

# Article 1.4 – Definitions

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## General comments and notes regarding the whole article

**ECT 7 [CONF 96] (17/03/94)**  
Article 1 – Definitions  
*Chairman’s note to Article 1*

Negotiations in the Plenary finished, except for the definition of the GATT and Related Instruments and the exclusion of maritime transport.

**ECT 6 [CONF 82] (20/12/93)**  
**ECT 5 [CONF 72] (11/10/93)**  
Article 1 – Definitions  
*Chairman’s note to Article 1*

Negotiations in the Plenary finished, except for the question of “Control” and “Intellectual Property”.

**ECT 4 [CONF 64] (07/07/93)**  
Article 1 – Definitions  
*Chairman’s note to Article 1*

Negotiations in the Plenary finished, except for the question of “Control”, “Intellectual Property” and “Additional refinery products to Annexes EM and NI”. Plenary will not revert to remaining footnotes.

**ECT 3 [CONF 60] (01/06/93)**  
Article 1 – Definitions  
*Chairman’s note to Article 1*

Negotiations in the Plenary on paragraphs (1), (2), (3), (7), (10), (12), (14) and (15) finished.

**BA-31 (21/12/92)**  
**BA-26 (25/11/92)**  
Article 1 – Definitions

The Chairman of WG II asked delegations to provide him with comments and suggestions on definitions of Energy Materials and Products relevant for investment Articles in order for him to make a new draft of the definition of Investments.

**BA-15 (12/08/92)**  
Article 1 – Definitions

Articles 1.4, 1.5, 1.6, 1.7, 1.12 and 1.13 are Chairman’s compromise Proposals.

**BA 14 (24/06/92)**  
Article 1 – Definitions

Item (9) defines “Agreement Area”. However, for ease of reading, as a temporary measure, the word [Territory] has been kept in the text of the document.

**BA 13 (19/06/92)**  
Article 1 – Definitions

Item (9) defines “[Territory]”. However, for ease of reading, as a temporary measure, the word “[Territory]” has been kept in the text of the document.

**BA 12 (09/04/92)**  
Article 1 – Definitions

References of GATT and GATT-related instruments as currently drafted in items (10) and (11) are overlapping and will be reworked after the discussion on Article 5 A (document BA-11).

**BA 6 (21/01/92)**  
Article 1 – Definitions

Former Article 4 “Protocols” has been moved to Article 1(9).

**USA:**

- the term “non-discrimination” appears often in the text. Some type of definition would be useful, preferably one that includes both national and MFN treatment.
- an alternative approach to the problem of definition might be similar to the form used in Chapter Nine of the US-Canada Free Trade Agreement.

**USSR:** Argues necessity to define “transport” and “transit”.

**BA 4 (31/10/91)**  
Article 1 – Definitions

New texts in para (4), (5) and (8) based on suggestion of Chairman; in para (7) on basis of Australia proposal.

**Romania:** clarification of other notions mentioned in Basic Agreement is needed.

**USA:**

- the term “non-discrimination” appears often in the text. Some type of definition would be useful, preferably one that includes both national and MFN treatment.
- an alternative approach to the problem of definition might be similar to the form used in Chapter Nine of the US-Canada Free Trade Agreement.

**BP 2 (11/09/91)**  
*Explanatory Memorandum*

Article 1 defines various terms used in the text of the Basic Protocol.

## **Article 1.4**

**ECT as amended (24/04/98)\***  
**CC 113 (04/03/98)\***  
Article 1.4 – Definitions

“Energy Materials and Products”, based on the Harmonised System of the World Customs Organization and the Combined Nomenclature of the European Communities, means the items included in Annexes EM I or EM II.

**CC 107 (03/12/1997)\***  
Article 1.4 – Definitions

“Energy Materials and Products”, Based on the Harmonized System of the World Customs Organisation and the Combined Nomenclature of the European Communities, means the items included in Annexes EM I and/or EM II as the case requires.

**ECT as adopted (17/12/94)**  
**CONF 104 (Text for adoption) (14/09/94)**  
**Interim Text (25/06/94)**  
**Interim Text (20/06/94)**  
**Compromise text [CONF 98] (22/04/94)**  
Article 1.4 – Definitions

"Energy Materials and Products", based on the Harmonized System of the Customs Co-operation Council and the Combined Nomenclature of the European Communities, means the items included in Annex EM.

**ECT 7 [CONF 96] (17/03/94)**  
**ECT 6 [CONF 82] (20/12/93)**  
**ECT 5 [CONF 72] (11/10/93)**  
**ECT 4 [CONF 64] (07/07/93)**  
Article 1.4 – Definitions

“Energy Materials and Products”, based on the Harmonized System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the items of HS or CN included in Annex EM.

**ECT 3 [CONF 60] (01/06/93)**  
Article 1.4 – Definitions  
*Para 1 of General comment to Article 1(4)*

“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the items of HS or CN included in Annex EM.

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\* *Ed. note:* As modified by Article 2 of the Amendment to the Trade-Related Provisions of the ECT (Annex 1 to the Final Act).

\* *Ed. note:* As modified by Article 2 of document CC 113.

\* *Ed. note:* As modified by Article 2 of document CC 107.

#### General comment to paragraph 4

The Chairman proposed to include language in the Treaty text to enable the Charter Conference to adapt, if necessary, the list mentioned in 1(4) and 1(5) and if agreed also in 1(4)(a), by consensus.

- 1) In case of 1(4) and 1(5) a new sub-paragraph (e) to Article 41(1) has been added reading:  
"approve the adoption of and modification to Annexes EM and NI".

<p style="text-align: center;"><b>ECT 2 [CONF 56] (01/05/93)</b> <b>(Compromise text) ECT 1 [CONF 50] (15/03/93)</b> Article 1.4 – Definitions</p>
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“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

<p style="text-align: center;"><b>BA-37 (01/03/93)</b> Article 1.4 – Definitions</p>
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<sup>1</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

<p style="text-align: center;"><b>BA-35 (09/02/93)</b> Article 1.4 – Definitions</p>
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<sup>2</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

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\* *Ed. note:* further the provision lists HS or CN items considered as “Energy Materials and Products”. Taking into account that subsequently the list becomes Annex EM of the Treaty, the evolution of HS/CN items was included in the revision of Annex EM.

<sup>1</sup> **Norway** scrutiny reserve on whole paragraph (4). Norway wishes also to scrutinise the possibility for additions to HS items. In particular Norway wants the following items to be included:

29.01 Acyclic hydrocarbons (saturated or unsaturated as ethylene, propene (propylene), butene (butylene) and isomers thereof, butadiene and isoprene, other).

29.02 Cyclic hydrocarbons (e.g. cyclohexane, benzene, toluene, xylenes and their isomers, styrene, ethyl benzene, cumene and other).

29.05.11 Methanol (methylalcohol).

<sup>2</sup> General scrutiny reserve. This definition has been considered primarily in relation to trade Articles.

**BA-31 (21/12/92)**  
**BA-26 (25/11/92)**  
Article 1.3 – Definitions

<sup>3</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

**BA-22 (21/10/92)**  
Article 1.3 – Definitions

<sup>4</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

**BA-15 (12/08/92)**  
Article 1.3 – Definitions

<sup>5</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

**BA 14 (24/06/92)**  
**BA 13 (19/06/92)**  
Article 1.3 – Definitions

<sup>6</sup>“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

**BA 12 (09/04/92)**  
Article 1.3 – Definitions

“Energy Materials and Products”, based on the Harmonised System (HS) of the Customs Cooperation Council and the Combined Nomenclature (CN) of the European Communities, means the following items of HS or CN [...]\*

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<sup>3</sup> General scrutiny reserve. This definition has been considered only in relation to trade Articles.

<sup>4</sup> General scrutiny reserve. This definition only applies to trade Articles of the Basic Agreement.

\* *Ed. note:* further the provision lists HS or CN items considered as “Energy Materials and Products”. Taking into account that subsequently the list becomes Annex EM of the Treaty, the evolution of HS/CN items was included in the revision of Annex EM.

<sup>5</sup> General scrutiny reserve.

<sup>6</sup> General scrutiny reserve. The delegations were asked to forward to the Secretariat their concrete proposals for adding or deleting individual items of the Harmonized System as currently indicated here in advance of the first autumn meeting of WG II. To this end the Secretariat will, upon request, provide delegations a copy of the Combined Nomenclature of the European Communities in French. The next discussion on the definition of [Energy Materials and Products] will be conducted on basis of those recommendations.

**BA 6 (21/01/92)**  
Article 1.3 – Definitions

“Energy Materials and Products” – [Ref. ANNEX II of BA 4]

**BA 4 (31/10/91)**  
Article 1.3 – Definitions  
*Annex II – Draft paper for further discussion in WG II on  
definition of Energy Materials and Products*

“Energy Materials and Products” – [Ref. ANNEX II]

**Annex II**

There are two approaches for defining Energy Materials and Products:

1. Alternative A is the US idea for defining energy goods as tabled following the first meeting of Working Group II.
2. Alternative B is a United Kingdom Department of Energy suggestion to use the European Communities Combined Nomenclature as a basis for developing a definition of Energy Materials and Products.

The relevant experts will need to decide the actual content of a definition based on these precedents or similar ones which other delegations may wish to offer. Given the desire for specificity the Chairman see no alternative to this type of enumerative approach.

**BP 2 (11/09/91)**  
Article 1.1(d) – Definitions  
Article 10 – Non-Discrimination

**Article 1.1(d)**

(a) “Energy Materials and Products” has the meaning given to it in Article 10 below;

**Article 10**

In the administration of its own laws, regulations and requirements affecting production of and trade in matters the subject of this Agreement (hereinafter referred to as “Energy Materials and Products”) and equipment and services related to the extraction, production, conversion, treatment, carriage and supply of such Materials and Products each Contracting Party undertakes:

...

<p style="text-align: center;"><b>Basic Protocol (20/08/91)</b> Article 1.1(d) – Definitions Article 8 – Non-Discrimination</p>
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**Article 1.1(d)**

(d) “Energy Materials and Products” has the meaning given to it in Article 8 below;

**Article 8**

In the administration of its own laws, regulations and requirements affecting production of and trade in matters the subject of this Agreement (hereinafter referred to as “Energy Materials and Products”) and services related to the production and supply of such Materials and Products each Contracting Party undertakes: ...