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Dokument z posiedzenia

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PROJEKT REZOLUCJI

złożony w odpowiedzi na pytania wymagające odpowiedzi ustnej B7-0000/2010
– O-0026/2010

zgodnie z art. 115 ust. 5 Regulaminu

on the transparency and state of play of the ACTA negotiations

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European Parliament resolution on the transparency and state of play of the ACTA negotiations

Parlament Europejski,

- uwzględniając art. 218 Traktatu o funkcjonowaniu Unii Europejskiej (TFUE),
 - having regard to its resolution of 9 February 2010 on a revised Framework Agreement between the European Parliament and the Commission for the next legislative term¹,
 - having regard to its resolution of 11 March 2009 regarding public access to European Parliament, Council and Commission documents (recast), to be considered as Parliament's position at first reading²,
 - having regard to its resolution of 18 December 2008 on the impact of counterfeiting on international trade³,
 - having regard to the European Data Protection Supervisor's Opinion of 22 February 2010 on the current negotiations by the European Union of an Anti-Counterfeiting Trade Agreement (ACTA),
 - uwzględniając Kartę praw podstawowych Unii Europejskiej, w szczególności jego art. 8,
 - having regard to Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector, as last amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009,
 - uwzględniając dyrektywę 2000/31/WE Parlamentu Europejskiego i Rady z dnia 8 czerwca 2000 r. w sprawie niektórych aspektów prawnych usług społeczeństwa informacyjnego, w szczególności handlu elektronicznego w ramach rynku wewnętrznego („dyrektywa o handlu elektronicznym”),
 - having regard to the question of 24 February 2010 to the Commission on transparency and state of play of the ACTA negotiations (O-0026/2010 – B7-0000/2010),
 - uwzględniając art. 115 ust. 5 oraz art. 110 ust. 2 Regulaminu,
- A.** whereas in 2008 the European Union and other OECD countries opened negotiations on a new plurilateral agreement designed to strengthen the enforcement of intellectual property rights (IPRs) and combat counterfeiting and piracy (Anti-Counterfeiting Trade Agreement – ACTA) and jointly agreed on a confidentiality clause,

¹ Texts adopted, P7_TA(2010)0009.

² Texts adopted, P6_TA(2009)0114.

³ Texts adopted, P6_TA(2008)0634.

- B. whereas on 27 January 2010 the Commission provided assurances as to its commitment to a reinforced association with Parliament, in line with Parliament's resolution of 9 February 2010 on a revised Framework Agreement with the Commission calling for 'immediate and full information at every stage of negotiations on international agreements (...), in particular on trade matters and other negotiations involving the consent procedure, (...) to give full effect to Article 218 of the TFEU',
- C. whereas the Commission, as guardian of the Treaties, is obliged to uphold the *acquis communautaire* when negotiating international agreements affecting legislation in the EU,
- D. whereas, according to documents leaked, the ACTA negotiations touch on, among other things, pending EU legislation regarding the enforcement of IPRs (COD/2005/0127 – Criminal measures aimed at assuring the enforcement of intellectual property rights (IPRED-II)) and the so-called 'Telecom Package', and on existing EU legislation regarding E-Commerce and data protection,
- E. whereas the ongoing EU efforts to harmonise IPR enforcement measures should not be circumvented by trade negotiations which are outside the scope of the normal EU decision-making processes,
- F. whereas it is crucial to ensure that the development of IPR enforcement measures is accomplished in a manner that does not impede innovation or competition, undermine IPR limitations and personal data protection, restrict the free flow of information or unduly burden legitimate trade,
- G. whereas any agreement reached by the European Union on ACTA must comply with the legal obligations imposed on the EU with respect to privacy and data protection, as notably set out in Directive 95/46/EC, Directive 2002/58/EC and the case law of the European Court of Human Rights and the Court of Justice,
- H. whereas as a result of the entry into force of the Lisbon Treaty in December 2009 the European Parliament will have to give consent to the ACTA agreement text, prior to the agreement's entry into force in the European Union,
- I. whereas the Commission has committed itself to providing immediate and full information to the European Parliament at every stage of negotiations on international agreements,
1. Is aware that the ACTA negotiations, owing to their particular nature, require a high level of confidentiality in order not to undermine the legitimate interests of the stakeholders and the participating States; considers, however, that a more transparent process should be ensured in order to provide appropriate information, as repeatedly requested by the European Parliament;
 2. Welcomes the fact that the Commission has been briefing members of Parliament's Committee on International Trade (INTA), despite the confidential character of the multilateral negotiations, using the format of regular exchanges of views with the Director-General of DG Trade at open meetings of INTA coordinators;

3. Calls on the Commission to grant Parliament access to documentation of ACTA negotiating texts in order to permit it to be up to date with the state of play of the negotiations; acknowledges that certain information might require confidentiality and should be provided in an appropriate form;
4. Calls on the Commission also to actively engage with the other ACTA negotiating partners prior to the next negotiating round in New Zealand in April 2010, in order formally to place the issue of transparency on the agenda for that meeting, and to report to Parliament's specialised committee on the outcome of that round immediately after its conclusion;
5. Calls on the Commission to continue the negotiations on ACTA in order to improve the effectiveness of the IPR enforcement system against counterfeiting;
6. Calls on the Commission to conduct an assessment of the impact of ACTA's implementation on fundamental rights and data protection, on the ongoing EU efforts to harmonise IPR enforcement measures and on E-Commerce, with a view to an EU agreement on a consolidated ACTA text, and to consult with Parliament about the results of this assessment in due course;
7. Welcomes the Commission's statements to the effect that any ACTA agreement will be limited to the enforcement of existing IPRs, without prejudice to the development of substantive IP law in the European Union;
8. Urges the Commission to ensure that the enforcement of ACTA provisions – especially those on copyright enforcement procedures in the digital environment – are fully in line with the *acquis communautaire* and that no personal searches are undertaken at EU borders;
9. Considers that, in order to comply with fundamental rights, such as freedom of expression and the right to privacy, with full respect for subsidiarity, the proposed agreement should not impose the so-called 'three strikes' procedure;
10. Emphasises that privacy and data protection are core values of the European Union, as recognised in Article 8 of the European Convention on Human Rights (ECHR) and Articles 7 and 8 of the EU Charter of Fundamental Rights, which must be respected in all the policies and rules adopted by the EU pursuant to Article 16 of the TFEU;
11. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the states party to the ACTA negotiations.