



Transparency of ACTA negotiations

Brussels, 13 February 2012

The negotiations of the Anti-Counterfeiting Trade Agreement (ACTA) started in June 2008 and were finalised in November 2010.

The European Union was represented during the negotiations by European Commission officials, as well as representatives of our Member States because ACTA touches upon both exclusive competences of the European Union and competences which are shared with the Member States. This factsheet aims at clarifying the way the European Parliament, civil society and all stakeholders have been informed and involved in the negotiation process.

Who sat at the negotiation table?

During the negotiation rounds, government officials from the negotiating countries were present in the room.

(see annex for a list of participants from the European Commission and the Member States):

- For the European Union, this included a group of 4-8 *Commission* officials from the Directorates-General for Trade, Internal Market and Services, Justice, Information Society and Media, and Taxation and Customs Union. Moreover a group of 2-4 officials from the *Member State* holding the rotating EU Presidency were present, since they negotiated the criminal provisions on behalf of the EU Member States (criminal aspects of IPR enforcement being a Member State competence before the Lisbon Treaty and a shared competence after the entry into force of this treaty).
- Furthermore, for the same reason, EU Member States attended the negotiations. The number of Member States represented during the negotiating rounds varied depending on the negotiating round (from 8 to 18). In any event, all Member States received all negotiating documents and had first hand information on the ACTA negotiations.

The other negotiating countries had a variable number of officials from different ministries present. In total between 70 and 110 people were present during the negotiating rounds.

Involvement of the European Parliament during the negotiations

During the ACTA negotiations, the European Commission has **shared the following documents** with the European Parliament (see annex for full list of documents):

- 7 successive draft texts of the agreement
- 3 detailed written reports on the negotiation rounds
- 14 notes and internal working papers

The European Commission has duly informed the European Parliament on the ACTA negotiations, in line with its obligations under the Lisbon Treaty and the 2010 revised [Framework Agreement](#) for Relations between the European Parliament and the European Commission, and the comparable rules before the entry into force of the Lisbon Treaty.

The handling of these documents by the European Parliament was governed by the rules agreed regarding the confidential handling of documents. This means that some of these documents were not accessible to ALL Members of the European Parliament (MEPs), but were accessible to the Chair of the International Trade Committee (INTA), the Vice-Chairs of INTA, the political coordinators of INTA and the INTA rapporteur. *This included MEP Kader Arif, when he was coordinator of the S&D group in INTA – i.e. between July 2009 and December 2011).*

Moreover, Trade Commissioner Karel De Gucht and senior DG Trade officials informed MEPs in a **series of meetings** about the ongoing negotiations (see annex for more details):

- 3 plenary debates in 2010
- 6 Committee meetings
- 4 informal debriefings of negotiating rounds

Furthermore, the European Commission has replied to [50 written and oral questions from MEPs related to ACTA](#) since January 2010, and all of them have been made public.

The EU negotiators took into consideration and addressed the numerous comments received from MEPs and many of these comments are reflected in the final text of ACTA.

Involvement of NGOs, Civil Society and Industry

4 stakeholders' meetings – open to all citizens - were organised in Brussels:

- 23 June 2008
- 21 April 2009
- 22 March 2010 and
- 25 January 2011.

Furthermore the team of negotiators have invited, met and extensively debriefed NGOs, academia and representatives from political parties such as the Pirate Party during the last four rounds of negotiations in Wellington, Luzern, Washington and Tokyo. These meetings took place on side events during the negotiation sessions. The stakeholders had access to the negotiators' teams and issues and concerns raised by Civil Society were discussed and explained.

During the whole negotiation process, the European Commission has not recruited any consultants, be it from industry or from NGOs or civil society. The European Commission denies having provided any kind of preferential access to information to any group of stakeholders, be it from industry, trade unions or from other stakeholders. There are also no secret protocols to the agreement and the [final text](#) is fully public and available to all citizens ([available in all EU languages](#)) on the website of the European Commission.

ANNEX 1:

Documents shared by the Commission with the European Parliament related to ACTA negotiations

1) ACTA draft texts

1. Draft consolidated text of January 2010 (after the ACTA Round of negotiations in Seoul, which were the first ones to lead to a consolidated text)
2. Draft consolidated text of February 2010, after Guadalajara Round
3. Draft consolidated text of April 2010, after Wellington Round
4. [Consolidated Text](#) prepared for Public release, April 2010:
5. Draft consolidated text of July 2010, after Luzern Round
6. Draft consolidated text of August 2010, after DC Round
7. [Consolidated Text](#), October 2010, after Tokyo Round :

2) Reports of the negotiating rounds

1. (15 January 2009) - *Report on 4th Round of Negotiations, Paris 15-18 Dec. 2008*
2. (31 July 2009) - *Report on 5th Round of Negotiations, Rabat 16-17 My 2009*
3. *Report on 7th Round of Negotiations, Guadalajara 26-29 January 2010*

NB : While the European Parliament has been duly briefed on the various rounds of negotiations, reporting has not always been in written form. The European Commissioner and other members of DG Trade have regularly participated in official meetings of the INTA Committee, as well as in informal briefing sessions.

3) Notes and internal working papers

1. (24 October 2007) Note for the attention of the "133 Committee" - *Recommendation from the Commission to the Council to authorise the Commission to open negotiations of a plurilateral anti-counterfeiting Trade agreement (ACTA)*
2. (26 March 2008) - *Recommendation from the Commission to the Council to authorise the Commission to open negotiations of a plurilateral anti-counterfeiting trade agreement*
3. (25 September 2008) - *Acta Information fiche*
4. (21 November 2008) - *Issues relating to the Future institutional Structure of ACTA*
5. (5 December 2008) - *Issues relating to the Future Institutional Structure of ACTA*
6. (4 February 2009) - *Internet & Technology Provisions: Questions for discussion*
7. (27 March 2009) - *Negotiating documents - EU Comments*
8. (7 April 2009) - *Summary of Key Elements under discussion*
9. (30 September 2009) - *Acta Internet Chapter*
10. (30 October 2009) - *Commission's analysis of the US proposal Special Requirements Related to the Enforcement of Intellectual Property Rights in the Digital Environment*
11. Note for the attention of the "133 Committee" (12 October 2009) - *Draft chapter on Enforcement Procedures in the Digital Environment sent by the US*
12. Note for the attention of the INTA Committee (14 September 2010) - *Agenda of 11th round*
13. Note for the attention of the INTA Committee (3 November 2010) - *ACTA information regarding next steps*
14. Note for the attention of the INTA Committee (4 November 2010) - *Most important innovative aspects of ACTA in comparison with the prevailing international standards, and namely with the TRIPS Agreement*

Explanatory note:

- The "133" Committee, now called Trade Policy Committee (TPC) is the Council meeting dealing with trade policy. It brings together representatives of all Member States to discuss and decide on matters related to trade policy.
- An information fiche is an explanatory document listing the main information and the latest status of a policy issue.

List of discussions with the European Parliament on ACTA**1) Plenary debates :**

9 March 2010 (with Commissioner De Gucht)

8 September 2010 (with Commissioner De Gucht) – [Speaking points](#)

20 October 2010 (with Commissioner De Gucht) – [Speaking points](#)

2) Committee meetings:

INTA Committee, 20 November 2007 (Commissioner Mandelson announced intention to start negotiations)

INTA Committee, 13 October 2008 (by Director-General David O'Sullivan as part of an in camera discussion on the state of play of trade negotiations)

INTA Committee, 23 February 2010; (with the chief negotiator)

INTA Committee, 28 April 2010 (by Deputy Director General of DG Trade Péter Balás as part of an in camera discussion on the state of play on International Trade Negotiations)

LIBE Committee: 13 July 2010 (With Commissioner De Gucht – [Speaking points](#) / [video of the session](#))

INTA Committee, 23 November 2010 (with the chief negotiator)

Note that it is the INTA Committee itself which sets its agenda and decides when it wants to meet with European Commission negotiators

3) informal meetings (by the chief negotiator)

4 May 2010 - Debriefing on ACTA negotiating round (12-16 April 2010)

12 July 2010 - Debriefing on ACTA negotiating round

1 September 2010 - Debriefing on ACTA negotiating round (Washington, 16-20 August 2010) and preview on Tokyo Round.

7 October 2010 - Debriefing on ACTA negotiating round (Tokyo, 23 September - 2 October 2010)

These informal meetings were organised upon express request of the European Commission and were open to MEPs and EP staff.

ANNEX 2 :

Participants at negotiation rounds (EU and Member States)

1st round of negotiations

Geneva, 3-4 June 2008

- Delegates from the European Commission: 6
DG Trade, DG Taxud, DG Markt, DG JIs
- Delegates from the Slovenian Presidency: 2
- Delegates from other EU Member States: 14
13 Countries: Austria, Czech Republic, Finland, France, Greece, Italy, Latvia, Lithuania, Malta, Portugal, Romania, Slovak Republic, The Netherlands

[Press statement](#)

2nd round of negotiations

Washington, 29-31 July 2008

- Delegates from the European Commission: 5
DG Trade, DG Taxud, DG JIs, EEAS-Washington
- Delegates from the French Presidency: 5
- Delegates from other EU Member States: 13
10 Countries: Austria, Czech Republic, Finland, Germany, Ireland, Italy, The Netherlands, Slovenia, Spain, United Kingdom

[Press statement](#)

3rd round of negotiations

Tokyo, 9 October 2008

- Delegates from the European Commission: 5
DG Trade, DG Markt, DG JIs, EEAS-Tokyo
- Delegates from the French Presidency: 4
- Delegates from other EU Member States: 11
9 Countries: Czech Republic, Finland, Germany, Ireland, Italy, Slovenia, Spain, United Kingdom, Latvia

[Press Statement](#)

4th round of negotiations

Paris, 18 December 2008

- Delegates from the European Commission: 7
DG Trade, DG Markt, DG JIs, DG Infs
- Delegates from the French Presidency: 5
- Delegates from other EU Member States: 17
(17 Countries: Belgium, Czech Republic, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, The Netherlands, United Kingdom)

[Press Statement](#)

5th round of negotiations

Rabat, 16-17 July 2009

- Delegates from the European Commission: 4
DG Trade, DG Markt, EEAS-Rabat
- Delegates from the Swedish Presidency: 3
- Delegates from other EU Member States: 10
9 Countries: Czech Republic, Finland, France, Germany, Greece, The Netherlands, Romania, Spain, United Kingdom

[Press statement](#)

6th round of Negotiations
Seoul, November 4-6, 2009

- Delegates from the European Commission: 6
DG Trade, DG Markt, DG JIs, DG Infso
- Delegates from the Swedish Presidency: 5
- Delegates from other EU Member States: 14
10 Countries: Czech Republic, Finland, France, Germany, Ireland, Italy, The Netherlands, Romania, Spain, United Kingdom
- Delegates from the Council: 1

[Agenda](#)

[Press statement](#)

7th round of negotiations
Guadalajara, 26-29 January 2010

- Delegates from the European Commission: 4
DG Trade, DG Markt, DG Infso
- Delegates from the Spanish Presidency: 3
- Delegates from other EU Member States: 7
7 Countries: Czech Republic, Finland, France, Germany, Italy, Sweden, United Kingdom

[Joint statement](#)

8th round of negotiations
Wellington, 12-16 April 2010

- Delegates from the European Commission: 5
DG Trade, DG Markt, DG Taxud, DG Infso
- Delegates from the Spanish Presidency: 3
- Delegates from other EU Member States: 10
8 Countries: Belgium, Finland, France, Germany, Italy, The Netherlands, Sweden, United Kingdom
- Delegates from the Council: 1

[Agenda](#)

[Joint statement on ACTA](#)

9th round of negotiations
Lucerne, 28 June – 1 July 2010

- Delegates from the European Commission: 7
DG Trade, DG Markt, DG Taxud, DG Infs, DG JIs, EEAS-Geneva
- Delegates from the Spanish Presidency: 3
- Delegates from other EU Member States: 23
14 Countries: Austria, Belgium, Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, The Netherlands, Poland, Romania, Sweden, United Kingdom
- Delegates from the Council: 1

[Proposed Agenda](#)

[Summary of the meeting](#)

10th round of Negotiations
Washington, 16-20 August 2010

- Delegates from the European Commission: 7
DG Trade, DG Markt, DG Infs, DG Taxud, EEAS-Washington
- Delegates from the Belgium Presidency: 3
- Delegates from other EU Member States: 13
7 Countries: Ireland, Finland, France, Spain, Sweden, Germany, Slovenia
- Delegates from the Council: 1

[Joint press statement](#) from all the ACTA negotiating parties:

11th round of Negotiations
Tokyo, 23 September – 1 October 2010

- Delegates from the European Commission: 7
DG Trade, DG Markt, DG Taxud, EEAS-Tokyo
- Delegates from the Belgium Presidency: 6
- Delegates from other EU Member States: 14
9 Countries: Ireland, Finland, France, Spain, Sweden, United Kingdom, Germany, Italy, The Netherlands
- Delegates from the Council: 1

[Proposed Agenda](#)

[Joint Statement](#)

Conclusion of ACTA
15 November 2010

[Joint statement](#) on the Anti-Counterfeiting Trade Agreement (ACTA) from all the negotiating partners of the agreement

ANNEX 3

Stakeholder conferences

First stakeholder conference

Brussels, 23 June 2008

Second stakeholder conference

Brussels, 21 April 2009

Third Stakeholder Conference

Brussels, 22 March 2010

[Announcement](#)

[Commission presentation](#)

Civil Society Meeting

Brussels, 25 March, 2011

[Summary](#)

Press briefings

Brussels, 10 April 2010: Technical briefing off the record on ACTA, with draft negotiating text handed out to journalists.

Brussels, 1 October 2010: Technical briefing off the record on ACTA after the final negotiation round in Tokyo.