



EUROPEAN PARLIAMENT

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*Committee on International Trade*

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**2011/0167(NLE)**

12.4.2012

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## **DRAFT RECOMMENDATION**

on the draft Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America  
(12195/2011 – C7-0027/2012 – 2011/0167(NLE))

Committee on International Trade

Rapporteur: David Martin

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the draft Council decision on the conclusion of the Anti-Counterfeiting Trade Agreement between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America  
(12195/2011 – C7-0027/2012 – 2011/0167(NLE))**

### **(Consent)**

*The European Parliament,*

- having regard to the draft Council decision (12195/2011),
  - having regard to the draft Anti-Counterfeiting Trade Agreement between the European Union and its Member States, Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America (12196/2011),
  - having regard to the request for consent submitted by the Council in accordance with Article 207(4) and Article 218(6), second subparagraph, point (a) (v), of the Treaty on the Functioning of the European Union (C7-0027/2012),
  - having regard to Rules 81 and 90(7) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on International Trade and the opinions of the Committee on Development, Committee on Industry, Research and Energy, Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs(A7-0000/2012),
1. Declines to consent to conclusion of the agreement;
  2. Instructs its President to notify the Council that the agreement cannot be concluded;
  3. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of Australia, Canada, Japan, the Republic of Korea, the United Mexican States, the Kingdom of Morocco, New Zealand, the Republic of Singapore, the Swiss Confederation and the United States of America.

## EXPLANATORY STATEMENT

Negotiations on the Anti-Counterfeiting Trade Agreement (ACTA) began in June 2008 and concluded in November 2010 after 11 rounds of negotiations. As with all international agreements, the European Commission, acting on a mandate from the Council, was the negotiator on behalf of the European Union. As ACTA is a ‘mixed agreement’ covering competences at both a Union and Member State level, the Member States were represented at the negotiations by the rotating presidencies.

The Agreement was concluded between the European Union, Australia, Canada, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the US. Signatory countries are now in the process of ratifying the agreement, which in the European Union requires ratification by the Member States and consent from the European Parliament before the agreement can come into force in the EU.

ACTA, as defined by the negotiators, is a trade agreement which addresses commercial-scale counterfeiting and online piracy by coordinating global enforcement of existing copyright violation laws. It is purported by the Commission that it will not require European legislation to be changed, but will coordinate procedures at borders to deal with large-scale counterfeiting.

The problems which ACTA seeks to address are real and growing. Counterfeiting and piracy have increased substantially and continue to do so. The consequences of the growth in these illegal activities range from economic losses to health and safety dangers. The European Union has much to lose without efficient and enforced global coordination in copyright protection.

Intellectual property (IP) is the raw material of the Union. Your rapporteur believes Europe cannot compete in the global economy without adequate protection for European fashion, car parts, films and music. Global coordination of IP protection is vital to developing a knowledge-based European Union and protecting and creating jobs throughout the Union. Within this knowledge-based economy, the way we share information is changing rapidly and the balance between the protection of intellectual property rights and fundamental freedoms is evolving. International agreements dealing with any aspect of criminal sanctions, online activity or intellectual property must clearly define the scope of the agreement and the protection of individual liberties, in order to avoid unintended interpretations of the agreement.

Unintended consequences of the ACTA text is a serious concern. On individual criminalisation, the definition of “commercial-scale”, the role of internet service providers and the possible interruption of the transit of generic medicines, your rapporteur maintains doubts that the ACTA text is as precise as is necessary.

The intended benefits of this international agreement are far outweighed by the potential threats to civil liberties. Given the vagueness of certain aspects of the text and the uncertainty

over its interpretation, the European Parliament cannot guarantee adequate protection for citizens' rights in the future under ACTA.

Your rapporteur therefore recommends that the European Parliament declines to give consent to ACTA. In doing so, it is important to note that increased IP rights protection for European producers trading in the global marketplace is of high importance. Following the expected revision of relevant EU directives, your rapporteur hopes the European Commission will therefore come forward with new proposals for protecting IP.