European Commission: Working Paper Commenting on the “Opinion of European Academics on Anti-Counterfeiting Trade Agreement”

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The European Commission’s Directorate General for Trade has issued a working paper that comments on the “Opinion of European Academics on Anti-Counterfeiting Trade Agreement”, released in January 2011.

In that Opinion, the academics highlight several specific aspects of the Anti-Counterfeiting Trade Agreement (ACTA), namely those related to the compatibility of its provisions with EU law and to safeguarding a balance between the interests of different parties. The signatories wrap up their statement by inviting the European institutions and the national legislators and governments to carefully consider the points stressed and, “as long as significant deviations from the EU acquis or serious concerns on fundamental rights, data protection, and a fair balance of interests are not properly addressed, to withhold consent.”

In its working paper, the Commission holds that, even though ACTA is not entirely consistent with existing EU law, the compatibility of the Agreement with the latter does not raise problems. The Commission recognises that the ACTA text is drafted in more general terms than the ones to be found in the acquis communautaire. According to the Commission, this is desirable because it provides ACTA with the flexibility appropriate to an international instrument. Moreover, the Commission is of the opinion that the Agreement manages to strike a balance between all the rights and interests involved, which also takes into account different legal traditions.

Because ACTA is deemed compatible with EU law, the Commission declared that it will not require changes to existing EU legislation. By the same token, it is the Commission’s understanding that the Agreement will not encompass different interpretations of the acquis. In any case, the Directorate-General for Trade concluded that ACTA has been extensively debated - something that should enable informed consent from the competent institutions.

Commission Services Working Paper, Comments on the "Opinion of European Academics on Anti-Counterfeiting Trade Agreement", 27 April 2011

http://trade.ec.europa.eu/doclib/docs/2011/april/tradoc_147853.pdf

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