



Ministry of Foreign Affairs and Trade
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The Outline of ACTA and Implementation in Korea

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Outline

- 1. The purpose of ACTA**
- 2. Negotiations**
- 3. Treaty content**
- 4. Follow-Up Measures in Korea**



The Purpose of ACTA

- Anti-Counterfeiting Trade Agreement(ACTA) is a multinational treaty for the purpose of establishing international legal framework for intellectual property rights enforcement



The Purpose of ACTA

- To establish **TRIPS-plus level** of international standards
- To deal with **enforcement of Intellectual Property Rights in the Digital Environment** as well as Border measures, Civil Enforcement and Criminal Enforcement



Negotiation

- At the 2005 G8 Summit, Japan proposed the need to establish a advanced legal framework to prevent counterfeiting and piracy
- ACTA establishment was promoted by common proposal by the US and Japan from 2006.9
- Official negotiating rounds have been held for discussions based on the draft text of the ACTA
- Via negotiating formally 11 times, negotiations ended.



Negotiation

- A signing ceremony was held on 1 October 2011 in Tokyo, with the United States, Australia, Canada, Japan, Morocco, New Zealand, Singapore, and South Korea signing the treaty
- The European Union, Mexico, and Switzerland attended but did not sign



Treaty content

- The finalized agreement text includes Chapeau and 6 chapters with 45 articles
 - CH.1 : Initial provisions and definitions
 - CH.2 : Legal Framework for Enforcement of Intellectual Property Rights
 - Section 1(General Obligations), Section 2(Civil Enforcement), Section 3(Border Measures), Section 4(Criminal Enforcement), Section 5(Enforcement of Intellectual Property Rights in the Digital Environment)
 - CH.3 : Enforcement Practices
 - CH.4 : International Cooperation
 - CH.5 : Institutional Arrangements
 - CH.6 : Final Provisions



Treaty content

Differences in enforcement between ACTA and

	TRIPs	ACTA
Border Measures	<ul style="list-style-type: none"> - Officials act on suspect import goods upon request of a "rights holder" 	<ul style="list-style-type: none"> - customs authorities can act upon their own initiative - To be applied to import and export shipments and in-transit goods
Criminal Enforcement	<ul style="list-style-type: none"> - wilful trademark counterfeiting or copyright or related rights piracy on a commercial scale 	<ul style="list-style-type: none"> -wilful importation and domestic use of pirated labels or packaging -unauthorized copying of cinematographic works -authorities can act upon their own initiative
Enforcement of Intellectual Property Rights in	-	<ul style="list-style-type: none"> -In the digital environment, also Civil and Criminal enforcement are available -Protection of rights management information, legal protection of effective



Treaty content

- The treaty is open for signature until 1 May 2013 for the participants involved in the negotiations as well as all members of the World Trade Organization (WTO) of which the participants agree. (Article 39)
- It enters into force after subsequent ratification by six states (Article 40).



Follow-Up Measures in Korea

- Though ACTA indicates higher protection of IPR than TRIPs does, it establishes a lower standard than Korean-EU FTA or Korean-US FTA does.
- As implementation legislation of these FTAs, Korea already revised its Copyright Act. **Therefore ACTA does not require any changes in the current Korean legislation or creates additional duties**

Example)

Issue	Amended Copyright Act of Korea
Imposing general obligations for ISPs to monitor the information sufficient to identify a subscriber (ACTA Section 5, Article 27)	Article 103.3



Follow-Up Measures in Korea

- Now, Korean government is implementing the legal review on the text of the Agreement and translation into Korean in preparation for ratification. The ratification process is expected to end on July



Thank you