



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 November 2009

15470/09

**INF 280
API 130
JUR 444**

COVER NOTE

from : General Secretariat of the Council
to : Working Party on Information
Subject : Public access to documents
- Confirmatory application No 27/c/01/09

Delegations will find attached:

- A request for access to documents sent to the General Secretariat of the Council on 31 October 2009 and registered on 3 November 2009 (Annex 1).
- A reply from the General Secretariat of the Council dated 4 November 2009 (Annex 2).
- A confirmatory application dated 4 November 2009 and registered on 5 November 2009 (Annex 3).

[E-mail message sent on 31.10.2009 - 12:51]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application

This electronic form has been submitted in EN

Title/Gender:

Family Name

First Name

E-Mail:

Occupation:

On behalf of:

Address

Telephone:

Mobilephone:

Fax:

Requested document(s): 13867/09-Anti-counterfeiting Trade Agreement (ACTA) -Chapter 2
Criminal provisions

1st preferred linguistic version: FR - French

2nd preferred linguistic version: EN - English



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 November 2009

GENERAL SECRETARIAT

*Directorate-General F
Press
Communication
Transparency*

*- Access to Documents/
Archives*

RUE DE LA LOI, 175
B - 1048 BRUSSELS
Tel: (32 2) 281 67 10
Fax: (32 2) 281 63 61
E-MAIL:

access@consilium.europa.eu

09/2247-nh/ank

Dear ,

Your request of 31 October 2009 for access to document 13867/09 was registered on 3 November 2009 by the "Access to Documents" unit. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (Official Journal L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2006/683/EC, Euratom, Official Journal L 285, 16.10.2006, p. 47) and has come to the following conclusion:

Document **13867/09** is classified as "RESTREINT UE", which means that the unauthorised disclosure of the information it contains could be disadvantageous to the interests of the European Union or of one or more of its Member States. It is a note from the Presidency to the "Friends of Presidency" Group on Anti-counterfeiting Trade Agreement (ACTA) - Chapter 2 Criminal provisions. It relates to an issue which is still under discussion within the preparatory bodies of the Council.

The General Secretariat has weighed your interest in being informed of progress in this area against the general interest that progress be made in an area that is still the subject of negotiations.

It considers that disclosure of this document which contains opinions for internal use as part of deliberations and preliminary consultations within the Council would be premature in that it could impede the proper conduct of the negotiations and compromise the conclusion of an agreement on this subject. As there is no evidence suggesting an overriding public interest to warrant disclosure of the document in question, the General Secretariat has concluded that protection of the decision-making process outweighs the public interest in disclosure. Accordingly, pursuant to Article 4(3), first subparagraph, of the Regulation (protection of the Council's decision-making process), the General Secretariat is unable to accede to your request for access at this stage.

As the exception to the principle of transparency applies to the content of the entire document, the General Secretariat is at the present unable to grant you partial access as provided for in Article 4(6) of the Regulation.

According to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply .

Yours sincerely,

For the General Secretariat

Ramón Jiménez Fraile

[Confirmatory application sent by e-mail on 4 November 2009 - 18:11]

Dear Sir,

I hereby kindly request you reconsider your rejection to my application for access. Documents on ACTA are of public interest and do not, in my opinion, prejudice the progress of any negotiations. I am an EU citizen and believe I should gain access to such. Some of the provisions relating to ACTA drafts are even accessible on the internet.

I kindly request you do not publish this application in any public register.

Thank you

Kind regards
