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## **Speaking Points: Update on Anti-Counterfeiting Trade Agreement (ACTA)**

*Check Against Delivery  
Seul le texte prononcé fait foi  
Es gilt das gesprochene Wort*

European Parliament, Plenary

**Strasbourg, 20 October 2010**

Honourable Members,

You have asked me to come here in plenary to explain where we are on the negotiations for the ACTA Treaty, the international trade treaty on counterfeiting. I share your opinion that this is an important file as I'm here for the third time in less than a year to discuss it with you.

### **Where are we?**

In *two words*: almost there.

Indeed, on 2 October 2010, negotiators from the EU and 10 other countries concluded the **last round** of negotiations. They have resolved nearly all issues with only a few still open. I will come back to that later.

A consolidated and largely stabilised text of the proposed agreement has been made public for two weeks now. I hope this has allowed you to find out that the Commission has scrupulously respected the principles that I laid out in my previous interventions in this plenary.

It is essential to remember that ACTA is an agreement about the **enforcement** of Intellectual Property Rights. This means that it does **not** oblige any of its signatories to create new, substantive rights or to change existing ones. It only commits its signatories to ensure that the right holders can fully assert their rights, if, when and where they exist.

ACTA is about establishing a new tool that will ensure that existing Intellectual Property Rights are effectively protected.

This is essential if we want to maintain a leading role in the "knowledge economy". Contrary to what some seem to be claiming, ACTA is not about creating some sort of Big Brother.

I know that you had concerns with the fact that the negotiations were conducted behind closed doors and that the negotiating texts were not made public. Upon insistence of the European Commission, successive versions of the text have been published, and our negotiators came after each round to answer all your questions. We have taken these steps to ensure we could debate the topic in a climate of mutual trust. I should like to mention that the *Ombudsman* has recently recognised, in the precise context of the ACTA negotiations, that it was justified (for the Council) to maintain confidentiality of some key negotiating documents. The Ombudsman confirmed that the preservation of confidentiality was legal and in line with the 2001 Regulation on access to documents.

Let me now highlight some of the main features of ACTA.

Firstly, a **broad coverage** of intellectual property rights. Given the diversity of IPRs on which European operators rely to protect their inventions, we have fought for, and obtained, this broad coverage. In particular, we managed to ensure that Europe's **geographical indications** (like *Champagne*, *Scotch Whisky*, *Parma Ham*, *Porto* or *Rioja* wines), will be treated equally.

**This is an EU success.** It would not be in the draft ACTA Treaty without the European Commission. I know that it may not go as far as some would have liked: for example as regards border measures: **justified** differences will remain, and ACTA Parties will not have to adopt the EU system of protecting GIs through *sui generis* systems.

Secondly, ACTA defines for the first time an international standard for intellectual property infringements on the **Internet**. Internet is the most global, open and fast-moving market environment where music, films, books and software circulate.

Millions of counterfeit goods are traded every day through the internet. ACTA represent thus a **ground-breaking** – yet balanced – level of harmonisation and transparency for the rules applicable to such infringements, whilst **remaining fully in line with the EU *acquis***.

Let me indeed insist that, ACTA **will not change the EU *acquis***.

Our negotiating guidelines requested this and we have scrupulously respected it, as you can see from the text.

Thirdly, ACTA provides a **balanced** Agreement, which replies to the four main concerns expressed by **Members of the Parliament** for the following four reasons:

1. Firstly, the text does not affect the protection of **fundamental rights, privacy** and data protection.
2. Secondly, it respects the important role of **free Internet** and safeguards the role of **service providers**, as well as of the European system of **copyright exceptions**, such as the European regime of conditional exemption of liability for Internet operators. Also the European exceptions like private or educational use will remain valid.
3. Thirdly, the text refers to those provisions of the TRIPs Agreement that safeguard the essential **balance** between the rights of the right holders and the **public interest** and that stress, I quote, the "*need to for IP rights to contribute to technical **innovation**, socio-economic **welfare**, or the protection of **health***."
4. And fourthly, ACTA explicitly recognises the importance of guaranteeing **access to medicines**, by referring to the *Doha Declaration* on the matter, as well as by explicitly **excluding patent** infringements from the sections on border and penal enforcement.

### **What is the state of play and the next steps of ACTA?**

In Tokyo it was not possible to finalise the text.

Parties kept a few reservations, which still need to be addressed in the coming weeks.

There are, in particular, two issues open:

1. Firstly, should **patent infringements be included or excluded from the scope of civil litigation measures**. I would be interested to hear your views on this issue. I am concerned that a blanket exclusion of patents, an important intellectual property right, risks depriving many industries from the benefits of this chapter. I think for example of the automotive, machinery, pharmaceutical or agro-chemical sectors.
2. The other important issue has to do with the EU proposal that the **Internet** measures stipulated in ACTA must apply not only to copyright but – **at least - also to trademark** violations. As you know, on the Internet, you can find thousands of offers for fake goods using European brands, be it for clothes, cosmetics, watches or even foodstuffs. I believe we should address these infringements when made through the Internet, because they are basically identical to real-life infringements concerning physical goods.

To conclude, I am firmly convinced of the importance of tackling the widespread abuse of European intellectual property around the world. ACTA can provide an important contribution towards this goal, in full compliance with existing European legislation. ACTA is the first important international agreement on IPRs since the TRIPS Agreement in the WTO back in 1994.

It also strikes a proper balance with the rights of citizens and consumers.

I look forward to a continued close dialogue with the European Parliament and towards the successful conclusion of the Agreement and its subsequent approval.

Thank you.