

Article 1(5) – Definitions

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 1.5

Final Act and ECT as adopted (17/12/94)

Article 1.5 – Definitions

Understanding 2 - With respect to Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sale of Energy Materials and Products except those included in Annex NI, or concerning the distribution of heat to multiple premises.

Understanding 2 (With respect to Article 1(5))

- (a) It is understood that the Treaty confers no rights to engage in economic activities other than Economic Activities in the Energy Sector.
- (b) The following activities are illustrative of Economic Activity in the Energy Sector:
 - (i) prospecting and exploration for, and extraction of, e.g., oil, gas, coal and uranium;
 - (ii) construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
 - (iii) land transportation, distribution, storage and supply of Energy Materials and Products, e.g., by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
 - (iv) removal and disposal of wastes from energy related facilities such as power stations, including radioactive wastes from nuclear power stations;
 - (v) decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
 - (vi) marketing and sale of, and trade in Energy Materials and Products, e.g., retail sales of gasoline; and
 - (vii) research, consulting, planning, management and design activities related to the activities mentioned above, including those aimed at Improving Energy Efficiency.

CONF 104 (Text for adoption) (14/09/94)

Article 1.5 – Definitions

Understanding 2 – With respect to Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sale of Energy Materials and Products except those included in Annex NI, or concerning the distribution of heat to multiple premises.

Understanding 2 (With respect to Article 1(5))

- (a) The Contracting Parties understand that this Treaty confers no rights to engage in economic activities other than Economic Activities in the Energy Sector.
- (b) The following activities are illustrative of Economic Activity in the Energy Sector:
 - (i) prospecting and exploration for, and extraction of, e.g., oil, gas, coal and uranium;
 - (ii) construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
 - (iii) land transportation, distribution, storage and supply of Energy Materials and Products, e.g., by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
 - (iv) removal and disposal of wastes from energy related facilities such as power stations, including radioactive wastes from nuclear power stations;
 - (v) decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
 - (vi) marketing and sale of, and trade in Energy Materials and Products, e.g., retail sales of gasoline; and
 - (vii) research, consulting, planning, management and design activities related to the activities mentioned above, including those aimed at Improving Energy Efficiency.

<p>Interim Text (25/06/94) Article 1.5 – Definitions <i>Understanding 2 – To Article 1(5)</i></p>
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“Economic Activity in the Energy Sector” means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI, or concerning **in** the distribution of heat to multiple premises.

Understanding 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, **for example**:

- (a) prospecting and exploration for, and extraction of, e.g., oil, gas, coal and uranium;
- (b) construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- (c) land transportation, distribution, storage and supply of Energy Materials and Products, e.g., by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;

- (d) removal and disposal of wastes from energy related facilities such as power stations, including radioactive wastes from nuclear power stations;
- (e) decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- (f) marketing and sale of, and trade in Energy Materials and Products, e.g., retail sales of gasoline; and
- (g) research, consulting, planning, management and design activities related to the activities mentioned above, including those aimed at improving energy efficiency.

Interim Text (20/06/94)
 Article 1.5 – Definitions
Understanding 2 – To Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI, or in the distribution of heat to multiple premises.

Understanding 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- (a) prospecting and exploration for, and extraction of, e.g., oil, gas, coal and uranium;
- (b) construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- (c) land transportation, distribution, storage and supply of Energy Materials and Products, e.g., by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- (d) removal and disposal of wastes from energy related facilities such as power stations, including radioactive wastes from nuclear power stations;
- (e) decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- (f) marketing and sale of, and trade in Energy Materials and Products, e.g., retail sales of gasoline; and
- (g) research, consulting, planning, management and design activities related to the activities mentioned above, including those aimed at improving energy efficiency.

Compromise text [CONF 98] (22/04/94)
Article 1.5 – Definitions
Ministerial Declaration 2 – To Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity concerning the business of the exploration, extraction, refining, production, storage, [land transport]¹ transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI, or in the distribution of heat to multiple premises.

Ministerial Declaration 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

ECT 7 [CONF 96] (17/03/94)
Article 1.5 – Definitions
Ministerial Declaration 2 – To Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity in the business of the exploration, extraction, refining, production, storage, [transport]², transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI or in the distribution of heat to multiple premises.

¹ Maritime transport has been excluded from the definition of “Economic Activity in the Energy Sector”.

² USA supported by Japan proposes explicit exclusion of maritime transport from coverage of the Treaty, for instance by the following wording: “Nothing in this Treaty shall apply to maritime transport (including inland waterways) and related activities, and to air transport (including speciality air services)”.

The intention of the phrase “related activities” would be to exclude lightering, fuel bunkering and offshore services. This proposal would include replacement of “carriage” in Article 8(10)(a) by “movement over land”. Norway draws attention to its proposal contained in CONF-52 for a separate Article on the material scope of application of the Treaty.

Ministerial Declaration 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, [for example:]³

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, [e.g.]³ by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

<p>ECT 6 [CONF 82] (20/12/93) Article 1.5 – Definitions <i>Ministerial Declaration 2 – To Article 1(5)</i></p>

“Economic Activity in the Energy Sector” means an economic activity in the business of the exploration, extraction, refining, production, storage, transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI.

Ministerial Declaration 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;

³ USA suggests deletion. See also footnote 1.2 [*ed. note: see previous footnote 14 supra*] in the Treaty text.

- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

ECT 5 [CONF 72] (11/10/93)
ECT 4 [CONF 64] (07/07/93)
 Article 1.5 – Definitions
Ministerial Declaration 2 – To Article 1(5)

“Economic Activity in the Energy Sector” means an economic activity in the business of the exploration, extraction, production, storage, transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products except those included in Annex NI.

Ministerial Declaration 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

<p>ECT 3 [CONF 60] (01/06/93) Article 1.5 – Definitions <i>Ministerial Declaration 2 – To Article 1(5)</i></p>

“Economic Activity in the Energy Sector” means an economic activity in the business of the exploration, extraction, production, storage, transport, transmission, distribution, [trade, marketing, or sales]⁴ of Energy Materials and Products except those included in Annex NI.

Ministerial Declaration 2 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

<p>ECT 2 [CONF 56] (01/05/93) Article 1.5 – Definitions <i>Ministerial Declaration 2 – To Article 1(5)</i></p>	<p>(Compromise text) ECT 1 [CONF 50] (15/03/93) Article 1.5 – Definitions <i>Ministerial Declaration 1 – To Article 1(5)</i></p>
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“Economic Activity in the Energy Sector” means the exploration, extraction, production, storage, transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products except HS 27.07, 27.11.14, [DL], 44.01, and 44.02

Ministerial Declaration 2 / 1 (To Article 1(5))

Economic Activity in the Energy Sector includes, for example:

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;

⁴ **Russian Federation** scrutiny reserve for linguistic check of these words.

- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

Working Group III is invited urgently to consider whether there are other Economic Activities which are so closely related to improving energy efficiency as to justify attracting the protection afforded by the Energy Charter Treaty, by their inclusion in this paragraph.

BA-37 (01/03/93)
 Article 1.5 – Definitions
 Article 16.10 – Promotion, Protection and Treatment of
 Investments *Ministerial Declaration 1 – To Article 1(5)*

Article 1.5

...
 “Economic Activity in the Energy Sector” means the exploration, extraction, production, storage, transport, transmission, distribution, trade, marketing, or sales of Energy Materials and Products [except HS 27.07, 27.11.14, 22.07.20, 44.01, and 44.02].⁵

Article 16.10

[Nothing in this Article shall apply to maritime and inland waterway services and facilities ...]⁶

Ministerial Declaration 1 (To Article 1(5))

[Economic Activity in the Energy Sector includes, for example:

⁵ Subject to Norway footnote 1(4).1 on Article 1(4).

Editor’s note: such footnote read:

“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).”

⁶ Chairman's proposal.

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;
- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.]⁷

BA-35 (09/02/93)
Article 1.5 – Definitions
Note for accompanying document+
General comments on Article 1(5)
Article 16.10 – Promotion, Protection and Treatment of
Investments

Article 1.5

...

“Energy Sector” means the exploration, extraction, production, conversion, storage, transport, transmission, [distribution and trade in, marketing and sales]⁸ of Energy Materials and Products, [provided, however, that this does not include the following items listed in Article 1(3): HS 27.07, 29.01, 29.02, 22.07.20, 29.05.11, 44.01, and 44.02].⁹

Note for accompanying document

Economic Activity in the Energy Sector includes, for example:

- the prospecting and exploration for, and extraction of, e.g. oil, gas, coal and uranium;
- the construction and operation of power generation facilities, including those powered by wind and other renewable energy sources;

⁷ **Norway** does not regard this document as serving any substantive purpose in the context of the definition of Investment. This definition should accordingly contain no reference to such a document.

⁸ **USA** is not in a position for final negotiation.

⁹ The substance proposed by **Japan** and **Hungary** but not discussed. All delegations are invited to submit their suggestions on which items of HS should be excluded from the coverage of Energy Sector to the Secretariat by 18 February 1993.

- the transportation, distribution, storage and supply of Energy Materials and Products, e.g. by way of transmission and distribution grids and pipelines or dedicated rail lines, and construction of facilities for such, including the laying of oil, gas, and coal-slurry pipelines;
- removal and disposal of wastes from energy related facilities such as power stations, including of radioactive wastes from nuclear power stations;
- decommissioning of energy related facilities, including oil rigs, oil refineries and power generating plants;
- the marketing, and sale of, and trade in Energy Materials and Products, e.g. retail sales of gasoline;
- research, consulting, planning, management and design activities, related to the activities mentioned above, including those aimed at improving energy efficiency.

General comments on Article 1(5)

- Legal limitations to the coverage should be done in the relevant Articles or Parts of the Basic Agreement (e.g. Article 16(10)).
- The Sub-Group on the definition of "Investment" has not excluded from the coverage of this definition the investments in power generating plants or co-generating plants dedicated exclusively for the use of industrial or service facilities.
- Text should be found in the Preamble of the Basic Agreement to cover the importance of energy efficiency.

Article 16.10

¹⁰[Nothing in this Article shall apply to: [maritime and inland waterway, transport facilities and services; or]¹¹[...]

¹⁰ General scrutiny reserve on entire paragraph. This paragraph represents text as it emerged from WG II discussion of USA concerns about Working Hypotheses 1 and 2 and in based on USA suggestion for an additional Article creating limited exceptions to National Treatment and MFN Treatment post-establishment and standstill. Present draft would result in listed items being excepted from NT and MFN post-establishment and standstill. However, as indicated in the appropriate footnotes below, consensus as to whether the items should be excepted from NT and MFN post-establishment or standstill or from all three was not reached in each case.

¹¹ General consensus was reached that there should be an exception for "maritime and maritime services" from NT and MFN post-establishment but there was no consensus regarding exception from standstill. Norway states it can accept that "maritime and maritime services" will not be a part of this Agreement.

BA-31 (21/12/92)
Article 1.4 – Definitions
()Note for accompanying document*
Article 16.10 – Promotion, Protection and Treatment of
Investments

Article 1.4

(4) [(*) “Investment” means every kind of asset owned [or controlled, directly or indirectly], by Investors of one or more Contracting Parties [in the Domain of another Contracting Party] *employed in association with the exploration, production, conversion, storage, transport, distribution and [supply] of Energy Materials and Products [and related services]*. In particular, Investments include:]^{12*}

...

(*) Note for accompanying document

The energy field includes, for example, such energy specific activities as the laying of energy pipelines, the provision of energy meters, the decommissioning of oil rigs and nuclear power stations and contract energy management; but excludes activities which are not principally devoted to energy, such as road, rail, maritime and air transport, or the manufacture of energy consuming equipment.

Working Groups preparing Protocols are invited further to define the operations covered by their work in which Investments should be given the protection of this Agreement by way of amendment or be applied only by the parties to the relevant Protocol. It is particularly urgent to provide appropriate coverage of activities relating to energy efficiency.

Article 16.10

²²[Nothing in this Article shall apply to: [maritime and inland waterway, transport facilities and services; or]²³ [...]

BA-26 (25/11/92)
Article 16.10 – Promotion, Protection and Treatment of
Investments

²²[Nothing in this Article shall apply to: [maritime and inland waterway, transport facilities and services; or]²³ [...]

¹² The chapeau was discussed during the WG II meeting on 18 December 1992. The current draft is based on Chairman’s proposal as contained in BA-30 and USA suggestion presented during negotiation. Square bracketed words indicate certain concerns by delegations.

Chairman invited delegations to forward to the Secretariat in a written form their comments on both definitions related to Investment including the note for the accompanying document under Article 1 or under Part IV by 17 January 1993.

The delegations should also focus on deletions of inappropriate suggestions, comments or reserves in footnotes in relation to the most recent drafts. Reflecting those responses the Secretariat will prepare a separate document containing all options together with a possible architecture for the next WG II meeting.

* *Editor’s note*: Italics added to emphasise the part relevant to current Article 1.5.

BA-22 (21/10/92)
Para 2 of Annex 1 to Article 16.10 – Promotion, Protection and
Treatment of Investments

There shall be no exceptions to NT or MNF post-establishment subject to the conclusions of the Taxations sub-Group on 11.9.92.^{13,14,15,16}

BA 14 (24/06/92)
BA 13 (19/06/92)
Article 1.13 – Definitions

“Energy cycle” means the entire energy-chain including [prospecting for, exploration, production, conversion, storage, transport, waste disposal and distribution and consumption of]¹⁷ the various forms of energy and the decommissioning and treatment of energy-related physical structures.

BA 12 (09/04/92)
Article 1.13 – Definitions

“Energy cycle” means the entire energy-chain including prospecting for, exploration, production, conversion, storage, transport, waste disposal and distribution and consumption of the various forms of energy and the decommissioning and treatment of energy-related physical structures.

¹³ **USA** fully supports the principle of NT post-establishment but notes that it is by no means clear that taxation is the only exception to this principle reflected in current legislation or policies of negotiating parties. For example, OECD countries have registered other limited exceptions to the principle. Among those are subsidies, political risk insurance and restrictions on maritime transport. USA also notes that, although it considers the general principle of standstill essential to the agreement, it may be necessary for countries to take similar limited exception to it.

¹⁴ **Russian Federation** notes that it cannot yet state that it will have no exception to NT post-establishment.

¹⁵ **Japan** reserve pending clarification of definition of “Make investments”.

¹⁶ **Canada** can accept this principle on the assumption that the pre-establishment stage covers all elements of “Make Investments” as defined in Article 1(6) of BA-15.

¹⁷ **Australia** suggests substituting with “planning stages, design, exploration, exploitation of national resources, production, conversion, storage, transport, distribution, utilisation, rehabilitation, decommissioning and waste handling and disposal of”. This change is a broader description of the whole cycle and allows for coverage of renewables.