

3rd Stakeholders Conference  
22 March 2010, Brussels

## Anti-Counterfeiting Trade Agreement (ACTA)



Luc-Pierre Devigne  
*Head of Intellectual Property and Public procurement*

Directorate-General for Trade  
**European Commission**

## 1. ACTA : Why ?

- A. EU **economic competitiveness** relies on innovation, creativity and brand exclusivity.
- B. Territoriality of IPR. Need to improve the protection of innovation made in Europe when exported.
- C. Problem : **Counterfeiting** and **piracy** keep increasing. Job losses, health/safety issues, link with organised crime.

**2008 EU Customs seizures : 178m articles (+225%)**

## 1. ACTA : Why ?

- **Dangerous counterfeits increase** : cosmetics 4.5m (+42% cases); Toys 5m (+136% cases); Electrical appliances : 5m (+58% cases); Medicines 8.9m (+57% cases)
- 2008 OECD study : international trade of physical counterfeit/pirated goods = \$250bn/year.
- Economical losses of piracy : 1.2m EU jobs in 2015 ? (2010 BASCAP study).
- **Problem** : discussing IP enforcement in WTO/WIPO/WCO « very difficult ».
- Hence, countries confronted with similar issues gathered.

## 2. ACTA : With whom ?

- 11 Parties from 5 continents : Australia, Canada, EU (and its 27 Member States), Japan, Korea, Mexico, Morocco, New Zealand, Switzerland, Singapore, US.
- Goal to leave agreement open for **other countries** to join.

## 3. ACTA : content ?

### 3 principles guiding EU participation :

1. ACTA will remain in line **with the EU *acquis***.
  - No **3-strike** rule or other “graduated response”.
  - No change to **ISP** role/liability, etc.
  - Full respect of **privacy**/data protection.
  - No new provisions on customs searches for individual laptop, MP3.
2. ACTA deals only about **enforcement**. **No substantive IP** provisions.
3. Criminal sanctions : only for infringements on a **commercial-scale**.

## 3. ACTA : content ?

The **structure** of ACTA is composed of six chapters:

1. Initial provisions and definitions
2. Legal framework for enforcement of IPRs
3. International cooperation
4. Enforcement practices
5. Institutional arrangements
6. Final provisions

## 3. ACTA : content ?

The **legal framework** is composed of four sections:

1. **Civil Enforcement** (EU: Directive 2004/48/EC)
2. **Border measures** (EU: Regulation 1383/2003/EC)
3. **Criminal Enforcement** (negotiated by rotating EU Presidency on behalf of MS)
4. **Internet Enforcement** (EU: Directives 2000/31/EC and 2001/29/EC)

## 4. ACTA secret ?

- No international negotiations are public; parties agreed on confidentiality rules.
- COM has informed EP (INTA) and stakeholders in 2008 and 2009.
- Next round: **EU requests release of negotiating documents** and will seek consensus on the issue.



## 5. State of play and next steps

- Negotiations started in June 2008. Seven rounds so far. Goal: to conclude in 2010.
- Next round: New Zealand (12-16 April). Will include Civil Society meeting. Agenda : Border measures, Internet, Criminal sanctions, Civil measures and transparency.

Merci pour votre attention

More : <http://ec.europa.eu/trade/creating-opportunities/trade-topics/intellectual-property/anti-counterfeiting/>