

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

January 10, 2013

VIA EMAIL

Malini Aisola
Knowledge Ecology International
1621 Connecticut Avenue NW, Suite 500
Washington, DC 20009
malini.aisola@keionline.org

Dear Malini Aisola:

This letter is the Office of the United States Trade Representative's (USTR) final response to your request under the Freedom of Information Act (FOIA), 5 U.S.C. §552, dated July 2, 2010, for:

- (1) Documents relating to the position of the United States as shared with third-country negotiating partners during the 9th round negotiations of ACTA that took place in Lucerne, Switzerland from June 28 to July 1, 2010, including but not limited to position papers, analyses and records of verbal communications on the topic of ***public release of the draft negotiating text of the Anti-Counterfeiting Trade Agreement (ACTA)***.
- (2) Documents that identify the positions of any other country in the ACTA negotiation during the Lucerne meeting on the issue of the transparency of the draft ACTA text, including but not limited to position papers, analyses and records of verbal communications.

In fulfillment of your request, we conducted a search of USTR files for records responsive to the two categories identified above. With regard to the first category, we did not identify any responsive records. With regard to the second category, we identified sixteen (16) pages of responsive records. We have determined that all 16 pages of responsive records are exempt from disclosure under the deliberative process prong of section (b)(5) of the FOIA. The deliberative process privilege protects the decision making processes of government agencies by encouraging open and frank discussions on policy matters among subordinates and superiors. These records contain predecisional discussions regarding negotiating positions and their implications on future negotiations. Moreover, these documents contain policy recommendations and opinions shared between subordinates and superiors.

This constitutes a complete response to your request. Under 15 C.F.R §2004.6(d), if you are not satisfied with this decision, then within sixty (60) days you may appeal it in writing to:

FOIA Appeals Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, D.C. 20508

Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal" and should include a reference to the FOIA Case File number listed below. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also fax any such appeal to (202) 395-9458. In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you requested.

Should you have any questions, please feel free to contact the FOIA office at (202) 395-3419.

Sincerely,

A handwritten signature in black ink that reads "Melissa Keppel". The signature is written in a cursive, flowing style.

Melissa Keppel
Associate General Counsel