



ACTA, in the EU: Assessment of Potential Export, Economic and Employment Gains

June 2012

Foreword

The Anti-Counterfeiting Trade Agreement (ACTA) puts forward the principle that effective enforcement of intellectual property rights (IPRs) is critical to sustaining economic growth and facilitating trade. The European Commission further specifies that ACTA will benefit the EU in terms of growth and job gains.

The purpose of this study is to examine the plausibility of these potential benefits. The hypothesis is that expanding Europe's strong IPR protections to other regions of the globe will result in increased exports of European products – particularly those susceptible to counterfeiting and piracy – resulting in an increase in EU gross value added (GVA) and EU employment.

Estimating the impacts of the illegal markets for counterfeiting and piracy is difficult and empirically challenging. Similarly, it is difficult to get precise estimates of the impact a fall in counterfeiting and piracy might have on EU exports.

For these reasons, Business Action to Stop Counterfeiting and Piracy (BASCAP) undertakes research to examine the issues and to develop methodologies for estimating the economic and social impacts of counterfeiting and piracy. No one report or approach will yield a complete picture or provide all the answers, but BASCAP is committed to learning from as many sources of expertise as possible.

Consequently, this study does not aim to undertake a complicated analysis for which limited data is available. Rather, the objective is to combine available trade and trade flow data with modest assumptions on export growth to illustrate a range of potential impacts that even a small increase in European exports to ACTA trading partners could have on EU output and growth.

BASCAP is a business initiative created, led and funded by the world business community, specifically brand owners, and organized by the International Chamber of Commerce to raise public and political awareness about counterfeiting and piracy, encourage government action and promote respect for intellectual property. For more information or to download a copy of this report, visit:

www.iccwbo.org/bascap

Contents

Foreword	2
I. Executive Summary	4
Findings	4
II. Introduction.....	6
Exports are central to EU growth.....	6
ACTA can strengthen markets for EU exports.....	6
Methodology.....	7
III. Analysis and findings	8
Base case	8
Vulnerable sectors.....	8
Likely range of impact	10
IV. Possible benefits of ACTA with an expanded view	10
Exports to the BRICs would increase	10
Competition from counterfeits within the EU may decline.....	11
V. Conclusions	12

ACTA in the EU: Assessment of Potential Export, Economic and Employment Gains

I. Executive Summary

The Anti-Counterfeiting Trade Agreement (ACTA) is based on a set of economic principles, as stated in the preamble to the Agreement, on why it is critical to contain the rapid, global growth of counterfeiting and piracy:

- *The effective enforcement of intellectual property rights (IPRs) is critical to sustaining economic growth across all industries and globally.*
- *The proliferation of counterfeit and pirated goods, as well as of services that distribute infringing material, undermines legitimate trade and sustainable development of the world economy, causes significant financial losses for right holders and for legitimate businesses.*
- *Enhanced international cooperation and more effective international enforcement of IPRs can combat the proliferation of counterfeiting and piracy.*

The European Commission summarized the more specific job creation and protection benefits of ACTA:

- *Protecting IPRs means protecting jobs in the EU. A stronger enforcement of IPRs will ensure that innovative jobs remain in the EU.*
- *ACTA ensures the EU's already high standard of protection for intellectual property goes global – protecting jobs in Europe.*

The purpose of this study is to examine the plausibility of these potential benefits. The hypothesis is that expanding Europe's strong IPR protections to other regions of the globe will result in increased exports of European products – particularly those susceptible to counterfeiting and piracy – resulting in an increase in EU gross value added (GVA) and EU employment.

Findings

The EU is the largest exporter in the world, and ACTA signatory countries¹ account for 40% of EU exports. Consequently, the potential export-driven economic benefits of ACTA for the EU are substantial. This study summarizes these benefits and shows that:

1. If the increased IPR protection expected from ACTA helps EU exports grow by modest amounts, this could increase European gross value added (GVA) by €19 billion and create over 400,000 new jobs in Europe.
2. The economic impacts of the inclusion of Brazil, Russia, India and China (BRIC) within the ACTA-based IPR regime – a goal of the negotiating parties is to expand and include additional signatory countries – could reasonably yield export-driven GVA gains in the EU of a further €23 billion, adding an additional 470,000 jobs to the European economy.

¹ Australia, Canada, EU, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States.

3. If notorious counterfeit producer nations, such as China, were to participate in ACTA and implement ACTA's relatively stronger IPR enforcement measures, Europe could also experience greater protection from illegal counterfeits imported into the European marketplace. Using China as example, a reduction in counterfeit and pirated product imports into the European market of just 10% could help domestic output to expand by another €8 billion and 90,000 jobs.

The summary table below sets out the overall, potential gains for EU output and employment from the strengthening of IP rights. Through increased trade to the ACTA signatories, EU output could realistically increase by up to €19 billion. Increasing trade to BRIC countries could increase output by a further €23 billion. With stronger enforcement of IP rights in notorious counterfeit producer countries (i.e. China), thereby precluding imports of counterfeit and pirated products, EU GVA could increase by a further €8 billion.

In total, EU ratification of ACTA, along with the extension of ACTA membership to additional economies, such as China and the other BRIC countries, is conservatively estimated to boost European GVA by €29 to €50 billion and stimulate the creation of as many as 960,000 new jobs in the EU.

Summary of Findings

Scenario	GVA increase, € Billion	Jobs created ,000
Higher exports to ACTA signatories (<i>core range</i>)	€10 – €19	240,000 – 400,000
Higher exports to BRICs	€11 – €23	230,000 – 470,000
GVA increase if counterfeit imports are reduced (<i>China only</i>)	€8	90,000
Total	€29 – €50	560,000 – 960,000

To put the importance of this potential increase in GVA in perspective, it is important to look at the current economic situation in Europe. An increase in GVA of €50 billion represents about 0.4% of total 2011 European GVA. To put that figure in context, the EU in 2011 grew by just 1.5%. In 2012, the forecast for growth is zero for the EU and -0.3% for the Euro area. Forecasts for 2013 are estimated to be less than 1.5%. In consequence, against a background of weak economic growth, and limited prospects for policy intervention to boost growth (given the sovereign debt crisis in Europe), ACTA represents an opportunity to provide a much needed stimulus to the European economy.

II. Introduction

Exports are central to EU growth

The EU is the world's largest exporter, exporting almost €1.9 trillion of products and services every year. The European Commission recognizes the significant correlation between the strong economic performance in Europe and strong trade performance,² and further increasing Europe's export performance is seen by most experts as critical to economic growth and recovery in the EU³. In both the powerhouse economies of Europe, and the periphery states currently in crisis, the role of exports and trade in driving economic recovery cannot be over-stated.

For any country, improving export performance requires continued improvement in productivity and competitiveness. However, it also requires countries to have free and fair access to export markets. A critical element of that free and fair access is the Intellectual Property Rights (IPR) system in place in key export markets. Intellectual property rights are essential to allowing firms to compete fairly and earn a fair return on their investment and innovation.

When IPR protections – both legal structures and enforcement regimes – are inadequate, countries face two challenges: (i) firms are confronted with unfair competition from illegal, IP infringing products that displace legitimate sales – crowding out market shares and exports and preventing firms from earning a fair return; and, (ii) products are exploited, IP is infringed, and counterfeit products are produced that often find their way back to the firms' home markets. This has a particularly chilling effect on economic growth and on trade between countries.

This scenario is not just bad for trade, it is also carries negative impacts for the consumer, the worker and the wider economy. Consumers face the risks associated with poor quality, unregulated and unsafe products. Workers risk losing their jobs as the firms they work for sell less, struggle to earn a fair return, and invest less in R&D and product development.⁴ For government, these leakages add up to lower growth and higher unemployment, with tax receipts lower than they should be and welfare spending higher than it need be.⁵

ACTA can strengthen markets for EU exports

The countries currently committed to ACTA are the United States, Australia, Canada, Japan, Morocco, New Zealand, Singapore and South Korea (all signatories) and Mexico and Switzerland (support ACTA but have not yet signed the treaty). Together these countries account for:

- 40% of Europe's product exports;
- 12 million jobs in the EU; and
- include 6 of Europe's 10 largest export markets.

There are many factors impacting trade levels with these countries, including the role of that intellectual property rights enforcement plays to protect markets from unfair competition from counterfeit and pirated products.

² [*Trade as a driver of prosperity, EU DG Trade, Brussels, SEC\(2010\) 1269*](#)

³ [*German Exports Drove First-Quarter Economic Growth of 0.5%, Bloomberg, 24 May 2012*](#)

⁴ *The Economic Impact of Counterfeiting and Piracy, OECD 2008*

⁵ [*Estimating the global economic and social impacts of counterfeiting and piracy, International Chamber of Commerce, BASCAP report, February 2011*](#)

When ACTA comes into force it will guarantee that many of Europe's principal trading partners uniformly deliver high standards of IPR protection and enforcement – most of which are already in place in the EU. Some of these trading partners already have strong IPR protections and, through ACTA, others will upgrade these protections. In the event of eventual expansion of ACTA to additional signatories, such as BRIC countries, further upgrades can be anticipated. In all cases, the growth in counterfeiting and piracy that has escalated over the last decade, along with the increasing sophistication and quality of counterfeits, shows that more needs to be done.

All countries that sign on to ACTA are signalling a renewed commitment to IPR enforcement that will strengthen the fight against counterfeiting and piracy, both within signatory countries and collectively through the international cooperation provisions in ACTA. As a result, unfair competition from infringing products will be reduced.

If we estimate that intensified and/or increased IPR protection and enforcement leads to a reduction in IP infringing products, then existing market demand would be met at least partially by increased imports of legitimate products. Given the magnitude of EU exports to these markets, ACTA would increase the potential for EU exports, driving the associated benefits of higher growth and employment.

Methodology

Estimating the impacts of the illegal markets for counterfeiting and piracy is difficult and empirically challenging. Nonetheless, most recent studies agree that the magnitude and trends show the problem is substantial, and growing. The most recent work conducted by BASCAP suggests that counterfeit and pirated products are likely to be worth in excess of €900 billion per year in 2012.⁶ Similarly, it is difficult to get precise estimates of the impact a fall in counterfeiting and piracy might have on EU exports.

Consequently, this study does not aim to undertake a complicated analysis for which limited data is available. Rather, the objective is to combine available trade and trade flow data with modest assumptions on export growth to illustrate a range of potential impacts that even a small increase in European exports could have on EU output and growth.

In order to establish a range of impacts, we therefore consider three scenarios:

1. **Base case:** The base case considers the broad impacts of a 5% and 10% increase in EU exports to ACTA signatory countries. Naturally, not all traded products are vulnerable to IP theft. To account for this, we draw from customs data reporting that seizures of articles in violation of intellectual property rights cover 67% of all goods-traded categories.⁷ While still coarse, this approach enables us to consider a reasonable "base case" range of impacts resulting from modest increases across 67% of total exports from the EU to ACTA signatories.
2. **Vulnerable sectors:** To further refine our estimates, the analysis of "vulnerable sectors" restricts the impact assessment to trade in four sectors (food and beverages, personal consumer goods [clothes, watches etc], pharmaceuticals, and computer software)⁸ that are well-known targets for IP infringement and where product-seized in cross border trade is well documented. While this approach underestimates the much bigger problem, the focus on

⁶ *Ibid*

⁷ *OECD 2008*

⁸ *Ibid*

this limited scenario of sectors *most likely* to be affected by counterfeiting and pirates⁹ establishes a higher confidence level for the range of findings presented in this study. In this “limited-range, high-impact” scenario, we apply the 5% and 10% factors to exports to ACTA signatory countries in these sectors only.

3. **Expanded view:** Finally, while ACTA can clearly have beneficial effects for trade to the current signatories, a potentially more significant benefit would accrue from the expansion of ACTA to countries with poorer records in terms of IPR enforcement – in particular expanding ACTA to China and other BRIC economies could have a number of very positive benefits, which we discuss below.

III. Analysis and findings

Base case

EU trade to the ACTA signatories currently is valued at €590 billion and provides 12 million jobs. To reflect that not all traded products are vulnerable to IP theft, only 67% of these totals are considered.

Given the size of European exports and the estimated scale of counterfeiting and piracy worldwide, we believe it is reasonable to establish a “base case” on modest increases in EU exports of 5% and 10%.

- **5% increase in exports:** Output growth of €19 billion and 400,000 new jobs being created; and,
- **10% increase in exports:** Output growth of €40 billion and 800,000 new jobs being created.

Vulnerable sectors

There are a number of key sectors that have been identified as most at risk from counterfeits. The European Commission report on seizures of IPR infringing products identifies consumer goods such as clothing and accessories, computer and software equipment, pharmaceuticals and, food and drinks as the most likely to be subject to counterfeiting and piracy.¹⁰ Similarly, the World Customs Organisation lists the top three most infringing sectors of products as leather goods, CD’s and DVDs and textiles.¹¹

The “vulnerable sectors” case looks at only the following four sectors:

- Food and beverages
- Personal goods, such as clothes, shoes, watches etc;
- Pharmaceuticals; and
- Computer software.

Within the EU, these sectors represent 18% of exports to the ACTA signatories (just over €100 billion) and 2.2 million jobs.

Looking at current output, employment and exports from the EU in these sensitive sectors, we are able to estimate the likely effect of an increase in exports on GVA and jobs. Table 1 below shows the

⁹ OECD, 2008, p.98

¹⁰ Report on EU customs enforcement of intellectual property rights Results at the EU border – 2010; BSA Global Piracy Study 2011; and Counting Counterfeits: Defining a method to collect, analyze and compare data on counterfeiting and piracy in the Single Market, Final report for the European Commission, Directorate-General Single Market, 15 July 2002

¹¹ The first review: Customs and Counterfeiting 2004, Brussels 18 2006, World Customs Organization

impact of a 5% increase in export sales in these sectors, to ACTA countries. This shows that Europe's gross value added (GVA) would increase by €5.2 billion, and 120,000 jobs would be created.

Table 1: 5% increase in sensitive sector exports to ACTA signatories

Sector	GVA increase	Jobs created
Food and Beverages	€1.5 billion	31,000
Clothing, Footwear and Accessories	€900 million	48,000
Pharmaceutical Products	€1.1 billion	11,600
Computer Equipment and Software	€1.7 billion	30,000
Total	€5.2 billion	120,000

However, given that these sectors are particularly at risk from counterfeits, it is likely that exports would increase by more than 5% in the event of a significant increase in IPR protection and enforcement. If exports in these sensitive sectors were to increase by 10%, the impact would be €10.6 billion in terms of GVA while 240,000 new jobs would be created (see Table 2 below).

Table 2: 10% increase in sensitive sector exports to ACTA signatories

Sector	GVA increase	Jobs created
Food and Beverages	€3.1billion	62,000
Clothing, Footwear and Accessories	€1.9billion	97,000
Pharmaceutical Products	€2.1billion	20,000
Computer Equipment and Software	€3.5billion	61,000
Total	€10.6 billion	240,000

Likely range of impact

The analysis in the two sections above has shown that, depending on the assumptions made, the impacts of ACTA on European output and employment can be substantial.

Even on the most conservative assumption of a 5% increase in exports in the four sectors most exposed to counterfeiting, we see an increase by over €5 billion in GVA and 120,000 jobs. However, we believe that this is likely to significantly under-state the impact of ACTA. At the upper end of our estimate, a 10% increase in export sectors known to be targets for IPR infringement (i.e., the 67% of product categories reported by the OECD), the benefits are a €40 billion increase in GVA and 800,000 new jobs. These two estimates provide a “wide range” from €5 billion to €40 billion in GVA and from 120,000 to 800,000 jobs added.

While we believe that the “wide range” is a plausible scenario, a more intensive but still conservative range for the potential impact would be bounded a 5% increase in exports in IPR infringement categories and a 10% increase in exports in the four high risk sectors. These two estimates provide a “core range” from €10 billion to €19 billion in GVA and from 240,000 to 400,000 jobs added. This core range is highlighted in the shaded cells in Table 3 below.

Table 3: Possible EU output and employment increases with increase in exports to ACTA signatories

Potential ranges	5% increase in exports GVA ↑ – Jobs ↑	10% increase in exports GVA ↑ – Jobs ↑
Base case	€19 billion – 400,000	€40 billion – 800,000
Vulnerable sectors	€5 billion – 120,000	€10 billion – 240,000

IV. Possible benefits of ACTA with an expanded view

The findings above indicate that even in countries with relatively developed IPR protection, the potential export-driven benefits associated with ACTA may be sizeable, especially in sectors of products known to face competition from illegal counterfeit and pirated products.

In this section we consider the potential benefits of extending ACTA to other countries, especially those where IPR enforcement is arguably considerably weaker than for the current ACTA signatories. For illustrative purposes, we considered only expansion to the BRIC countries and conclude that such an extension would deliver two benefits in terms of GVA and employment:

1. A significant increase in European exports to BRIC countries; and
2. A reduction in the volume of infringing products imported into the European economy from economies where IPR is not well protected or enforced.

Exports to the BRICs would increase

Using the same approach as above, we estimate the benefits in terms of higher output and job creation of an increase in exports to the BRIC economies. The current value of EU exports to BRIC countries is approximately €340 billion and provides 6.9 million jobs. As above, to reflect that not all traded products are vulnerable to IP theft, only 67% of these totals are considered.

Given that IPR protection and enforcement is considered to be much weaker in these economies, it would not be inappropriate to assume a higher increase in EU exports than for the current ACTA signatory countries. This assumption is also supported by evidence from the academic literature, which suggests that fast growing economies that improve their IPR, benefit from higher inflows of FDI and exports by as much as 20%.¹²

Therefore, given the larger potential gains and a shadow indicator provided by the FDI trend data, it would not be unreasonable to apply higher factors of 10% and 20% (compared to 5% and 10% used in the analysis of ACTA signatory countries). However, to remain conservative and to maintain consistency with the previous analysis, we again consider a 5% and 10% scenario:

- **5% increase in exports:** Output growth of €11 billion and 234,000 new jobs being created; and,
- **10% increase in exports:** Output growth of €23 billion and 470,000 new jobs being created.

A “vulnerable sectors” analysis has not been conducted in this scenario, on the assumption that stronger IPR enforcement in these countries will more broadly benefit efforts to fight counterfeiting and piracy across all sectors evidencing vulnerability to IP infringement.

Competition from counterfeits within the EU may decline

The flow of counterfeit products into the EU has increased dramatically over the last decade. Statistics from the EU show that between 2009 and 2010 the number of infringing cases identified at Europe’s borders almost doubled. One of the drivers of this growth has been a substantial increase in the production and export of counterfeit goods from China. For example, in 2008, the World Customs Organization, reporting on data collected from 121 countries, found that 65% of the total of counterfeit shipments detected departed from mainland China. In Europe, recent EU Commission findings report that China is the country of origin for up to 85% of illegal goods seized. In consequence, a potentially key benefit of the BRIC economies signing up to ACTA is not just the potential of increasing exports to those markets, but also a likely substantial reduction in the flow of counterfeits into the EU market.

To estimate the potential size of this gain, it is important to understand the current volumes of counterfeit products being consumed in Europe. Recent work by BASCAP to update the OECD’s analysis, estimated that the EU consumes up to €90 billion of internationally traded counterfeit and pirated products.¹³

Consider China as an example. China is a significant originator of counterfeit products. In the EU, recent Commission findings report that China is the country of origin for up to 85% of illegal goods seized at Europe’s borders. Assuming exports from China are seized in the same proportion to estimates from other countries, this suggests that China may account for up to €75 billion of counterfeit products being consumed in Europe. If IP rights were strengthened in China and the flow of counterfeits from China into the EU was reduced by even 10%, then EU GVA could increase by up to €8 billion. In terms of job creation, such an increase in GVA could potentially increase EU employment by over 90,000 jobs.

¹² *Branstetter et al (2007), “Intellectual Property Rights, Imitation, and Foreign Direct Investment: Theory and Evidence”, NBER Working Paper 13033*

¹³ *BASCAP, The impacts and value of domestic and traded counterfeit and pirated goods in the European Union, January 2012*

Notably, this analysis only considers reducing the flow of counterfeit exports from China into the EU, and so will under-estimate the overall impact associated with extending ACTA to additional economies with less developed IPR protection and enforcement than the current ACTA signatories.

V. Conclusions

Table 4 below sets out the overall potential gains for EU output and employment from an ACTA-driven strengthening of IP rights. Through increased trade to the ACTA signatories, EU output could realistically increase by up to €19 billion. Increasing trade to BRIC countries could increase output by a further €23 billion. With stronger enforcement of IP rights in notorious counterfeit producer countries (i.e. China), EU GVA could increase by a further €8 billion.

In total, considering on conservative assumptions, bringing ACTA into being and working to extend ACTA membership to BRIC economies could boost European output by €50 billion, and create as many as 960,000 new jobs.

Table 4: Summary of Findings

Scenario	GVA increase, € Billion	Jobs created ,000
Higher exports to ACTA signatories (<i>core range</i>)	€10 – €19	240,000 – 400,000
Higher exports to BRICs	€11 – €23	230,000 – 470,000
GVA increase if counterfeit imports are reduced (<i>China only</i>)	€8	90,000
Total	€29 – €50	560,000 – 960,000

An increase in GVA of €50 billion represents about 0.4% of total 2011 European GVA. To put that figure in context, total economic growth in the EU in 2011 was just 1.5%. In 2012, it is forecast to be zero for the EU and -0.3% for the Euro area. Forecasts for 2013 estimate growth to be less than 1.5%. In consequence, against a background of weak economic growth, and limited prospects for policy intervention to boost growth (given the sovereign debt crisis in Europe), ACTA represents an opportunity to provide a much needed stimulus to the European economy.