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## Issues and Enhancements to Inform Transatlantic S&T Cooperation between the European Union and the United States



By [James Casey](#)

*Author's Note: This article is based upon a presentation given at the January 2015 BILAT USA 2.0 EU-U.S. Innovation Conference convened by the European Commission and held in Brussels, Belgium. The European Commission and U.S. State Department are interested in adding an innovation component to their Science & Technology Agreement (STA).*

In order to incorporate an innovation dimension into the Science & Technology Agreement (STA), it is important to understand some of the *issues* and potential *enhancements* that could inform increased S&T collaboration between the European Union and the United States. While these issues and enhancements are written from the perspective of someone who has spent most of his professional career in higher education research management (though collaborating with foreign governments, universities, private companies, foundations, and NGOs), these can be generalized for different sectors given the increasing global collaboration of science and technology.

### Issues in S&T Cooperation

1. *Importance of Joint Framework Conditions.* As a foundational issue, it is important for the EU and U.S. to adopt, as best as possible, common standards, norms, and legal language. More consistency in these areas than is present today would provide greater speed and quality in EU-U.S. partnerships.
2. *Continued Development of Template Agreements.* Template agreements for use between EU- and U.S.-based entities have been around for the better part of thirty years. These should be continually enhanced in light of improved common standards, norms, and legal language.
3. *Creating a "Culture of Yes."* For their part, university research offices (and their industry counterparts) should promote a "Culture of Yes" that encourages and stimulates faculty research and collaboration. University research managers and general counsel should find reasons to say yes, not reasons to say no. Most international projects have an inherent level of risk that cannot be entirely eliminated. As a result, the management and mitigation of risk should be the highest priority.
4. *Obstacles.* The U.S. and EU have different administrative and legal systems, expectations, and cultures. These cannot be eliminated, but partners on both sides of

the Atlantic can be more proactive about addressing these obstacles as soon as possible. This is especially true in the realm of precisely written agreements.

5. *Reducing Negotiation Time.* Time is often of the essence in international projects. Thus, reducing negotiation time and bringing contracts to completion is extremely important. Of course, some agreements cannot be brought to quick completion due to extensive negotiations regarding intellectual property (IP), liability and indemnification, safety, immigration, and other project – specific issues. Whether your partner is a university, private company, government, or other organization (such as foundations and NGOs), it is important that clear and prompt communication happen so that needless misunderstandings and delay do not occur.
6. *Adoption of a Long Term Perspective.* Transatlantic cooperation must include better education in civics, entrepreneurship, and IP in grade and high schools, along with increased STEM (Science, Technology, Engineering, and Mathematics) education. This will require a generational change as well as increased educational linkages between these areas. Focusing exclusively on STEM is simply not enough for the U.S. or European Union to remain globally competitive.

### **Proposed Enhancements to S&T Cooperation**

Suggestions for enhancing U.S./EU S&T cooperation include both short term (within the next 10 years) and long term (more than 10 years) components.

- **Short term**

In the short term, lessons from successful international collaborations should inform enhanced transatlantic S&T cooperation. This includes the articulation of common customs and principles within a new or modified STA. A second suggestion is to refer directly to the U.S. Bayh-Dole Act within the main body of the STA or the STA IP Annex, or at least state some of the general principles of Bayh-Dole within those areas. While more specific language seems to be desirable upon first blush, enough flexibility needs to be incorporated to allow maximum collaboration.

As custom and cultural differences between the EU/Member States and the United States are often different, significant consideration needs to be given to how these differences can be bridged. Successful examples of bridging these differences, or best practices gleaned from such examples, would be a good starting point.

- **Long Term**

Over the long term, the best way to enhance increased S&T collaboration between the United States and the EU is a significantly heightened focus on students currently in the educational pipeline (grade school through college). While the last 20 years have seen a significant increase and awareness in the STEM disciplines, those are not enough. For the United States and the European Union to have a stronger S&T relationship, as well stellar global competitiveness, it is imperative that students in the education pipeline have stronger understanding of civics, entrepreneurship, and IP in addition to STEM. There is also one aspect to remember about international collaboration, international affairs, and the long run – the future, and the international dimension, are very unpredictable. In this regard, flexibility is key.

### **Conclusion**

The United States and the European Union have a strong relationship in the area of science and technology cooperation. However, given the current global environment, much more needs to be done to enhance the volume and quality of such collaboration. This article

outlines some of the issues raised at the Brussels BILAT Innovation Conference and suggests some routes (technical, transactional, and educational) that should be considered by the European Commission and the State Department as they seek to incorporate an innovation dimension into the STA.

#### **About the Author**

**James Casey** is an attorney, research manager, and transportation historian based in Pittsburgh, Pa., and is president-elect of the Nonresident Lawyers Division. He is a former member of the State Bar Communications Committee and in 2012-2013 was chair of the Charles Dunn Author Award subcommittee. In 2013, he received a certificate of commendation from the State Bar of Wisconsin for his September 2012 *Wisconsin Lawyer* article based on serving as a jury foreman in a San Antonio drunk-driving case.

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