convention.

14. Australia already maintains an NIC, which provides information on higher education qualifications and institutions and Australia's quality assurance system. The NIC provides qualifications assessment services to individuals in accordance with obligations established under the proposed Convention, and provides support and information services to higher education authorities and other entities that have the competence to make decisions in recognition matters.

15. Through its NIC, Australia encourages higher education authorities and other entities that have the competence to make decisions in recognition matters to act in accordance with the proposed Convention.

16. Australian higher education institutions issue the Australian Higher Education Graduation Statement to graduating students on completion of the requirements for higher education awards. The Australian Higher Education Graduation Statement accords with the UNESCO Diploma Supplement, providing a description of the nature, level, context, content and status of the studies successfully completed by the individual named on the original qualification to which the supplement is appended.

### **Costs**

17. There are no foreseeable financial costs to Australia of compliance with the treaty action.

### **Regulation Impact Statement**

18. The Office of Best Practice Regulation, Department of Finance and Deregulation, has been consulted and confirms that a Regulation Impact Statement is not required.

### **Future treaty action**

19. Amendments to the proposed Convention (with the exception of Section III – *Basic principles related to the assessment of qualifications*) may be adopted by the Committee by a two-thirds majority of the Parties. Any amendment so adopted shall

be incorporated into a Protocol to the proposed Convention. The Protocol shall specify the modalities for its entry into force and shall require the expression of consent by the Parties to be bound by it (Article X.7.1). No amendments can be made to Section III of the proposed Convention under this procedure (Article X.7.2). Any proposal for amendment shall be communicated to the depositary, who shall transmit it to the Parties at least three months before the meeting of the Committee. The depositary shall also inform the Executive Board of UNESCO (Article X.7.3).

20. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval, or accession declare that it reserves the right not to apply, in whole or in part, one or more of the following Articles of the proposed Convention: Article IV.7, Article V.1, Article V.2, Article V.3, Article VI.3, and Article VIII.4. Australia does not intend to make such a reservation. No other reservation can be made (Article X.6.1).

21. Any Party that has made such a reservation may wholly or partly withdraw it by means of a notification addressed to the depositary. The withdrawal shall take effect on the date of receipt of such notification by the depositary (Article X.6.2).

22. A Party that has made such a reservation may not claim the application of that provision by any other Party, but it may, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it (Article X.6.3).

23. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which the proposed Convention shall apply (Article X.4.1). Australia does not intend to make such a specification. Any Party may, at any later date, by a declaration addressed to the depositary, extend the application of the proposed Convention to any other territory specified in the declaration. In respect of such territory the proposed Convention shall enter into force on the first day of the month following the expiration of a period of one month after the date of receipt of such declaration by the depositary (Article X.4.2).

24. Any future treaty action would be subject to Australia's domestic treaty process, including tabling and consideration by JSCOT.

### **Withdrawal or denunciation**

25. Any Party may, at any time, denounce the proposed Convention by means of a notification addressed to the depositary (Article X.5.1).

26. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of receipt of the notification by the depositary. However, such denunciation shall not affect recognition decisions taken previously under the provisions of the proposed Convention (Article X.5.2).

27. Any decision to denounce the proposed Convention would be subject to Australia's domestic treaty process, including tabling and consideration by JSCOT.

Educational and Professional Recognition Unit  
International Education and Science Division  
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary  
Education.

## ATTACHMENT ON CONSULTATION

### **Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education**

(Tokyo, 26 November 2011)

[2013] ATNIF 8

#### **CONSULTATION**

28. The states and territories have been kept informed of the proposed Convention's development through the Standing Committee on Treaties (SCOT). The proposed Convention has been listed on each biannual Schedule of Treaties sent to SCOT representatives since 2008.

29. No feedback has been provided by any state or territory. No request has been made for further information.

30. Universities Australia, the Australian Council for Private Education and Training, the Australian Qualifications Framework Council and the Council of Private Higher Education were consulted by letter in July 2012 and January 2013.

31. Of these stakeholders, Universities Australia responded to commit its support and that of its members for Australia's intent to become a Party to the proposed Convention. No feedback has been provided by other organisations. No request has been made for further information.

32. This proposed treaty action will have no to minimal impact on the states and territories and the higher education sector. This is because no changes to domestic law or policy are required to implement this treaty action and Australia already complies with the obligations established under the proposed Convention.