

Committee on Legal Affairs
The Chairman

Ref. D(2011)49759

Mr Christian Pennera
Jurisconsulte
PHS 5 A 035
Brussels

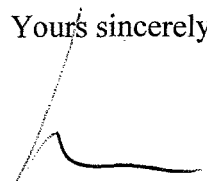
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Dear Mr Pennera,

On 24 November 2010 Parliament adopted a resolution on the Anti-Counterfeiting Trade Agreement (ACTA) which stressed that "*any agreement reached by the EU on ACTA must comply fully with the *acquis communautaire**" while noting that "*as a result of the entry into force of the Lisbon Treaty in December 2009, the Parliament will have to give consent to the ACTA text prior to the agreement's entry into force in the EU*". On 24 June 2011 the Commission referred to the Parliament and the Council the proposal for a 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 (COM(2011)0380 - 2011/0167(NLE)). The Council's referral is awaited.

In this context and taking account of the responsibility of the Legal Affairs Committee for the interpretation and application of Union law and of international law, as provided for in Annex VII, section XVI, points 1 and 2 of the Rules of Procedure, I would greatly appreciate it if the Legal Service could provide the committee with an opinion on 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). I would also ask the Legal Service to take account in its legal analysis of the European Convention on Human Rights and the Charter of Fundamental Rights. Lastly, the conformity of ACTA with the 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, should be included in the analysis.

Yours sincerely,


Klaus-Heiner Lehne