



EUROPEAN PARLIAMENT

2009 - 2014

Committee on International Trade

2010/2080(INI)

1.9.2010

OPINION

of the Committee on International Trade

for the Committee on Legal Affairs

on civil law, commercial law, family law and private international law aspects
of the Action plan implementing the Stockholm Programme
(2010/2080(INI))

Rapporteur: Joe Higgins

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SUGGESTIONS

The Committee on International Trade calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Points out that the Stockholm Programme seeks to create a European area of freedom, security and justice that will guarantee citizens' fundamental rights, including freedom of enterprise, so as to develop entrepreneurship in all economic sectors;
2. Notes the fact that where the interests of people across Europe are affected, for example in such issues as the fight against dangerous or potentially dangerous counterfeit products and the illicit trade in firearms, the process of harmonisation of legislation across Europe can be very beneficial in addition to the exchange of best practice by Member States; stresses that the process of harmonisation must be carried out with the involvement of the European Parliament and after a careful assessment of the existing national legislations in force; notes that the harmonisation of legislations and of the respective scope of civil law and criminal law on several related matters has become an integral part of discussions in international trade negotiations, and that customs enforcement measures also raise a number of legal issues;
3. Recalls that counterfeit products constitute a threat to consumers' interests and safety, and in some cases to public health and the environment; calls upon the Commission, the Council and the Member States to refrain from expanding the definition of the notion of 'counterfeiting' beyond the scope of deliberate trademark violations which potentially damage consumers' interests and safety, public health and the environment, and warns against the parallel expansion of the scope of criminal law; recalls that other IPR violations such as copyright infringements on a non-commercial scale and patent infringements should remain governed by civil law; lastly, points out that the fight against counterfeiting and intellectual property infringements must not affect legitimate trade in generic medicines;
4. Recalls that, when it comes to imposing criminal sanctions against counterfeiters and perpetrators of intellectual piracy, a quantitative criterion should be taken into account when defining what a 'commercial scale' means; stresses that the extent of the damage caused by counterfeiting new high added value technologies is greater than counterfeiting of older technology that might no longer be of great relevance in the post-industrial world, even if the latter might be covered by patents;
5. Reiterates its call upon the Commission to ensure that the European Parliament is kept immediately and fully informed of the advancement of ACTA at all stages of the negotiations in order to respect the letter and spirit of the Lisbon Treaty, as well as its request for further reassurance that ACTA will not modify the EU acquis on IPR enforcement and fundamental rights; calls upon the Commission to engage closely with third countries which are not part of ACTA negotiations, in particular emerging countries;
6. Demands that guarantees be given, in the context of customs enforcement, to ensure that fundamental rights, civil liberties and legal obligations with regard to privacy and personal data protection are fully respected; calls for the harmonisation of customs enforcement

rules to be implemented in such a way that it does not hinder the legitimate trade flow of generic medicines, including their transit;

7. Draws attention to problems linked to the legal uncertainty of commercial exchanges from and to non-EU countries, and to the issue of which jurisdiction is competent for the settlement of a given dispute; notes that while principles of private international law do exist, their implementation raises a number of problems primarily affecting consumers and small businesses, who often lack knowledge of their own rights; underlines, besides, the new legal challenges arising from globalisation and the development of Internet transactions; emphasises the need for a coherent approach to be adopted on an international level to avoid consumers and small businesses being punished for this situation.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	30.8.2010
Result of final vote	+: 19 -: 1 0: 1
Members present for the final vote	William (The Earl of) Dartmouth, Kader Arif, Daniel Caspary, Marielle De Sarnez, Christofer Fjellner, Yannick Jadot, Metin Kazak, Bernd Lange, David Martin, Emilio Menéndez del Valle, Vital Moreira, Niccolò Rinaldi, Tokia Saïfi, Helmut Scholz, Robert Sturdy, Keith Taylor, Iuliu Winkler, Pablo Zalba Bidegain
Substitute(s) present for the final vote	George Sabin Cutaş, Carl Schlyter, Jarosław Leszek Wałęsa
Substitute(s) under Rule 187(2) present for the final vote	Edit Bauer