

**On the Dutch Government's response to written questions by the Dutch Parliament
on the overwhelming presence of Chinese scanning equipment and services at
the European Union's outer borders**

On 28th September 2023 the Netherlands Government belatedly responded to series of questions from ranking Members of the Second Chamber of the Netherlands Parliament (Dutch version questions [set 1](#) and questions [set 2](#); informal English translation [1](#) and [2](#)). These questions critically addressed the over 90% dependence of Dutch Customs of Chinese scanning equipment and services at the outer borders of the European Union. In her 14 March 2023 response [letter](#) to European Parliament Members Bart Groothuis and Nathalie Loiseau and over 50 other MEPs, European Commission President Dr Ursula von der Leyen writes that *“security requirements need to be properly reflected in the procurement selection and award criteria, and that those considerations should prevail over other criteria such as price”* when EU Member States procure vulnerable scanning equipment and services.

Although EU Member States have the prerogative to independently choose which companies shall provide such equipment, it is the European Commission that decides whether such procurement shall be funded through the so-called Customs Control Equipment Instrument ([CCEI](#)) 1 billion Euro fund. Among the explicit conditions for such funding is the following: *“A particular focus on ensuring the security of the equipment purchased under the CCEI should be given during the procurement procedures, and Member States are expected to fully align them with relevant EU security policies and interests, including through enhanced risk diversification.”* According to the [‘Legal Opinion’](#) of the renowned Law Firm Arnold & Porter, the [Fact Pack](#) and the [ING2 report](#) of the European Parliament (that calls for the banning of all Nuctech equipment and services) Nuctech equipment and services do not comply with CCEI conditions. These conditions reflect the principal goals of CCEI: *“to contribute to adequate and equivalent results of customs controls through the transparent purchase, maintenance and upgrading of relevant and reliable state-of-the-art customs control equipment that is secure, safe and environmental-friendly, thereby helping the customs authorities **act as one** to protect the interests of the Union.”* To use EU funds for the procurement of Nuctech equipment flies in the face of these goals.

Contrary to the Ministries of Foreign Affairs and Defence that obviously include key European Security elements in their policies, the (Dutch) Finance Ministry requires its Customs authorities to only consider issues of National Security. In the past years Finance Ministries throughout the European Union seem to have prioritized financial considerations and traditional Customs duties (drugs, tax, migration, etc., issues) over European Security concerns. Two facts should have led to adaptations of the Finance Ministry's narrow focus: the Russian invasion of Ukraine and the announced establishing of an [EU Customs Authority](#) that will (at long last) strengthen coordination and exchange between national Customs authorities. The Dutch Government was asked whether it was aware of the formal security cooperation between Nuctech and Russia. The Government chose to ignore this rather pertinent question. In her [report](#) published by the German Council on Foreign Relations on 19 January 2021 top expert on Chinese and Russian security matters Didi Kirsten Tatlow confirmed the

Nuctech-Russia relationship. She is invited to address a planned expert meeting in Nieuwspoor.

Furthermore, in its response, the Dutch Government did not address the key element of 'European Security' as required under CCEI funding terms. Instead, only 'National Security' is referred to as follows: "...*national security is currently not at risk.*" Remarkably and disturbingly, the answers do explicitly refer to the possibility *that personal and other data are leaked*. Apart from a certain disdain for privacy protection this seems to reflect a gross underestimation of Chinese and Russian efforts to use all acquired data for intelligence purposes.

When Nuctech was excluded from procurement procedures in Belgium the Chinese company earlier this year took the Belgian Government to court. Not only did it [lose](#) the court case, it also declined to answer the court's question to explain Nuctech's relationship with the Chinese Government – in fact just as most other Chinese enterprises operating in the international markets Nuctech is State-sponsored and co-owned by a Chinese defence (nuclear) industry. On top of this, Nuctech is subjected to Chinese laws that require all Chinese persons and institutions to report anything related to security to the appropriate Chinese authorities. The European Union strategy vis-à-vis China to "de-risk, not de-couple" should thus apply to any Dutch Government decision regarding Nuctech.

In his unique [speech](#) for young Chinese leaders at the Chinese Tsinghua University on 25 September 2023 European Commission Executive Vice President Valdis Dombrovskis defined the EU's *de-risking strategy* so as to include the protection of data. That message will hopefully reach The Hague in time before any further Nuctech equipment and services are procured.

So far, through CCEI, European tax payers' funds have been used by the Dutch Government to procure mostly Chinese materials. An [overview](#) of scanning equipment certified by the European Commission demonstrates the rather unacceptable consequences of Member States' behaviour: also in this security-vulnerable area Europe is currently not able to compete with China. By consequence Europe cannot guarantee that the privacy of its citizens and its data are protected. In line with all recent EU policy and decision making CCEI funds should thus be used to re-create the European industrial basis for scanning equipment and services. On the basis of current industrial and technological developments in for instance The Netherlands, Italy and France it seems entirely possible to realise this prior to the start of the future EU Customs Authority.

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