

September 15, 2008

Dear Minister,

Re: Anti-Counterfeiting Trade Agreement Negotiations

We are writing to urge the negotiators of the Anti-Counterfeiting Trade Agreement (ACTA) to immediately publish the draft text of the agreement, as well as pre-draft discussion papers (especially for portions for which no draft text yet exists), before continuing further discussions over the treaty. We ask also that you publish the agenda for negotiating sessions and treaty-related meetings in advance of such meetings, and publish a list of participants in the negotiations.

There is no legitimate rationale to keep the treaty text secret, and manifold reasons for immediate publication.

The trade in products intended to deceive consumers as to who made them poses important but complicated public policy issues. An overbroad or poorly drafted international instrument on counterfeiting could have very harmful consequences. Based on news reports and published material from various business associations, we are deeply concerned about matters such as whether the treaty will:

- * Require Internet Service Providers to monitor all consumers' Internet communications, terminate their customers' Internet connections based on rights holders' repeat allegation of copyright infringement, and divulge the identity of alleged copyright infringers possibly without judicial process, threatening Internet users' due process and privacy rights; and potentially make ISPs liable for their end users' alleged infringing activity;
- * Interfere with fair use of copyrighted materials;
- * Criminalize peer-to-peer file sharing;
- * Interfere with legitimate parallel trade in goods, including the resale of brand-name pharmaceutical products;
- * Impose liability on manufacturers of active pharmaceutical ingredients (APIs), if those APIs are used to make counterfeits -- a liability system that may make API manufacturers reluctant to sell to legal generic drug makers, and thereby significantly damage the functioning of the legal generic pharmaceutical industry;
- * Improperly criminalize acts not done for commercial purpose and with no public health consequences; and
- * Improperly divert public resources into enforcement of private rights.

Because the text of the treaty and relevant discussion documents remain secret, the public has no way of assessing whether and to what extent these and related concerns are merited.

Equally, because the treaty text and relevant discussion documents remain secret, treaty negotiators are denied the insights and perspectives that public interest organizations and individuals could offer. Public review of the texts and a meaningful ability to comment would,

among other benefits, help prevent unanticipated pernicious problems arising from the treaty. Such unforeseen outcomes are not unlikely, given the complexity of the issues involved.

The lack of transparency in negotiations of an agreement that will affect the fundamental rights of citizens of the world is fundamentally undemocratic. It is made worse by the public perception that lobbyists from the music, film, software, video games, luxury goods and pharmaceutical industries have had ready access to the ACTA text and pre-text discussion documents through long-standing communication channels.

The G8's recent Declaration on the World Economy implored negotiators to conclude ACTA negotiations this year. The speed of the negotiations makes it imperative that relevant text and documents be made available to the citizens of the world immediately.

We look forward to your response, and to working with you toward resolution of our concerns.

Sincerely,

Essential Action
c/o Robert Weissman, Director
P.O. Box 19405
Washington, DC, USA 20036
Tel +1 (202) 387-8030
Fax +1 (202) 234-5176

Act Up East Bay
Oakland, CA, USA

Act Up Paris
Paris, France

African Underprivileged Children's Foundation (AUCF)
Lagos, Nigeria

AIDS Access Foundation
Thailand

AIDS Healthcare Foundation
Los Angeles, CA, USA

AIDS Treatment News
Philadelphia, PA, USA

American Medical Student Association
Reston, VA, USA

AIS Colombia
Bogotá, Colombia

ASEED Europe
Amsterdam, The Netherlands

Asia Pacific Network of People Living with HIV/AIDS (APN+)

Australian Digital Alliance
Kingston, Australia

Australian National University
Canberra, Australia

Australian Privacy Foundation
Sydney, Australia

Bharatiya Krishakn Samaj
New Delhi, India

BUKO Pharma-Kampagne
Bielefeld, Germany

The Canadian HIV/AIDS Legal Network
Toronto, Canada

The Canadian Internet Policy & Public Interest
Clinic (CIPPIC)
University of Ottawa, Faculty of Law
Ottawa, Canada

The Canadian Library Association
Ottawa, Canada

The Canadian Treatment Action Council
Toronto, Canada

Center for Democracy and Technology
Washington, DC, USA

Center for Digital Democracy
Washington, DC, USA

Center for Policy Analysis on Trade and Health (CPATH)
San Francisco, CA, USA

Centre for Safety & Rational Use of Indian Systems of Medicine
Ibn Sina Academy of Medieval Medicine & Sciences
Aligarh, India

The Center for Women's Culture & Theory
Korea

Chinese Domain Name User Alliance
Beijing, China

Christian Media Network
Korea

CHOICE (Australian Consumers Association)
Marrickville, Australia

Community HIV/AIDS Mobilization Project (CHAMP)
New York, NY, USA

Consumentenbond
The Hague, Netherlands

Consumer Action
San Francisco, CA, USA

Consumer Federation of America
Washington, DC, USA

Consumers Union (Publisher of Consumer Reports)
Yonkers, NY, USA

Consumers Union of Japan (Nihon Shohisha Renmei)
Tokyo, Japan

La Corporacion Opcion por el Derecho a Ser y el Deber de Hacer, NIT
Bogotá, Colombia

Corporate Europe Observatory
Amsterdam, The Netherlands

Cultural Action
Korea

Diverse Women for Diversity (DWD)
New Delhi, India

Drug Study Group (DSG)
Thailand

Ecologist Collective (Colectivo ecologista Jalisco A.C.)
Guadalajara, México

Egyptian Initiative for Personal Rights
Cairo, Egypt

Electronic Frontier Foundation
San Francisco, CA, USA

Electronic Frontiers Australia
Adelaide, Australia

The Electronic Privacy Information Center (EPIC)
Washington, DC, USA

European AIDS Treatment Group (EATG)
Brussels, Belgium

Foreign Policy in Focus
Institute for Policy Studies
Washington, DC, USA

Foundation for Integrative AIDS Research (FIAR)
Brooklyn, NY, USA

Fundación Ifarma
Bogotá, Colombia

Foundation For Consumers (FFC)
Thailand

Foundation for Media Alternatives
Philippines

Foundation for Research in Science Technology & Ecology (RFSTE)
India

Free Press
Washington, DC, USA

FTA Watch
Thailand

Global AIDS Alliance
Washington, DC USA

Global Health through Education, Training & Service (GHETS)
Attleborough, MA, USA

Global Trade Watch
Washington, DC, USA

Gram Bharati Samiti Society for Rural Development
Amber, India

Gyeonggi NGO Network
Korea

Health Action International (HAI) – Africa
Nairobi, Kenya

Health Action International (HAI) – Asia Pacific
Colombo, Sri Lanka

Health Action International (HAI) – Europe
Amsterdam, The Netherlands

Health Action International (HAI) – Global
Amsterdam, The Netherlands

Health Action International – Latin America & Caribbean
Lima, Perú

Health GAP (Global Access Project)
Philadelphia, PA, USA

HealthWrights (Workgroup for Peoples Health and Rights)
Palo Alto, CA, USA

Healthy Skepticism Inc.
Adelaide, Australia

Home Recording Rights Coalition
Washington, DC, USA

INEGroup
Atlanta, GA, USA

Information & Culture Nuri for the Disabled
Korea

Initiative For Health Equity & Society (IHES)
New Delhi, India

International Federation of Library Associations and Institutions (IFLA)
The Hague, Netherlands

International Peoples Health Council (South Asia)

Intersect Worldwide
India, South Africa and USA

IP Justice
San Francisco, CA, USA

IPLeft
Seoul, Korea

Knowledge Ecology International (KEI)
Geneva, Switzerland, London, UK and Washington, DC, USA

Korean Progressive Network Jinbonet
Seoul, Korea

Labour, Health and Human Rights Development Centre
Lagos, Nigeria

Lawyers Collective HIV/AIDS Unit
India

Medsin-UK

Médecins sans Frontières (Doctors without Borders)
Campaign for Essential Medicines
Geneva, Switzerland

Media Access Project
Washington, DC, USA

La Mesa de ONGs Con Trabajo en VIH/SIDA
Bogotá, Colombia

Misión Salud
Bogotá, Colombia

National Consumer Council (NCC)
London, UK

National Working Group on Patent Laws
New Delhi, India

Navdanya
New Delhi, India

Netzwerk Freies Wissen
Berlin, Germany

Paradise Hospital
Port Moresby, Papua New Guinea

People's Coalition for Media Reform
Seoul, Korea

Phasuma Consultancy & Training
Amsterdam, The Netherlands

Positive Malaysian Treatment Access & Advocacy Group (MTAAG+).
Malaysia

Privacy Activism
USA

Privacy Rights Clearinghouse
San Diego, CA, USA

Public Knowledge
Washington, DC, USA

Rural Reconstruction Nepal (RRN)
Kathmandu, Nepal

Social movement to combat private media ownership and enhance public media
Korea

Student Global AIDS Campaign
USA

Swisslinux.org
Mayens-de-Chamoson, Switzerland

The Transparency and Accountability Network
New York, NY, USA

Third World Network
Malaysia

Universities Allied for Essential Medicines (UAEM)
UK, USA

U.S. Public Interest Research Group (PIRG)
Washington, DC, USA

Women & Health ! (WAH !)
India

****Individuals****

Jamie Acosta, PhD, LCSW, CHES
Miami, FL, USA

Mr. Jose L. Aguilar
Justice and Peace Commission
Mexico City, Mexico

Beate Amler
Trade Union Researcher
Berlin, Germany

Professor Brook K. Baker
Northeastern University School of Law
Program on Human Rights and the Global Economy
Boston, MA, USA

Gladys Baldew
Public Health Consultant
Netherlands

Laurel Baldwin-Ragaven, MD
Asylum Hill Family Practice Center
Hartford, CT, USA

Murtala Bello

Pharmacist, Ministry of Health
Sokoto, Nigeria

Jennifer Bruenger
Reference Librarian & Education Program Coordinator
Linda Hall Library of Science, Engineering & Technology
Mission, KS, USA

Erin Burns
Former National Organizer, Student Global AIDS Campaign (SGAC)
Jacksonville, FL, USA

Sylvia Caras, PhD
Santa Cruz, CA, USA

Ramon Certeza
Director for Education, Research and Industrial Relations
Confederation of Labor and Allied Social Services (CLASS)
Manila, Philippines

Sae-Rom Chae
University of Illinois at Chicago College of Medicine
Chicago, IL, USA

Jeff Chester
Executive Director
Center for Digital Democracy
Washington, DC, USA

Don Christie
President
New Zealand Open Source Society

Mark R. Costa
Clay, NY, USA

Chris Curry
MD/PhD Candidate
Loyola University Chicago
Forest Park, IL, USA

Dr Gopal Dabade
President,
Drug Action Forum - Karnataka
Dharwad, India

Anke Dahrendorf, LL.M.
Junior Researcher, International and European Law
University of Maastricht, The Netherlands

Daniel de Beer, PhD
Lecturer in Law

Université Saint Louis
Brussels, Belgium

Dr. Gilles de Wildt
Jiggins Lane Medical Centre
Birmingham, UK

John Dillon
Program Coordinator
KAIROS: Canadian Ecumenical Justice Initiatives
Toronto, Canada

Dr. David Egilman, MD, MPH
Clinical Associate Professor
Brown University
Attleboro, MA, USA

Professor Peter Evans
Department of Sociology
University of California, Berkeley, USA

Thomas Alured Faunce
Assoc. Professor, College of Law
Assoc. Professor, Medical School, College of Medicine and Health Sciences
Australian National University
Canberra, Australia

Professor Brian Fitzgerald
Professor of Intellectual Property and Innovation
Law Faculty
Queensland University of Technology
Brisbane, Australia

Professor Sean Flynn
Associate Director
Program on Information Justice and Intellectual Property
American University Washington College of Law
Washington DC, USA

Maurice J. Freedman
Past President, American Library Association
Mount Kisco, NY, USA

Michael Geist
Canada Research Chair in Internet and e-commerce Law
University of Ottawa, Canada

Jonathan Walter Giehl
Ocala, Florida, USA

Johnny Jesus Guaylupo
PLWHA

Brooklyn, NY, USA

Dr. Chandra M. Gulhati
Editor, Monthly Index of Medical Specialities (MIMS)
New Delhi, India

Mark W. Heffington, MD
Cashiers, NC, USA

Matthew Herder
Visiting Professor of Law
Loyola University Chicago
Chicago, IL, USA

Maggie Huff-Rousselle
Chair, Pharmaceuticals Interest Working Group
American Public Health Association
Boston, MA, USA

Doug Ireland,
Journalist
New York, NY, USA

Professor S. Jayasundar, PhD
Pharmacology
Chennai, India

Dr. K.R. John
Dept. of Community Health
Christian Medical College
Vellore, India

Puja Kapai
Assistant Professor
Faculty of Law
The University of Hong Kong

Alison Katz
People's Health Movement and Centre Europe Tiers Monde
Geneva, Switzerland

Niyada Kiatying-Angsulee, Ph.D.
Chair, Social Pharmacy Research Unit (SPR)
Faculty of Pharmaceutical Sciences
Chulalongkorn University
Bangkok, Thailand

Professor Heinz Klug
University of Wisconsin Law School
Madison, WI, USA
Senior Honorary Research Associate, University of the Witwatersrand
Johannesburg, South Africa

Adam M. Kost
University of Illinois at Chicago College of Medicine
Chicago, IL, USA

Professor Joel Lexchin, MD
York University
Toronto, Canada

Jiraporn Limpananont, PhD
Social Pharmacy Research Unit
Faculty of Pharmaceutical Sciences
Chulalongkorn University
Bangkok, Thailand

Nicholas J. Lusiani
International Network for Economic, Social and Cultural Rights
ESCR-Net / Red-DESC / Réseau-DESC
New York, NY, USA

Hamish MacEwan
Open ICT Consultant
Wellington, New Zealand

Dr. Duncan Matthews
Reader in Intellectual Property Law
School of Law
Queen Mary, University of London
United Kingdom

Eduardo Mayorga
ALAFAR (Ecuadorian Generic Pharmaceutical Association)
Quito, Ecuador

Dr. Jeni McAughey
Whitehead, Northern Ireland

Prof. David Menkes
Waikato Clinical School
University of Auckland
Hamilton, New Zealand

Mr. T. Mikindo, B.Pharms, MSc
Pharmacist
Ifakara Health Institute
Dar Es Salaam, Tanzania

Adrienne Mishkin
Tulane University School of Medicine and School of Public Health and
Tropical Medicine MD/MPH candidate, Class of 2009
New Orleans, LA, USA

Isameldin M.A. Mustafa, B.Pharm
The Director of Pharmaceutical Services Department
National Health Insurance Fund
Khartoum, Sudan

Ibraheem Naeem
Medical student
Lahore, Pakistan

Dr. Pat Neuwelt
Public Health Physician and Professor
Mt. Albert, Auckland, New Zealand

Ahti Ojala
Espoo, Finland

Frank Ottey
Media, PA, USA

Kevin Outtersen
Associate Professor of Law & Director of the Health Law Program
Boston University School of Law
Boston, MA, USA

Dr. Carol Parlow
Oakville, Canada

Dr. Peter Parry
Consultant Child & Adolescent Psychiatrist
Senior Lecturer, Flinders University
Oaklands Pk, Australia

Ngufor Forkum Polycarp, BA, MEd, MA, DEA, Dip-ENSP, LLM
Human Rights Training Unit
Police Training School
Yaounde, Cameroon

Joana Ramos, MSW
Cancer Resources & Advocacy
Seattle, WA, USA

Nicolas Rasmussen, MPhil, PhD, MPH
Associate Professor
National Drug and Alcohol Research Centre
University of New South Wales
Sydney, Australia

Dr. Amitrajit Saha
New Delhi, India

A. Sankar
Executive Director
EMPOWER
Tuticorin, India

Dr. Canan Sargin, MD
UNICEF
Ankara, Turkey

Dr. Gordon Schiff
Associate Director, Center for Patient Safety Research and Practice
Division of General Internal Medicine, Brigham and Women's Hospital
Boston, MA, USA

Claudio Schuftan, MD
People's Health Movement Vietnam

Professor Susan K. Sell
George Washington University
Washington, DC USA

Melissa Serrano
Researcher
University of the Philippines
Manila, Philippines

Aaron Shaw
Berkman Center for Internet and Society
Harvard University
Cambridge, Massachusetts, USA

Dr. Mira Shiva, MD
Coordinator, Initiative for Health, Equity and Society
Founding Member, People's Health Movement
New Delhi, India

Dr. Vandana Shiva
Navdanya
New Delhi, India

Beverley Snell
Essential Medicines and Community Health Specialist
Centre for International Health
Macfarlane Burnet Institute for Medical Research and Public Health
Melbourne, Australia

Wilma Teran
Pharmaceutical Biochemist, Public Health
Platform on Access to Medicines and Intellectual Property
La Paz, Bolivia

Clinton Henry Trout, MPH
Candidate for Doctor of Public Health
Boston University
Boston, MA, USA

Karolina Tuomisto
Medical Student
Helsinki, Finland

Mike Waghorne
Retired
Former Assistant General Secretary
Public Services International
Esquibien, France

Richard Walther
Alexandria, Virginia, USA

Professor Kimberlee Weatherall
TC Beirne School of Law
The University of Queensland
Brisbane, Australia

Patricia Whelehan, PhD
Professor, Anthropology
State University of New York-Potsdam
Potsdam, NY, USA

Edlira Xhafa
Researcher
Education International
Nyon, Switzerland

Julie M. Zito, PhD
Professor, Pharmacoepidemiology
University of Maryland, Baltimore
Baltimore, MD, USA

OPENNESS IN TRADE AND OTHER MULTILATERAL NEGOTIATIONS

Negotiating texts are commonly made public in multilateral trade negotiation, although some trade negotiations are characterized by secrecy.

Examples of negotiations where texts are or were made public include:

* *The current Doha Round negotiations at the World Trade Organization;*

http://www.wto.org/english/tratop_e/dda_e/dda_e.htm

* *The Free Trade Area of the Americas;*

http://www.ftaa-alca.org/FTAADraft03/Index_e.asp

* *The Multilateral Agreement on Investment (although initial texts were not made public)*

http://www.oecd.org/document/35/0,3343,en_2649_33783766_1894819_1_1_1_1,00.html

* *Draft text at the World Health Organization, where resolutions are published in advance of consideration and treaty or treaty-like negotiations are handled openly, including this example of follow-on negotiations for the Framework Convention on Tobacco Control:*

<http://www.who.int/gb/fctc/>

* *The World Intellectual Property Organization, including this example of a draft Treaty on the Protection of Broadcasting Organizations:*

http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=57213