European Commission: Update on the Current Negotiations on the ACTA

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In October 2007, non-public negotiations started for a new international trade agreement on counterfeiting, the Anti-Counterfeiting Trade Agreement (ACTA), between the trading partners EU (represented by the European Commission), the United States, Australia, Canada, Japan, South Korea, New Zealand, Mexico, Morocco, Singapore and Switzerland.

ACTA aims at becoming a new plurilateral treaty, improving global standards for the enforcement of intellectual property rights, for a more effective combat against trade in counterfeited and pirated goods.

Until recently, the negotiations on ACTA were secret. No official documents had been released, except for brief summaries of conclusions after each negotiation round. This lack of transparency made ACTA controversial among data protection authorities, NGOs, copyright scholars and other public interest groups. Since the negotiations began, chapters of the Agreement were continuously leaked to the public. This led to widespread discussion and concern about how ACTA would influence and change domestic laws. The definition of piracy according to the leaked documents makes it possible to force Internet Service Providers (ISPs) to adopt ‘three strikes’ Internet disconnection policies for copyright infringers. ‘Three strikes’ policies have implications for privacy (see IRIS 2010-4: 1/5)

On 10 March 2010, the European Parliament adopted a resolution on the transparency and the state of play of the ACTA negotiations. The European Parliament referred to Articles 207 and 218 of the Treaty on the Functioning of the European Union (TFEU). According to the European Parliament, the European Commission has a legal obligation to inform the Parliament immediately and fully at all stages of international negotiations. The Parliament called for the disclosure of the ACTA preparatory drafts to the Parliament and the public.

Further, the Parliament stressed that the proposed Agreement may not provide for an introduction of ‘three strikes’ procedures. This is in order to avoid violating fundamental human rights, such as the right of freedom of expression and privacy and the principle of subsidiarity. Further, the Parliament threatened to take suitable action, including bringing a case before the European Court of Justice, if it was not informed immediately and fully on the negotiations.

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On 16 April 2010, the ACTA trading partners released a Joint Statement on ACTA after concluding the 8th round of negotiations in New Zealand from 12-16 April 2010.

According to the trading partners, the negotiations have advanced to a point at which making a draft available to the public will support the process of reaching a final agreement. ACTA will respect fundamental human rights and governments will not be forced to adopt a 'three strikes' approach to copyright infringement on the Internet.

The draft text of ACTA has now been released and is accessible via the website of the European Commission as of 21 April 2010.

Currently there is a discussion on the draft text among copyright scholars, public interest groups, data protection authorities and NGOs.

The next negotiating round on ACTA will be held in Switzerland in 2010. A date has not yet been published. The ACTA trading partners will strive to conclude ACTA within 2010.

European Commission Trade Joint Fact Sheet on ACTA

http://trade.ec.europa.eu/doclib/docs/2010/march/tradoc_145958.pdf

European Parliament resolution of 10 March 2010 on the transparency and state of play of the ACTA negotiations

http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0058+0+DOC+XML+V0//EN

Joint Statement on Anti-Counterfeiting Trade Agreement (ACTA), press release 16 April 2010

http://trade.ec.europa.eu/doclib/press/index.cfm?id=550

Anti-Counterfeiting Trade Agreement, European Commission welcomes release of negotiation documents, press release 21 April 2010

http://trade.ec.europa.eu/doclib/press/index.cfm?id=552

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