



Dear Dr. Moreira,

We are writing to you with regard to the proposed Anti-Counterfeiting Trade Agreement (ACTA). The European Parliament has intervened several times in the discussions on this proposed agreement in order to demand greater transparency. These interventions had a positive impact, leading to improved access to documents in the latter stages of the negotiation process.

While the apparently final version of the Agreement has now been published, the meaning of much of the text is ambiguous. In such circumstances, Article 32 of the Vienna Convention on the Law of Treaties (1969) explains that the preparatory works of the Agreement can be used to assign precise meaning. In response to Parliamentary Question P-9179/2010, the European Commission confirmed that the Vienna Convention would be applicable in this case.

Subsequently, in response to parliamentary question E-2345/2011, the Commission explained that drafts of the agreements (as well as reports of the negotiations) were communicated to the Parliament "after *each* negotiating round." If this is correct, the Parliament should be in possession of the negotiating drafts discussed in:

- Geneva (June 2008)
- Washington (July 2008)
- Tokyo (October 2008)
- Paris (December 2008)
- Morocco (July 2009)
- Korea (November 2009)
- Mexico (January 2010)
- New Zealand (April 2010)
- Switzerland (June/July 2010)

The European Parliament will decide over the coming months whether or not to give its approval to the proposed Agreement. This decision can only be made if all parliamentarians and the public at large have been given the opportunity to fully understand the meaning of the text – which is impossible in the absence of the preparatory documents.

Consequently, in the interest of respecting the European Parliament's Resolutions<sup>1</sup> and Written Declaration 12/2010 on ACTA and increasing the legitimacy of the approval process, we request that all relevant documents (drafts distributed by the European Commission and associated briefing notes from the Commission) received by the Parliament be published and/or communicated directly to us as soon as possible.

Yours sincerely,

Andreas Krisch  
President

European Digital Rights is an association of 28 privacy and civil rights organisations that are based or have offices in 18 different countries in Europe. Members of European Digital Rights have joined forces to defend civil rights in the information society.

<sup>1</sup> European Parliament resolutions of 24 November, 2010 and 10 March 2011