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Legal Service

SJ-0661/11

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LEGAL OPINION

Re: Anti-Counterfeiting Trade Agreement (ACTA) - Conformity with European Union law

I. INTRODUCTION

1. By letter of 4 October 2011 (annexed), the Chairman of the Committee on Legal Affairs (JURI) requested the opinion of the Legal Service on various questions concerning the Anti-Counterfeiting Trade Agreement (ACTA).
2. In particular JURI raises the question "*whether ACTA's application can be considered compatible with the Treaties, the general principles of Union law and the Union acquis, in particular as regards Union acts in the area of intellectual property rights and their enforcement (including civil, criminal and border protection measures and measures relating to the digital environment).*"
3. Moreover, JURI asks the Legal Service to assess the question of "*the conformity of ACTA with existing international obligations of the EU and its Member States, in particular with respect to TRIPS and the Doha Declaration on TRIPS and Public Health*".
4. In other words, JURI has asked in general terms for an evaluation of the legality of ACTA, without however raising any specific legal problem in this respect.
5. It is important to point out that for the most part, JURI's request has already been exhaustively addressed in the Legal Opinion on ACTA which the Legal Service provided on 5 October 2011 (SJ-0501/11) to the Committee on International Trade (INTA) (hereinafter: the "previous Legal Opinion").¹

¹ With regard to the background of ACTA, see the previous Legal Opinion and, in particular, paragraphs 2 to 6 thereof.

6. This previous Legal Opinion is annexed to the present Legal Opinion. The Legal Service will base the following analysis on the conclusions of the previous Legal Opinion for INTA and will reply to the remaining additional aspects raised by JURI.
7. The analysis of the Legal Service is also requested to take into account the legal framework concerning the protection of fundamental rights in the European Union and, in particular, the Charter of Fundamental Rights and the European Convention on Human Rights.

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