

# Universities Position in Contract Negotiations



# Universities as contract negotiators, innovators and research organisations: viewpoint

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# Agenda

1. Introductory comments
2. Commercial/Research Contract Negotiations at Universities
3. Principles of Value Protection and Behaviour at Universities
4. Strategic thinking at Universities
5. Poor protection = negative for research and innovation?
6. What Value/ Assets do Universities have?
7. Knowledge Utilisation Tool (KUT)
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# Introduction

Universities enter into contracts with Multinational Corporations, SMEs, government authorities, private individuals and NGOs, among others, on a daily basis.

## Introduction cont.

However, Universities often have an 'inferior' position at the negotiation table.

This 'inferiority complex' can arise for the following reasons:

- Lack of good legal personnel with commercial negotiation skills
- Cultural/Gender issues
- Lack of organisational support for protection of valuable assets
- Lack of researcher's interest or knowledge on protection of (their) valuable assets



# Commercial/Research Contract Negotiations at Universities

## Attachment 1: Background included

According to the Grant Agreement (Article 24) Background is defined as “data, know-how or information (...) that is needed to implement the action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but Parties must identify and agree amongst them on the Background for the project. This is the purpose of this attachment.

### PARTY 1

As to [NAME OF THE PARTY], it is agreed between the Parties that, to the best of their knowledge (*please choose*),

Option 1: The following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for Exploitation (Article 25.3 Grant Agreement)

Option 2: No data, know-how or information of [NAME OF THE PARTY] shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

This represents the status at the time of signature of this Consortium Agreement.

DESCA H2020 Version 1.2

# Principles of Value Protection and Behaviour at Universities

Most Universities concentrate on recruitment of new financial capital; instead of creation of new ideas, conducting of responsible research, and exercising true innovative spirit. Universities, due to often undercut budgets from the Government, have to resort to their own means of attracting external funding. Universities, in that regard, started showing the behaviour of more commercial entities.

Considering the size of some Universities, on a commercial scale, they could easily be regarded as an MNC (Multinational Corporation). However, unlike true MNCs who have very strong legal teams and protection mechanisms and processes in place, most Universities' legal advice is done on an ad hoc basis, without any mandatory effect.

# Principles of Value Protection and Behaviour at Universities: side note

In Sweden, most academic positions are not 100% funded from the Government's budget (general university funds GUF). That means that academics are constantly 'on the run' for funding and writing proposals. They often have minimal time to do actual research and any other activities relating to research and innovation.

If the top researchers are constantly writing proposals—what does it say about our research and innovation capacity?



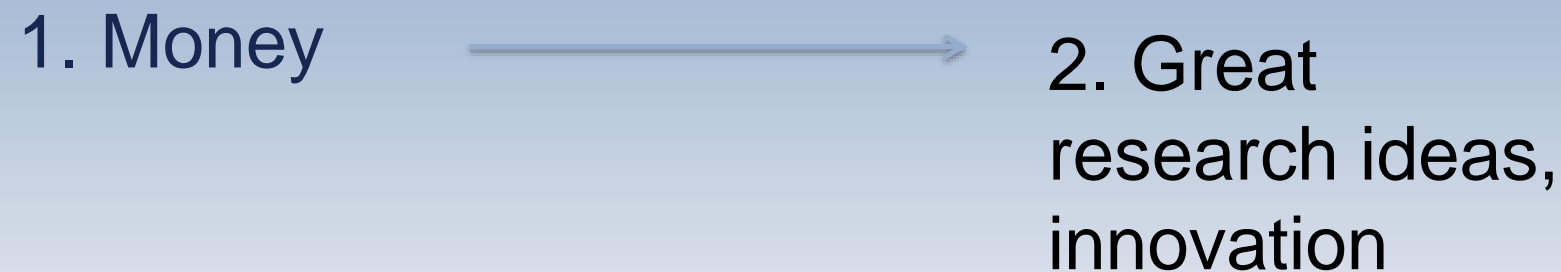
# Strategic Thinking at Universities: Sweden

Swedish universities' difficulty in developing strategy is a longstanding problem. The 1996 Research Bill (FP1996/97:5) established a requirement for universities to write strategies. The following bill (FP2000/01:3) noted they were poor quality and thematically unspecific, and that their main message was that the universities wanted to receive funding for a greater number of centres. The 2000 Research Bill pointed out the practical difficulty of persuading the universities to arrange a thematic division of labour in their graduate schools, let alone in their wider research and education activities. By the time the 2004 Research Bill (FP2004/05:80) was passed, university strategies had begun to address thematic specialisation, but were still struggling to set priorities or reallocate resources. As a result, external funding remained the main driver of changes in university specialisation.

OECD Reviews of Innovation Policy: Sweden 2016

## So, this means that....

What we currently have:



What we should have:



# Strategic Thinking at Universities: comparative

Many Universities have very strong top-down approach, and sometimes a much weaker bottom-up (with a very corporate attitude towards work).

The key is to create an environment where the top-down and bottom-up approaches are well balanced.

# Poor Protection of Intellectual Assets: Sweden

In Sweden, the principle of professor's privilege has shifted the ownership of IPRs to individual researchers, instead of the institutions.

Although it is more a myth than reality that researchers own everything they create, it has created a certain culture of passivity at Universities. Universities/Government are not willing to put clear protection mechanisms in place to protect the Intellectual Assets of their employees—everything is up to the researcher to do.

# Poor Protection of Intellectual Assets: Sweden

This Passivity and dependence on the individual researchers to protect their IAs has led to the lack of centralised IA-information depository.

This means that top-management is not aware of the IAs that are possessed by the University, and hence cannot duly put a value on it. This also leads to weak strategic vision (too general).

(circular problem)

# What value/ assets do Universities have?

Universities are unique structures. They have fundamental, applied, multidisciplinary, inter-disciplinary knowledge on almost all subject matters in the world.

A proper quantification of all knowledge is virtually impossible, but a better system needs to be put in place to be able to identify intellectual assets and create appropriate actions plans on utilisation of such assets.

# Knowledge Management/ Knowledge Utilisation

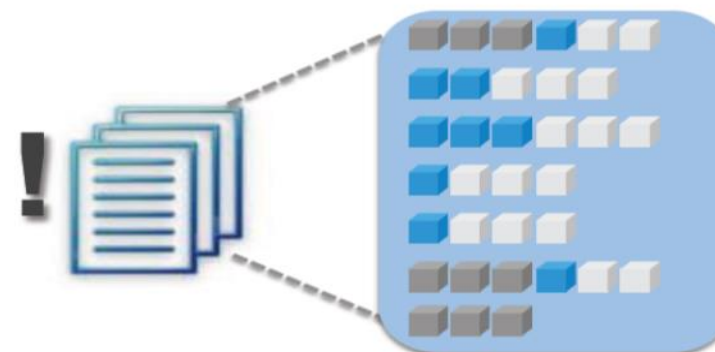


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## CHALLENGE HOW DO WE MANAGE KNOWLEDGE?



**How can we define knowledge that is diffuse and difficult to communicate...**



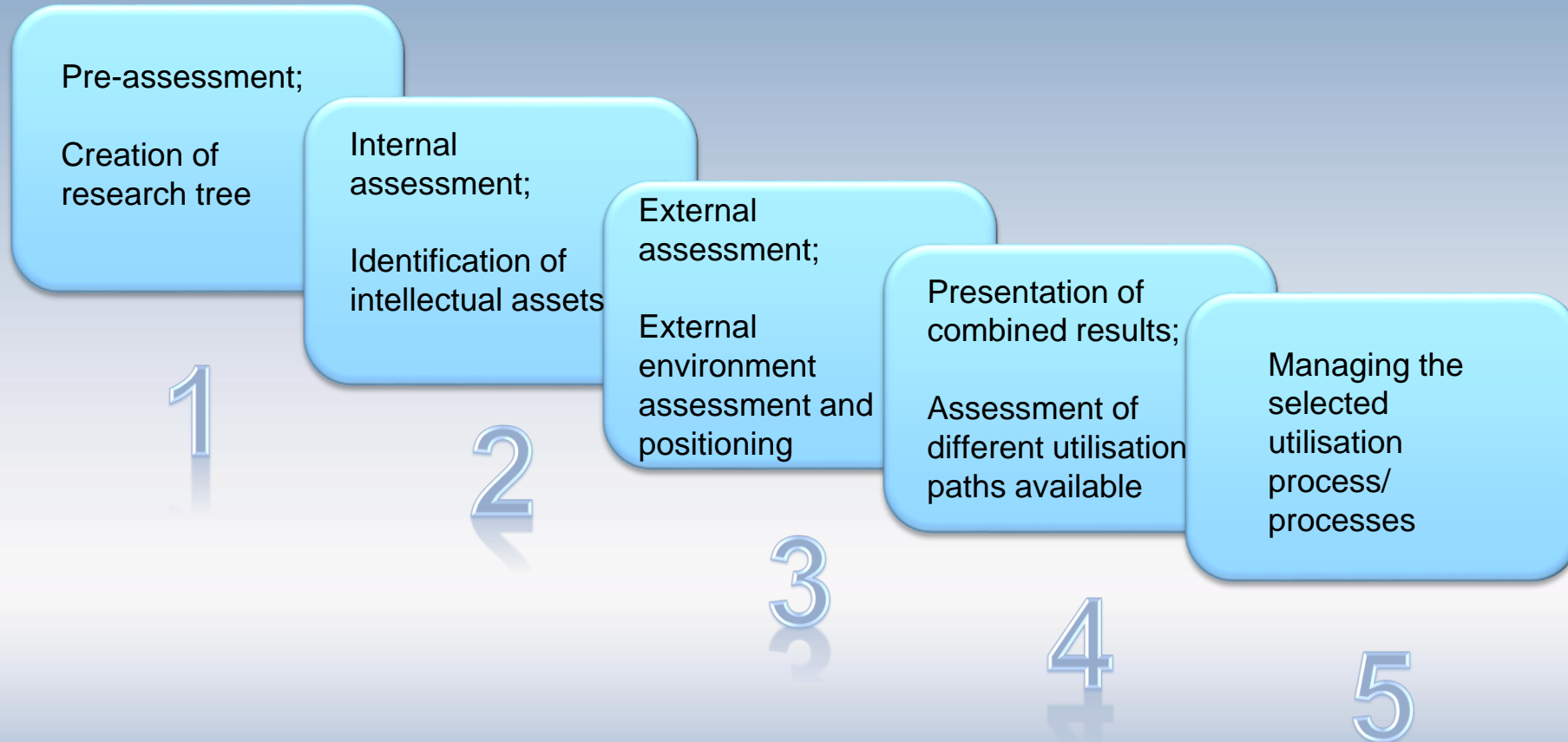
**...and create a clear basis for decisions involving the knowledge and results generated in the research?**

# Knowledge Utilisation Tool (KUT)

<p>1. Identify Intellectual Assets (Internal Assessment)</p> <ul style="list-style-type: none"><li>- Assessment of the group/ unit/ department's own assets</li></ul>	<p>3. Decision-making</p> <ul style="list-style-type: none"><li>- Based on all of the information, an assessment should be made as to the best utilisation of the Intellectual Assets, which requires an involvement of a group of experts</li></ul>
<p>2. External Assessment</p> <ul style="list-style-type: none"><li>- Assessment of the external environment in that field (e.g. patent searchers, freedom to operate, state of the art)</li><li>- Positioning your research</li></ul>	<p>4. Managing the actual process of utilising the Intellectual Assets; transfer the case to other organisations if necessary</p>



# KUT Knowledge Utilisation Tool





## KUT Stage 2 List

Unique ID	IA Category	Function	Utility	Creator	Potential Carriers of IA	Potential owners of IA	Potential IPRs	Projects	Applicable Agreements

# Application of Knowledge Utilisation Strategies: Example

## 2.2 Measures to maximise impact

### a) Dissemination and exploitation of results

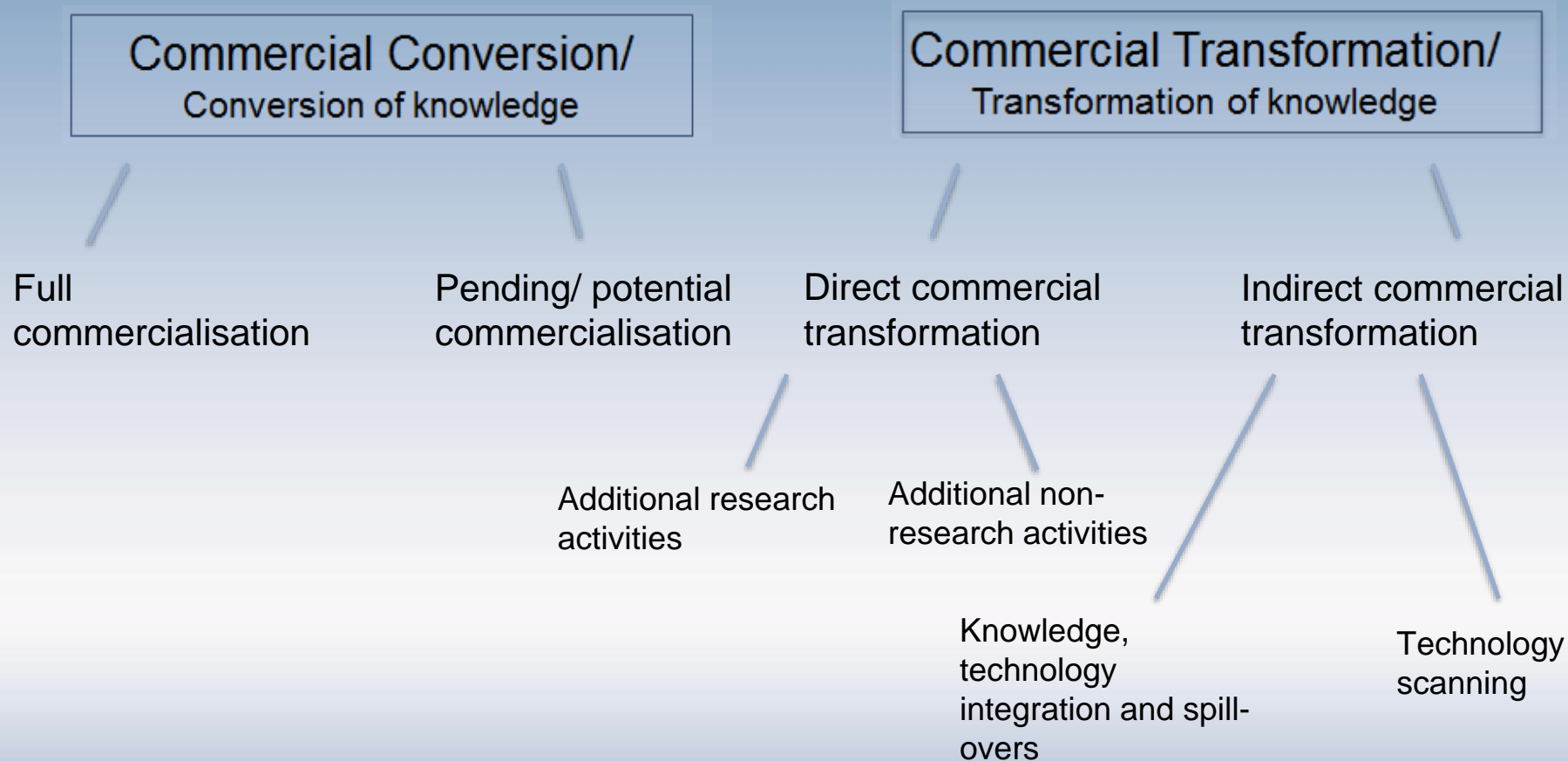
- Provide a draft '**plan for the dissemination and exploitation of the project's results**'. Please note that such a draft plan is an admissibility condition, unless the work programme topic explicitly states that such a plan is not required.

Show how the proposed measures will help to achieve the expected impact of the project.

The plan, should be proportionate to the scale of the project, and should contain measures to be implemented both during and after the end of the project. For innovation actions, in particular, please describe a credible path to deliver these innovations to the market.

European Commission, 2016-17, RIA-IA Proposal template

# Utilisation



Report titled 'Innovation: How to convert research into commercial success story? Part 1 : Analysis of EU-funded research projects in the field of industrial technologies'—European Commission, 2013

# Concluding thoughts

Improved treatment of Intellectual Assets  
Real strategic vision and specific strategies  
Modification of organisational culture



Improved value appreciation/recognition



Better contract negotiators, innovators and  
researchers



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# Questions?



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Thank you!