

# INQUIRY INTO THE AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) BILL 2020 AND AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) (CONSEQUENTIAL AMENDMENTS) BILL 2020

**Foreign Affairs, Defence and Trade Legislation Senate Committee**

**Public Hearing**

**Tuesday 13 October 2020**

## Universities Australia responses to questions taken on notice

**#1 Senator Patrick P19:** Okay. In relation to the scope of the bill, Mr Sheehy talked about how broad it was in nature. I note that Universities Australia's submission points out a range of different agreements. I wonder whether or not it's possible to reconcile those agreements, or those types of agreements, against controls already in place. If I look at collaborative research projects, for example, it might be helpful if you were to articulate that the Defence Trade Controls Act, for example, has an impact on those agreements. Perhaps that's a question on notice. I would have thought it might have been helpful—in terms of negotiating with the government to reduce the burden on regulation—to spell out the tie-ins with other legislation.

### **Response: Universities Australia**

The Universities Australia submission included a list of 'foreign agreements' that could potentially fall within the Bill's scope. These are provided in a table below, with relevant existing legislation listed alongside. The listed legislation/regulation/guidance will not necessarily apply to every agreement, as they are specifically designed to capture only the agreements that potentially carry any risk or sensitivities.

| <b>Type of agreement</b>        | <b>Existing legislation/regulation</b>   |
|---------------------------------|--|
| Collaborative research projects | <ul style="list-style-type: none"> <li>• The <i>Defence Trade Controls Act 2012</i> would apply to any research of a sensitive or potentially dual-use nature.</li> <li>• The Australian visa system includes appropriate checks and screening for collaborators seeking to enter Australia.</li> <li>• The <i>Autonomous Sanctions Bill 2010</i> Australia's sanctions regimes imposes restrictions on engagement with countries listed under either the United Nations Security Council sanctions or Australian autonomous sanctions regimes.</li> </ul> |

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|---|--|
|   | <ul style="list-style-type: none"> <li>• The UFIT Guidelines help universities address any risks of potential foreign interference.</li> </ul>   |
| Research funding agreements from large international funding bodies (e.g. European Research Council, the US National Institutes of Health and the US Defence Advanced Research Projects Agency) | <ul style="list-style-type: none"> <li>• The <i>Defence Trade Controls Act 2012</i> would apply to any research of a sensitive or potentially dual-use nature.</li> <li>• The <i>Autonomous Sanctions Bill 2010</i> Australia's sanctions regimes imposes restrictions on engagement with countries listed under either the United Nations Security Council sanctions or Australian autonomous sanctions regimes.</li> </ul>   |
| Research collaborations   | <ul style="list-style-type: none"> <li>• The <i>Defence Trade Controls Act 2012</i> would apply to any research of a sensitive or potentially dual-use nature.</li> <li>• The <i>Autonomous Sanctions Bill 2010</i> Australia's sanctions regimes imposes restrictions on engagement with countries listed under either the United Nations Security Council sanctions or Australian autonomous sanctions regimes.</li> <li>• The Australian visa system includes appropriate checks and screening for collaborators seeking to enter Australia.</li> <li>• The UFIT Guidelines help universities address any risks of potential foreign interference.</li> </ul> |
| Consortia and joint venture arrangements (e.g. EMBL Australia, International Ocean Discovery Program, space and Antarctic research programs, and many others)                                   | <p>In many cases, these are partially supported by Australian government funding sources, including:</p> <ul style="list-style-type: none"> <li>• National Competitive Grant funding</li> <li>• National Critical Research Infrastructure Strategy funding</li> <li>• funding through other programs supported by the Australian Government Department of Industry, Innovation and Science</li> </ul> <p>In all of these cases, projects and collaborations would be appropriately assessed and scrutinised by the Australian Government.</p>  |
| Qualifications recognition agreements   | <ul style="list-style-type: none"> <li>• These would likely be negotiated in consultation with the Australian Government Department of Education, Employment and Skills.</li> </ul>  |
| Student and staff exchange  | <ul style="list-style-type: none"> <li>• The Australian visa system includes appropriate checks and screening for any academic or professional staff or students seeking to enter Australia.</li> </ul>  |

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|---------------------------|---|
|                           | <ul style="list-style-type: none"> <li>• The UFIT Guidelines help universities address any risks of potential foreign interference.</li> <li>• If any individual undertakes an activity for the purpose of political or governmental influence on behalf of a foreign principal, then they are required to register under the <i>Foreign Influence and Transparency Act 2018</i>.</li> </ul>  |
| Cultural activities       | <ul style="list-style-type: none"> <li>• These can be very variable in nature but should they involve travel or the transfer of people, the Australian visa system includes appropriate checks and screening for any persons seeking to enter Australia.</li> <li>• The UFIT Guidelines help universities address any risks of potential foreign interference.</li> <li>• If any individual undertakes an activity for the purpose of political or governmental influence on behalf of a foreign principal, then they are required to register under the <i>Foreign Influence and Transparency Act 2018</i>.</li> </ul> |
| Transnational education   | <ul style="list-style-type: none"> <li>• These would likely be negotiated in consultation with the Australian Government Department of Education, Employment and Skills.</li> </ul>   |
| Scholarship programs      | <ul style="list-style-type: none"> <li>• The Australian visa system includes appropriate checks and screening for any students seeking to enter Australia.</li> </ul>   |
| Student mobility programs | <ul style="list-style-type: none"> <li>• The Australian visa system includes appropriate checks and screening for any students seeking to enter Australia.</li> </ul>   |

**#2 CHAIR P21:** Do they teach about all Chinese matters, including events that the Chinese Communist Party pretend didn't occur? Do they teach people about Tiananmen Square, for example, the gang of five, those sorts of issues, or is it a sanitised version of Chinese history?

**Response: Universities Australia**

Universities Australia is unable to provide specific information regarding the education programs offered by individual Confucius Institutes. Information of this nature should be obtained directly from the specific Confucius Institutes. Information regarding the Confucius Institutes located on Australian universities can be found at the following links.

University of Queensland: <https://confucius-institute.centre.uq.edu.au/about-uq-confucius-institute>

Griffith University: <https://www.griffith.edu.au/tourism-confucius-institute>

QUT: <http://www.confuciusinstitute.qut.edu.au/>

UNSW: <http://confuciusinstitute.unsw.edu.au/>

University of Newcastle: <http://www.newcastle.edu.au/community-and-alumni/arts-and-culture/confucius-institute>

University of Sydney: [http://sydney.edu.au/confucius\\_institute/index.shtml](http://sydney.edu.au/confucius_institute/index.shtml)

Charles Darwin University: <http://www.cdu.edu.au/confucius-institute>

University of Adelaide: <http://confucius.adelaide.edu.au/>

Latrobe University: <http://www.latrobe.edu.au/confucius-institute>

RMIT University: <http://www.rmit.edu.au/about/our-education/academic-schools/health-sciences/about/Chinese-medicine-confucius-institute/>

University of Melbourne: <http://www.confuciusinstitute.unimelb.edu.au/>

Victoria University: <https://www.vu.edu.au/victoria-business-confucius-institute-vbci>

University of Western Australia: <http://www.confuciusinstitute.uwa.edu.au/>

**#3 Senator Kitching P24:** Can I raise a question about Koala AI Technology. The University of Queensland launched an investigation into one of its professors, who formed an artificial intelligence company, because that artificial intelligence has allegedly been used by the CCP to surveil minority Uighurs. That University of Queensland professor did this while working at UQ and receiving taxpayer funded research grants. What's happened to that professor, given that the universities are complying with the Defence Trade Controls Act—and, Ms Jackson, I think you also said you're aware of the Autonomous Sanctions Act and the FITS et cetera. It was about this time in 2019, about 13 or 14 months ago. What happened with that particular example?

**Response: Universities Australia**

Universities Australia is not privy to any internal procedures which may have been undertaken in regard to Professor Heng Tao Shen's time at UQ. Professor Heng Tao Shen's research was supported by the Australian Research Council (ARC) and would have required Professor Heng to meet the strict criteria imposed by the ARC and UQ to receive these funds. Following the completion of his fixed-term Future Fellowship, Professor Teng departed UQ.

**#4 Senator Kitching P24:** Could you also ask the University of Queensland where they think their moral responsibility lies in terms of that. Also, I would like to know whether you and all of your member institutions—and the University of Queensland in this example—think the Defence Trade Controls Act is really all we need?

**Response: Universities Australia**

The Defence Trade Controls Act provides Australia with a regulatory regime with strong government oversight to ensure scrutiny over all research with a potential defence application. It is an important element of the existing framework within which Australia's universities operate and complements university engagement with the Attorney-General's

Department, the Department of Home Affairs and security agencies on the Foreign Influence Transparency Scheme 2018 and the University Foreign Interference Taskforce (UFIT) as well as Australia's sanctions regimes.

Universities Australia is unable to comment on issues relating specifically to the University of Queensland.

**#5 Senator Kitching P26:** Did those institutions whom you represent have discussions with the Confucius institutes to encourage them [to register under FITS]?

**Response: Universities Australia**

Universities Australia does not have oversight of specific discussions that take place between universities and the Confucius Institutes they host.

**#6 Senator Fierravanti-Wells P27:** Those Confucius institutes should have been the first to put on the FITS, and I'd like to know what you have done as the peak body to be proactive in ensuring visibility of those Confucius institutes.

**Response: Universities Australia**

Universities Australia provides broad sectoral policy advice to members. With respect to registering entities under the Foreign Interference Transparency Scheme, universities were advised to carefully check their obligations under the Act and seek independent legal advice if needed.

**#7 Senator Fierravanti-Wells P29:** I would appreciate if you could take on notice where the funding for those 39 came from, and how much it was. Where there is funding from overseas sources and overseas students, could you provide us with details in relation to that. We've been told that up to 20 to 25 per cent of the income of some of our main universities comes from overseas students, especially from China, and that includes funds that come from Chinese sources. I would like you to take that on notice, if you don't mind.

**Response: Universities Australia**

Universities Australia does not collect information from member universities on how much income they receive from specific countries.

The official higher education provider finance tables can be found on the Department of Education Skills and Employment website at <https://docs.education.gov.au/node/53363>. Information regarding international student enrolments can be found at <https://internationaleducation.gov.au/research/international-student-data/pages/default.aspx>

**#8 Senator Fierravanti-Wells P30:** What sort of engagement does the university sector have with organisations such as—and I'll list a series of organisations, because I'm interested to know what they say on their website and what your interpretation is of that—the Australia Education Management Group, the Australian Education Society, the Australia

China Economics, Trade & Cultural Association, the Australia Chew businessmen's federation?

**Response: Universities Australia**

Universities Australia has no engagement with the organisations in question. Information regarding the relationships between these organisations and specific institutions should be directed to the university in question.

**#9 Senator Fierravanti-Wells P30:** I would like to also understand what practical changes have been made to the way that the universities are now operating in relation to a much more proactive screening—if I can put it that way—of people who do come from overseas, particularly scholars, but not necessarily from just China but also from other countries around the world. What screening procedures are in place? What protocols do you utilise, in terms of screening the activities of scholars? What guidelines are in place in relation to their activities when they are engaged in research and work and our public institutions which are funded by the Australian taxpayer?

**Response: Universities Australia**

As a consequence of their involvement in UFIT, Australia's university sector has been working diligently to strengthen internal mechanisms that underpin their approaches to countering foreign interference and to strengthen due diligence and review of international partnerships. This includes:

- changes to oversight and decision-making structures and responsibilities;
- reviewing and updating of a broad range of policies, procedures and mechanisms to identify and strengthen safeguards and update reporting practices;
- increasing capacity and expertise in relevant areas; and
- strengthening due diligence mechanisms.

Institutional guidelines and protocols work in tandem with existing mandatory screening processes of foreign scholars undertaken by the Australian Government.

**#10 Senator Kitching P33:** Would the UFIT guidelines be better if they also incorporated law enforcement action, as other countries have in their version of the UFIT guidelines, so that there were actual consequences if you breached those guidelines?

**Response: Universities Australia**

If university staff are found to have breached their university's policies or code of conduct then the university can impose disciplinary actions. Any allegations or evidence of criminal activity would be referred to the relevant authorities, including law enforcement.

**#11 Senator Kitching P39:** I'm wondering if we could ask the previous panel—that is, Ms Jackson, Ms Thomson and Mr Sheehy—and this panel to give us a flow chart of how they interact if a problem arises or something is brought to their attention. How do they interact?

With whom do they interact—not the actual name of the officer, but rather the section in the department? It's just so we can have an understanding of the processes that are currently used, or perhaps not used, in terms of trying to solve any issues that may arise in terms of these agreements or in terms of foreign interference and foreign influence.

**Response: Universities Australia**

Universities Australia, as the peak body for the sector, rather than an actual institution or employer of academics or place of research has a different level and nature of engagement with the various government departments and agencies than member universities.

We maintain close working relationships with various departments and agencies and liaise with them on various matters of policy. This includes our founding membership of the University Foreign Interference Taskforce (UFIT) and Steering Group. Universities Australia's engagement with UFIT and the Steering Group includes direct engagement with:

The Office of the National Counter Foreign Interference Coordinator, Department of Home Affairs.

Australian Cyber Security Centre, Australian Signals Directorate.

Integrity and International Group, Attorney General's Department.

Australian Security Intelligence Organisation

The Office of the Chief Defence Scientist.

Other engagement with government departments, with whom we raise various issues as required, includes:

The Department of Education, Skills and Employment (Higher Education, Research and International Group)

The Department of Home Affairs (Immigration and Community Protection Policy Division, Immigration and Settlement Services Group)

The Australian Research Council

The National Health and Medical Research Council

The Department of Foreign Affairs and Trade (Soft Power, Communications and Scholarships Division; Regional Trade Agreements Division)

The Attorney General's Department

The Department of Defence (Defence Exports Control)

The Department of Industry, Science, Energy and Resources