Anti-Counterfeiting Trade Agreement (ACTA)

FACT SHEET

ACTA participants are committed to improving transparency in the negotiating process, while still preserving negotiators' ability to candidly discuss the various proposals under consideration. This fact sheet provides additional background on the ACTA negotiations and addresses some of the common concerns raised by stakeholders in a number of countries. For more background on the ACTA initiative and specific elements under discussion in the ACTA negotiations, please refer to http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145271.pdf.

What IS the goal of ACTA:

- Counterfeiting and piracy continue to negatively impact States and companies. Unfortunately, today they are also increasingly affecting the everyday life of citizens. Besides the often-copied luxury goods and blockbuster movies, counterfeiters and pirates are now taking liberties with common household articles – everything from home appliances to toothpaste. From the perspective of public and consumer health and safety, the appearance of counterfeit medicines and items such as counterfeit spare parts for cars, buses, and planes poses a threat that cannot be ignored.
- The ACTA will establish an international framework for participating governments' efforts to more effectively combat the proliferation of counterfeiting and piracy, which undermines legitimate trade and the sustainable development of the world economy.
- Counterfeiting and piracy are transnational activities. The growth of this illegal trade spurred the ACTA participants to agree to develop an instrument that will strengthen international cooperation in our individual and common efforts to confront this shared threat.
- The ACTA initiative aims to define effective procedures for enforcing *existing* intellectual property rights.
- The ACTA will concentrate on three areas: a) cooperation among the ACTA parties to address the challenges of cross-border trade in counterfeit and pirated goods, b) establishing a set of enforcement best practices that are used by authorities, and c) a legal framework of enforcement measures.
- The ACTA is intended to focus on commercially-oriented counterfeiting and piracy. There is evidence to suggest that organized criminal organisations are increasingly involved in the manufacture, distribution, and sale of these illegal goods.
- Counterfeiting and piracy not only take place in the physical world, but also increasingly in the digital environment. ACTA cannot be regarded as an agreement that only focuses on the Internet. The ACTA aims to address the problem of counterfeiting and piracy as a whole, and seeks to cover each of its dimensions. Further details are provided for in http://trade.ec.europa.eu/doclib/docs/2009/november/tradoc_145271.pdf

What IS *NOT* the goal of ACTA:

- The ACTA is not about raising substantive standards of intellectual property protection (IPR) or specifying or dictating how countries should define infringement of those rights.
- The ACTA does not focus on private, non-commercial activities of individuals, nor will it result in the monitoring of individuals or intrude in their private sphere.
  Accordingly:
  - Civil liberties would not be curtailed by the ACTA.
  - There is no proposal to oblige ACTA Parties to require their border authorities to search travelers' baggage for IPR infringing goods or their personal electronic devices for IPR infringing downloads.
  - There is no proposal to oblige ACTA Parties to require internet service providers (ISPs) to terminate users' connections on the basis of accumulated allegations of online IPR infringement (the so-called "three strikes" rule).

What is the current status of the negotiations? What is the time frame and when will ACTA come into force?

- The ACTA is being negotiated by a group of trading partners[1] that together represent about half of all global trade. The ACTA will be open to accession by interested countries.
- There is no fixed time frame and no concrete end-date that has been set for the ongoing negotiations. However, participants are aiming to conclude the negotiation by the end of 2010.
- Once agreement has been reached, it will be up to each ACTA Party, in accordance with its internal procedures to decide whether and when to bring ACTA into force for that Party.

Information on the ACTA process:

- The ACTA negotiating parties are aware of the great interest in the ACTA by the various stakeholders, including civil society and industry sectors.
- The ACTA negotiating parties are keen to provide as much transparency as possible within the bounds imposed by a negotiating process among States.
- Some of the steps negotiating parties have taken to provide more information to the public include issuing a summary of the issues under discussion, publishing agendas ahead of each negotiating round and issuing press releases shortly after the conclusion of each round. Furthermore, ways to further enhance transparency are being discussed in detail at each round of negotiations.

[1] Australia, Canada, the European Union and its 27 member states, Japan, Mexico, Morocco, New Zealand, Republic of Korea, Singapore, Switzerland and the United States.