Submission to *Tweede Kamer der Staten-Generaal* [House of Representatives of the Parliament of the Netherlands]

Consultation on the *Wet screening kennisveiligheid* [Knowledge Security Screening Act]

Outline and Introduction

Thank you for the opportunity to make a submission to the Parliament regarding the *Wet screening kennisveiligheid* [Knowledge Security Screening Act], which will regulate the screening of potential researchers in sensitive technologies, preventing undesirable knowledge and technology transfers and enhancing the national security of the Netherlands.

This submission has been prepared in my capacity as a Senior Lecturer in Law at <University>. However, the views expressed below are entirely my own and are not necessarily representative of the that university or any other government, organisation or agency.

Further, I acknowledge that my submission is not in Dutch, but in English. As I am not a fluent Dutch speaker, I have attempted to translate key provisions of this submission wherever possible using online resources; however, errors are inevitable and entirely of my own making. I apologise in advance for any inconvenience this may cause.

I am willing and able to provide additional information on my views in the submission if necessary.

Changes in the geopolitical environment

The propoed *Wet screening kennisveiligheid* ("the Act") comes at a time where there have been several significant changes in the geopolitical environment.

The first has been a prioritisation across the US, UK, EU and other Western democracies of "research security" practices – broadly, the elevation and uplift of protection for research conducted at universities and institutions of higher education against national security threat actors.[1] Across the Netherlands there has been a significant push for a corollary term – "knowledge security" – typified by the *Loket Kennisveiligheid* [National Contact Point for Knowledge Security]. At the same time, securitization of academic research has been tempered by a push for "responsible internationalisation", originating with the work of Professor Tommy Shih[2] at STINT and the Swedish research institutions,[3] but more recently echoed by the *Koninklijke Nederlandse Akademie van Wetenschappen* ("KNAW") [Royal Netherlands Academy of Arts and Sciences], the *Universiteiten Van Nederland* [Universities

[1] Author's definition.

[2] Tommy Shih, 'The role of research funders in providing directions for managing responsible internationalization and research security' (2024) 201 *Technological Forecasting and Social Change* 123253; Tommy Shih, 'Points of departure and developing good practices for responsible internationalization in a rapidly changing world' (2024) *Accountability in Research* 1-7; Tommy Shih, Andrew Chubb, Diarmuid Cooney-O'Donoghue, 'Scientific collaboration amid geopolitical tensions: a comparison of Sweden and Australia' (2024) 87(5) *Higher Education* 1339-1356.

[3] Albin Gaunt, 'Responsible internationalisation', *STINT* (online, 2024) <https://www.stint.se/en/responsible-internationalisation/>.

of the Netherlands] and the Global Research-Intensive Universities Network in issuing the *Ottawa Declaration*.[4] Thus, there are significant areas for legal and policy improvement across the UK in the face of the deteriorating geopolitical environment in which AUKUS must succeed.

The second has been a retaliation against such research security measures, largely by authoritarian regimes and developing nations. On 2 December 2024 the United Nations General Assembly adopted a resolution submitted by China, and co-sponsored by 27 other states (including relevantly, Iran, the Democratic People's Republic of Korea, and the Russian Federation)[5] on 'promoting international cooperation on peaceful uses in the context of international security'.[6] This resolution uses robust language to 'reaffirm' that individual states rights to 'peaceful uses' in scientific collaboration should not be curtailed by developed nations seeking to honour their non-proliferation obligations. The resolution specifically 'notes with concern' changes in the export control environment and claims that export controls will place 'undue' barriers on collaborations in the peaceful pursuit of technologies. Given the

The third of these has been a significant polarisation in the academic research environment in the United States, corresponding with the election of US President Donald Trump.[7] Recent Executive Orders passed in the US have had flow-on implications for research projects across the European Union ("EU") that received funding from the US. Despite numerous lawsuits launched in the US to remedy this egregious abuse of executive power, it is unlikely that these blockages will be resolved in the short- to medium-term, leaving EU scientists to look wider to diversify their research income streams. Trump's measures also pose a personnel security risk – university researchers may be more easily swayed by promises of money (i.e., salaries and other benefits as well as funding) now that the US continues to foreclose collaborative efforts in the UK. For example, funds have been coordinated across the EU to capitalise on Trump's moves and lure scientists displaced or alienated from the US research community. At the same time, potential adversarial nations such as China and Russia have likewise indicated a willingness to fund US scientists to leave their home institutions and bring their research with them.[8] Lastly, Trump has demonstrated an increased willingness to impose

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[4] 'Boosting international research collaboration for a better future' ("the Ottawa Declaration"), *Global Research-Intensive Universities Network* (online, 2 May 2025) <https://www.russellgroup.ac.uk/sites/default/files/2025-05/GRIUN%202025%20Ottawa%20Declaration.pdf>.

[5] United Nations General Assembly, *Voting Record: Item 106 - A/79/416 DR as a whole – Promoting International Cooperation on Peaceful Uses in the Context of International Security* (online) <https://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com24/votes-ga/416DR.pdf>.

[6] United Nations General Assembly, *Item 106 - A/79/416 DR as a whole – Promoting International Cooperation on Peaceful Uses in the Context of International Security* (A/C.1/79/L.53/Rev.1, 25 October 2024) <https://documents.un.org/doc/undoc/ltd/n24/317/40/pdf/n2431740.pdf>.

[7] Brendan Walker-Munro, 'Trump is surveying Australian academics about gender diversity and China – what does this mean for unis and their research?', *The Conversation* (online, 17 March 2025) <https://theconversation.com/trump-is-surveying-australian-academics-about-gender-diversity-and-china-what-does-this-mean-for-unis-and-their-research-252282>.

[8] Isabela van Brugen, 'Russia Is Running Out of Scientists, Top Putin Ally Admits', (online, 2 November 2023) <https://www.newsweek.com/russia-exodus-scientists-brain-draine-ukraine-war-1840252>; Dannie Peng, 'Princeton nuclear physicist Liu Chang leaves US for China in fusion energy quest', *South China Morning Post*

economic tariffs even on US-allied countries – the full effect of these restrictions on the future of academic research is almost impossible to calculate.

The nature of research security threats

In terms of the threat actors applying in the academic environment, there are three broad categories that the Inquiry ought to consider.

The first is State-based actors and proxies of foreign government entities. These threats have not dissipated.[9] Their intent, methodologies and motivations have only sharpened in the current geopolitical environment. The observations of the Parliamentary Intelligence and Security Committee in 2023 – that 'China has been particularly effective at using its money and influence to penetrate or buy Academia in order to ensure that its international narrative is advanced and criticism of China supressed'[10] – remain apposite. Indeed, there is only a short distance between legitimate 'donations, gifts, grants and research funding from Chinese sources'[11] and academic espionage.[12] In early 2024, the *Militaire Inlichtingen- en Veiligheidsdienst* ("MIVD") [Military Intelligence and Security Service] warned that 'China tries to get hold of technology in the Netherlands in various ways, using a combination of (cyber) espionage, company insiders, acquisitions, circumvention of export restrictions and reverse engineering of technology for which no licenses are required'.[13] Then in May 2025, Dutch Minister of Defense Ruben Brekelmans gave an interview at the Shangri-La Dialogue in Singapore, saying:

> The semiconductor industry, which we are technologically leading, or technology advanced, of course, to get that intellectual property - that's interesting to China…It's continuing. In our newest intelligence reports, our intelligence agency said that the biggest cyber threat is coming from China, and that we do see most cyber activity when it comes to us being as from China. That was the case last year, but that's still the case. So, we only see this intensifying.[14]

(online, 10 March 2025) <https://amp-scmp-com.cdn.ampproject.org/c/s/amp.scmp.com/news/china/science/article/3301674/princeton-nuclear-physicist-liu-chang-leaves-us-china-fusion-energy-quest>.

[9] Nathan Williams, 'Foreign states targeting UK universities, MI5 warns', *BBC News* (online, 26 April 2024) <https://www.bbc.com/news/uk-68902636 >.

[10] Parliamentary Intelligence and Security Committee, *China* (Final report, 13 July 2023) <https://isc.independent.gov.uk/wp-content/uploads/2023/07/ISC-China.pdf > 3.

[11] Jabed Ahmed, 'Revealed: Scale of Chinese financial investment in UK universities', *The Independent* (online, 26 January 2025) <https://www.independent.co.uk/news/uk/home-news/china-financial-investment-oxford-cambridge-university-ccp-b2665368.html>.

[12] Garret Molloy, Elsa Johnson, 'Investigation: Uncovering Chinese Academic Espionage at Stanford' (online, 7 May 2025) <https://stanfordreview.org/investigation-uncovering-chinese-academic-espionage-at-stanford/>.

[13] Reuters, 'Chinese spies target Dutch industries to strengthen military, intelligence agency says' (online, 18 April 2024) <https://www.reuters.com/world/china/chinese-spies-target-dutch-industries-strengthen-military-intelligence-agency-2024-04-18/>.

[14] Xinghui Kok, 'Chinese spying on Dutch industries "intensifying": Dutch defence minister', *Reuters* (online, 31 May 2025) <https://www.reuters.com/business/aerospace-defense/chinese-spying-dutch-industries-intensifying-dutch-defence-minister-2025-05-31/>.

Unsurprisingly, the Chinese government refuted such claims.[15]

The second is organised and serious criminal elements. The scope and scale of this threat to UK universities is entirely under-researched.[16] Yet the attraction of university research to organised and serious crime cannot be underestimated – the theft of intellectual property from a university professor or research student would be largely considered a low-risk, high-reward endeavour favoured by organised criminal elements.[17] Further, academic environments are not familiar with the "red flags" associated with infiltration by organised crime, and so are at potentially high risk for that form of conduct in the wake of the AUKUS announcement.

The third and final threat vector comes from motivated individuals, either ones external to the research process or "insider threats" to research processes. Insider threats are already recognised as a significant threat to research security practices, particularly in the EU, where compromise can not only occur because of malicious and negligent actions, but because of mistakes and inadvertent compromise.[18] The full scope of insider threats to research security in the EU remains significantly under-funded and underexplored; however, one such recent white paper from the Intelligence and National Security Alliance (INSA) describes a general lack of awareness, lack of unified leadership and lack of resourcing as fundamental challenges to combatting insider threats to the academic sector.[19] These are all the same fundamental challenges currently facing universities in the Netherlands,[20] distinctly heightening the possibility that insider threats will pose an increased risk in the future.

The screening law itself

The Act proposes a number of critical components which must all work together seamlessly for the Act to achieve its intended objectives.

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[15] Reuters, 'China rejects Dutch minister's spying accusation, says tech achievements not "stolen"' (online, 18 April 2024) <https://www.reuters.com/world/china/china-rejects-dutch-ministers-spying-accusation-says-tech-achievements-not-2025-06-03/>.

[16] For one of the only examples of scholarship, see Adam Cohen, Smita Pattanaik, Praveen Kumar, Robert R. Bies, Anthonius De Boer, Albert Ferro, Annette Gilchrist, Geoffrey K. Isbister, Sarah Ross, and Andrew J. Webb, 'Organised crime against the academic peer review system' (2016) 81(6) *British Journal of Clinical Pharmacology* 1012.

[17] Nicholas Lord, Michael Levi, *Organising White-Collar and corporate crimes* (Routledge, 2025).

[18] Jennifer Johnson, Sapna Marwha, *Research security risks: insider threats* (Presentation to the Association of Research Managers and Administrators, 21 October 2024) <https://arma.ac.uk/research-security/>.

[19] INSA, *Countering Insider Theft of National Security Technology* (White paper, June 2025) <https://www.insaonline.org/docs/default-source/uploadedfiles/2025/insa_insider_theft_paper.pdf>

[20] Jan Peter Myklebust, 'Internationalisation guidelines: Bonus or burden for HE?', *University World News* (online, 24 August 2023) <https://www.universityworldnews.com/post.php?story=20230824103157397>; Universiteit Leiden, *Why we are raising everyone's awareness about cybersecurity: 'Do things ever threaten to go horribly wrong here? Definitely.'* (online, 11 June 2024) <https://www.staff.universiteitleiden.nl/news/2024/06/why-we-are-raising-everyones-awareness-about-cybersecurity-do-things-ever-threaten-to-go-horribly-wrong-here-definitely>; Dominika Remžová, Ivana Karásková, 'From Awareness to Action: The Evolving Landscape of Research Security in European Academia', *China Observers: EU* (online, 8 May 2025) <https://chinaobservers.eu/from-awareness-to-action-the-evolving-landscape-of-research-security-in-european-academia/>.

In the *Memorie van toelichting* [Explanatory Memorandum], it is clear that the purpose of the Act is to embed the 'open where possible, closed as necessary' principle set forth in the EU Recommendation.[21] This is further enhanced by the screening obligation applying only to areas of a knowledge institution where a researcher or student can gain access to sensitive knowledge or technology.[22]

Whilst the Explanatory Memorandum lays out a number of sensitive areas of technology (and includes sensitive sub-areas), these are prescribed in the Act in Appendix 2, pertaining to Article 5, first paragraph. Thus, each time a sensitive technology or sub-area emerges, the Parliament will need to amend the law to further add additional information and details as to the technology being added, why it is being added, and the specific sub-areas that are deemed of national security concern.

This also poses issues with the screening process – what happens if a student or researcher is working in a particular area or sub-area, and is assessed by the university as not requiring a "screening obligation" under the Act. During the process of engaging, hiring or enrolling that student or researcher (including any visas necessary for the student or researcher to come to The Netherlands), the Act is amended to include their area of research. How then does the university proceed – are they required to revoke the job or study offer? Do they need to report the matter to Justis and seek a screening? Does the university now need to to immediately review all of its staff and students as to who now requires a screening because of the change of the law?

The actual act of screening[23] will be performed by *Screeningsautoriteit Justis* as a delegate of the Minister of Education, Culture and Science,[24] given that Justis already conducts screenings for *vertrouwensfunctie* [position involving confidentiality].[25] Submitters have already raised issues with the Act and Directive 2016/801,[26] as well as the costs on universities to implement screening already in place versus what is contemplated in the Act.

The *Memorie van toelichting* refers to Australia as having a "screening" process in place;[27] however, this is not the same standard of screening which has been proposed in the Act. In 2022, the Australian Parliament passed the *Migration Amendment (Protecting Australia's Critical Technology) Regulations 2022* (Cth) ("PACT Regulations") in order to amend the *Migration Regulations 1994* (Cth) to strengthen Australia's visa integrity framework and

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[21] European Council, *Council Recommendation of 23 May 2024 on enhancing research security* (OJ L, C2024/3510, 30 May 2024) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202403510>.
[22] The Act arts 3 and 5; Explanatory Memorandum, 22.
[23] The Act art 9.
[24] Ibid art 1.
[25] AIVD, *The Security Screening* (online, 2024) <https://english.aivd.nl/topics/security-screening/the-security-screening>.
[26] *Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing* (OJ L 132, 21 May 2016) 21–57.
[27] Explanatory Memorandum to the Act at 15.

reduce unwanted technology transfer. Students in the fields specified in the *Migration (Critical Technology - Kinds of Technology) Specification (LIN 24/010) 2024*[28] are required to:

- Satisfy the Minister that they do not pose an unreasonable risk of unwanted transfer of critical technology; and
- Seek the Minister's written approval before undertaking a critical technology-related course of study in the postgraduate research sector.[29]

The Minister may also refuse a visa and/or cancel a visa already granted if the Minister is of the view that the visa holder poses an unreasonable risk of unwanted technology transfer (Public Interest Criterion 40003B). However, it is important to recognise that these forms of screening are not of the same kind as proposed by the Act, nor do they apply to the wide range of individuals to which the Act is intended to apply.

Implications for security resourcing

There are significant issues in the resourcing estimated for screening on the scale proposed in the Act. A study by Dutch presenter NOS reported earlier this year 'hundreds' of applications for research had been refused because of national security risks – including around 700 at TU-Delft – and actual cases of refusal varying between 15% at TU-Delft and up to 30% at Eindhoven University of Technology.[30]

There is no upper limit established in the Act, nor anywhere else, as to the number of screenings to be conducted by Justis. Early estimates suggested 8,000 per year;[31] however, that number has now risen to 10,000 per year.[32] Given the obvious interest of The Netherlands in sensitive, emerging and critical technologies, that number is only likely to go in one direction: up. Therefore, any resourcing given to Justis to supply the requisite number of "screening" investigations will need to be constantly monitored and "topped up", lest the demand for screening outgrow the capacity of these agencies to service the Dutch academic sector. AIVD and MIVD have already declined to otherwise take on this screening.[33] Assuming those numbers prevail and an average EU working day, Justis will need to finalise around 190

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[28] <https://www.legislation.gov.au/F2024L00182/asmade/text>.

[29] Department of Home Affairs, *Critical technology - enhanced visa screening measures* (online, 2024) <https://www.homeaffairs.gov.au/nat-security/Pages/critical-technology.aspx>.

[30] Bas de Vries, Milo Hornstra, 'Universiteiten wijzen honderden buitenlandse onderzoekers en samenwerkingen af' [Universities reject hundreds of foreign researchers and collaborations], *NOS* (online, 24 March 2025) <https://nos.nl/artikel/2560912-universiteiten-wijzen-honderden-buitenlandse-onderzoekers-en-samenwerkingen-af>.

[31] DutchNews, *The Netherlands to screen academics to stop knowledge leaks* (online, 8 April 2025) <https://www.dutchnews.nl/2025/04/the-netherlands-to-screen-academics-to-stop-knowledge-leaks/>.

[32] Daniel Hurst, 'ASIO to take over issuing high-level security clearances due to "unprecedented" espionage threat', *The Guardian* (online, 29 March 2023) <https://www.theguardian.com/australia-news/2023/mar/29/asio-to-take-over-issuing-high-level-security-clearances-due-to-unprecedented-espionage-threat>; Andrew Greene, 'Defence struggling to process staff security clearances needed ahead of AUKUS rush', *ABC News* (online, 31 March 2023) <https://www.abc.net.au/news/2023-03-31/defence-struggle-security-clearances-aukus-staff-rush/102167842>.

[33] NL Times, Dutch government to screen thousands of researchers over espionage fears (online, 8 April 2025) <https://nltimes.nl/2025/04/08/dutch-government-screen-thousands-researchers-espionage-fears>.

security investigations every week, of every year once the Act comes into force.[34] Empirical assessments of The Netherlands existing criminal records risk assessment system suggests that, even when such screening is optional, it drives stigmatisation and exclusion whilst vastly increasing demand for clearances through the system.[35]

Article 13(1) of the Act stipulates that the Minister must make a decision in four weeks, with a four-week extension possible in complex cases (article 13(2)). Whilst Justis may have access to intelligence products of MIVD and AIVD in performing that check, they will otherwise be largely restricted to information provided by the clearance applicant – information which can be manipulated, or supplied with key matters withheld or not disclosed (noting that Justis may be able to request information from 'the local authority, the police, and Ministry of Justice, among others'[36]).

However, there is a live issue as to how Justis will obtain information about non-Dutch citizens or residents, particularly where the security services of those countries are not willing to participate or cooperate with Justis investigations. For example, how will Justis conduct an investigation – in between 4 and 8 weeks – of a person's criminal record, financial circumstances, or other 'irresponsible or risky behaviours' for researchers and students from China, Iran, or North Korea? What about in the case of scholars from Latin American or African countries where administrative record-keeping may not be as robust as many Western countries. Alternately, how will Justis conduct investigations on scholars or students whose records may not exist or have been lost/damaged/destroyed as a result of being a refugee or migrant from a war-torn country?

By contrast, in Australia "security clearances" (the same security investigations conducted by Justis) may be obtained only by citizens or nationals/permanent residents of the relevant country. These investigations can take a significant amount of time and consume numerous resources – in some cases, persons wait years for a clearance. In fact, the usual screening authority in Australia (the Department of Defence) was relieved of the completion of "Top Secret" clearances in 2023, which were transferred instead to Australia's national intelligence agency (Australian Security Intelligence Organisation or ASIO).[37] Yet this transfer was only partially successful, with significant delays on all forms of clearances still impacting the system.[38]

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[34] Brendan Walker-Munro, 'The Netherlands will screen 8,000 academics a year – here's why Australia shouldn't', *The Interpreter* (online, 9 May 2025) <https://www.lowyinstitute.org/the-interpreter/netherlands-will-screen-8000-academics-year-here-s-why-australia-shouldn-t>.

[35] Elina van't Zand-Kurtovic, Miranda Boone, 'Privacy, promotionalism and the proliferation of State-performed criminal record screening in the Netherlands: How a restrictive legal framework can still result in a steep increase of criminal background checks' (2023) 23(4) *Criminology & Criminal Justice* 549–567, DOI: 10.1177/17488958231161427.

[36] AIVD, *The Security Screening* (online, 2024) <https://english.aivd.nl/topics/security-screening/the-security-screening>.

[37] Leah Ferris, *Australian Security Intelligence Organisation Amendment Bill 2023* (Bills Digest No. 73, 2022-23) <https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd073>.

[38] Miriam Webber, 'National security watchdog's oversight curtailed by clearance delays', *The Canberra Times* (online, 28 October 2024) <https://www.canberratimes.com.au/story/8795151/vetting-delays-stall-australias-intelligence-watchdog-growth/>.

By nature of these exclusions, screening stands as a hard barrier against the involvement of transnational cooperation and collaborations in many of the technical fields of technology listed in the Act.[39]

Visa delays for security checks is already a substantial and significant cause of students abandoning research or study.[40] In the UK, the Academic Technology Approval Scheme (ATAS) – a required certification for 'certain foreign students and researchers who want to study or conduct research in specific sensitive technology-related fields'[41] – has been cited as creating an enhanced "chilling effect" on international student arrivals.[42]

This seems especially problematic for The Netherlands which, like other EU countries, has established a fund (administered by the *Nederlandse Organisatie voor Wetenschappelijk Onderzoek* [Dutch Research Council]) to lure US scientists forced out by President Trump's reforms to The Netherlands.[43] If the Act were in place today, all of these scientists would likely need to be screened prior to arrival in the country – which would likely impose a significant delay and leave The Netherlands at risk of losing those scientists to another country or countries.

Finally, screening is only a "point-in-time" assessment, i.e., assuming that there are no adverse findings from the investigation and interview conducted, Justis only offers a 'no objection' decision once it has completed its investigation.[44] There is no obligation under the Act on students, researchers to seek a screening investigation if their circumstances change. Nor does the Act compel universities to report any security issues or seek a further screening if the student or researcher's risk profile or behaviour changes (even in cases where they might represent a threat to national security) This means that the ongoing management of risks for research security – and the monitoring and checking of students and researchers to ensure they have not been compromised and/or do not engage in suspicious behaviour once they *start* researching in The Netherlands – remains with universities.

Implications for university resourcing

One of the key implications for the university and higher education sector in The Netherlands are the obligations under article 7(1) to investigate and demarcate areas of their institution

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[39] Arianna Russo Cardona, 'Dutch Knowledge Security Screening Bill: Open Scientific Collaboration At Risk?', *Organization for World Peace* (online, 16 May 2025) <https://theowp.org/dutch-knowledge-security-screening-bill-open-scientific-collaboration-at-risk/>.

[40] INTO Global, *Student Arrival Survey 2024* (online, undated) <https://www.intoglobal.com/media/0qioemz1/2024-arrival-survey-global-report-final.pdf>.

[41] Foreign, Commonwealth & Development Office, 'Academic Technology Approval Scheme (ATAS)', *Gov.UK* (online, 8 January 2025) <https://www.gov.uk/guidance/academic-technology-approval-scheme>.

[42] Hannah Devlin, 'Foreign Office vetting deterring top scientists from UK, Royal Society warns', *The Guardian* (online, 7 November 2022) <https://www.theguardian.com/education/2022/nov/07/foreign-office-vetting-deterring-top-scientists-uk-royal-society-warns>; Yazhou Sun, 'Crackdown on Chinese Students Raises Fears for UK Tech Ambitions', *Bloomberg* (online, 1 August 2024) <https://finance.yahoo.com/news/crackdown-chinese-students-raises-fears-041916741.html>.

[43] Team IO, 'Dutch universities reject foreign researchers and collaborations' (online, 24 March 2025) <https://ioplus.nl/en/posts/dutch-universities-reject-foreign-researchers-and-collaborations>.

[44] The Act, art 14(2).

where ‘screening-obligated persons may come into contact with sensitive technology’, unless article 7(2) applies and a person ‘clearly cannot come into contact’ with such technologies.

Firstly, the bar of ‘clearly cannot come into contact’ with such technologies is extremely high, and is unlikely to be met in an academic environment without significant and complex investments in personnel and physical security measures, i.e., cameras, swipe cards, passwords/passkeys, encryption or data protection, “air gapped” servers, etc. One of the anonymous submitters has already recognised this, saying ‘There is also a clear incentive to designate studies as non-sensitive as possible, or to no longer offer these studies at all. In this way, after all, the financial and regulatory pressure can be avoided’.

Secondly, the principle of ‘open where possible, closed as necessary’ cannot reasonably be met in an academic environment because of the overlap between the pursuit of sensitive technologies and the measures taken to secure them. For example, a laboratory area pursuing biotechnology research does not need to be protected from persons studying cybersecurity; however, the security measures employed in such areas will not be capable of discriminating appropriately between these persons.

Thirdly, the imposition of such controls both explicitly and implicitly impinges on the principle of academic freedom[45] and the international human right to enjoy the cultural benefits of science.[46] Under the Act, academics and researchers at Dutch universities will constantly need to ask both their colleagues and collaborators whether they have been “screened” by Justis prior to discussing or engaging in research into sensitive technological areas. This challenge has been heightened recently, where The Netherlands has fallen significantly in global rankings of academic freedom to its lowest score in recent history.[47]

Fourthly, there is no mention in the Act or the Explanatory Memorandum as to how this applies to research conducted or shared online. Articles 7(1) and 7(3) requires the knowledge institution to report to the Minister ‘which parts of the knowledge institution screening-obligated persons may come into contact with sensitive technology’. These “parts” include ‘among other things, courses and post-initial master’s courses or teaching units thereof as referred to in the Higher Education and Scientific Research Act’. This means that universities will need to review every single online course and unit offered online – and then report their results to the Minister – to ensure they are meeting the obligations imposed by the Act. Universities which fail to do so (even inadvertently) may face a *last onder dwangsom* [penalty payment order] or *boete* [administrative fine].[48]

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[45] As articulated by the *Vrije Universiteit Amsterdam* [Rectors of the Dutch Universities], ‘Statement on Academic Freedom – The Rectors of the Dutch Universities (2025)’, *VUA* (online, 30 May 2025) <https://vu.nl/en/news/2025/statement-on-academic-freedom-the-rectors-of-the-dutch-universities-2025>; *Higher Education and Scientific Research Act*, art 1.6; *Charter of Fundamental Rights of the European Union*, article 13.

[46] As articulated in the *International Covenant of Social, Cultural and Economic Rights*, arts 19(1)-19(3).

[47] Emily Dixon, ‘Dutch declines in academic freedom a ‘multi-dimensional problem’ ‘, *Times Higher Education* (online, 17 May 2025) <https://www.timeshighereducation.com/news/dutch-declines-academic-freedom-multi-dimensional-problem>; Friedrich-Alexander-Universitat, *Academic Freedom Index: 2025 update* (report, 2025) <https://academic-freedom-index.net/research/Academic_Freedom_Index_Update_2025.pdf>.

[48] The Act, art 16(1) and 16(2).

The role of foreign direct investment in Dutch universities

Academics and researchers at higher education institutions compete for funding from a variety of sources, both government and non-government, domestic and international. Whilst this competition ensures that only the most worthwhile projects are funded and ensures Australian researchers can compete internationally, it opens researchers up to the risk of seeking funding from less-secure or higher-risk funding partners. This in turn permits those funding partners access to, and influence over, the products of such research (whether in the form of knowledge or tangible inventions).

These forms of investment – whether from private or public enterprises – can pose national security risks. When Australia tried to capitalise on the Indian student market,[49] what followed just three years later was unscrupulous conduct by both migration providers and students involving widespread allegations of visa fraud and "course hopping".[50] There have also been studies demonstrating that actively seeking funding agreements with foreign universities and entities can carry high levels of national security risk.[51]

Academic research, research security and foreign direct investment have a significant overlap. As was written recently:[52]

> *UK's NSI Act* [National Security and Investment Act 2021] *plays a critical, but highly contestable role in the regulation of research security, precisely because it (a) permits the Executive to examine what are ordinarily opaque research activities by universities that may have national security implications, and (b) grants the Executive power to interfere in ordinarily lawful research collaborations if the Executive concludes such collaborations pose a threat to national security.*

The screening obligation sought to be imposed by the Act is likely to overlap – to a significant and largely unacceptable degree – with the screening regimes operated by foreign direct investment regulations, especially where technical universities look to commercialise on their research and development to advance Dutch interests.[53]

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[49] Julie Hare, 'India is the new China for Australian unis', *Australian Financial Review* (online, 1 March 2020) <https://www.afr.com/policy/health-and-education/why-adam-gilchrist-is-australian-universities-secret-weapon-20230301-p5cola>.

[50] Julie Hare, '"A mockery of the system": Indian students dodge visa rules', *Australian Financial Review* (online, 14 April 2023) < https://www.afr.com/policy/health-and-education/a-mockery-of-the-visa-system-indian-students-dodge-uni-rules-20230413-p5d077>.

[51] Radomir Tylecote, Robert Clark, *Inadvertently Arming China?: The Chinese military complex and its potential exploitation of scientific research at UK universities* (Report, Civitas, February 2021) <https://www.civitas.org.uk/publications/inadvertently-arming-china/>; Robert Clark, *Inadvertently Arming China? One Year On: The Chinese military complex and its exploitation of scientific research at UK universities* (Report, Civitas, October 2022) <https://www.civitas.org.uk/publications/inadvertently-arming-china-one-year-on/>; Brendan Walker-Munro, David Mount, Ruby Ioannou, *Are we training potential adversaries? Australian universities and national security challenges to education* (Report, October 2023) <https://espace.library.uq.edu.au/view/UQ:af6347b>.

[52] Brendan Walker-Munro, 'National security, foreign investment and research security: The current state of art' (2024) 33(2) *Griffith Law Review* 167, 174, <https://search.informit.org/doi/10.3316/informit.T202504080001119181695885O>.

[53] Yojana Sharma, 'Academics say draft screening law could deter foreign talent', *University World News* (online, 17 April 2025) <https://www.universityworldnews.com/post.php?story=20250417132055569>.

An alternative proposal

The *Tweede Kamer der Staten-Generaal*, together with the Education Minister Bruins, ought to consider revoking the *Wet screening kennisveiligheid* and instead replace it with legislation to enable wider and more open communication between universities, the *Loket Kennisveiligheid*, Justis, AIVD and MIVD as part of an "on-demand" model.

In short, knowledge institutions in The Netherlands should continue to promote risk awareness amongst both existing and prospective staff and students, whilst continuing to adapt national screening and risk assessment guidelines relevant to their distinct institutions. After all, the risk profile and appetite affecting – for example TU-Delft – is and will remain substantially different to that of Leiden University, or University of Groningen. Where universities are unable to verify or ascertain the quantum of certain risks relating to a proposed student or academic, they should be able to contact Justis, AIVD and MIVD (through a centralised mechanisms in the *Loket Kennisveiligheid*) for "intelligence assistance".

One example where this type of model exists is in the Australian "FINTEL Alliance", which has evolved to combat money laundering. Employees of banks and financial regulators share information openly about risk management and mitigations, especially around engaging new customers who might pose money laundering risk.[54] A similar model, adapted for the unique nature of The Netherlands higher education and knowledge institution environment, would be far better placed to respond to research security threats than in the current "screening obligation" model which the Act proposes.

Conclusion

From the perspective of The Netherlands university and higher education sector, national security threats to research and academic knowledge pose significant risks to international collaboration, research integrity, and technological innovation. If such threats to research and knowledge security were permitted to manifest, they might undermine both the security of The Netherlands but also of the wider EU, disrupting access to cutting-edge research and limiting opportunities for academic institutions to collaborate on critical and emerging technologies.

However, the screening law currently contains a vast array of problematic issues that run contrary to the lengthy and admirable history of academic freedom and achievement in The Netherlands. For that reason, I would strongly encourage the *Tweede Kamer der Staten-Generaal* not to pass this Act in its current form.

Thank you for the opportunity to make this submission.

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[54] Paula Chadderton, Simon Norton, *Public-Private Partnerships to Disrupt Financial Crime: An Exploratory Study of Australia's Fintel Alliance* (SWIFT Institute Working Paper No. 2019-003) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3392268>.