

Article 1(9) – 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 1.9

ECT as adopted (17/12/94)

Article 1.9 – Definitions

“Returns” means the amounts derived from or associated with an Investment, irrespective of the form in which they are paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees and payments in kind.

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)

ECT 7 [CONF 96] (17/03/94)

ECT 6 [CONF 82] (20/12/93)

ECT 5 [CONF 72] (11/10/93)

Article 1.9 – Definitions

“Returns” means the amounts derived from or associated with an Investment, irrespective of the form in which paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees, and payments in kind.

ECT 4 [CONF 64] (07/07/93)

Article 1.9 – Definitions

“Returns” means the amounts derived from or associated with an Investment, irrespective of the form in which paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees, and returns in kind.

ECT 3 [CONF 60] (01/06/93)

Article 1.10 – Definitions

“Returns” means the amounts derived from or associated with an Investment, irrespective of the form in which is paid, including profit, dividends, interest, capital gain, royalty payment, management fee, technical assistance fee or other fee, or returns in kind.

ECT 2 [CONF 56] (01/05/93)

(Compromise text) ECT 1 [CONF 50] (15/03/93)

Article 1.10 – Definitions

“Returns” means the amounts derived from or associated with an Investment, irrespective of the form in which is paid, including profit, dividends, interest, capital gain, royalty payment, management, technical assistance or other fee, or returns in kind.

BA-37 (01/03/93)
BA-35 (09/02/93)
Article 1.8 – Definitions

["Returns" means the amounts yielded in pecuniary form or in kind by an investment and includes profits, interest, capital gains, dividends, royalties and fees.]¹

BA-31 (21/12/92)
Article 1.7 – Definitions

["Returns" means the amounts yielded in pecuniary form or in kind by an Investment and includes profits, interest, capital gains, dividends, royalties and fees.]²

BA-26 (25/11/92)
BA-22 (21/10/92)
Article 1.7 – Definitions

"Returns" means the amounts yielded in pecuniary form or in kind by an Investment and includes profits, interest, capital gains, dividends, royalties and fees.

BA-15 (12/08/92)
Article 1.7 – Definitions

"Returns" means the amounts yielded by an Investment in pecuniary form or in kind and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees, unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment.

BA 14 (24/06/92)
BA 13 (19/06/92)
Article 1.8 – Definitions

"Returns" means the amounts yielded by an Investment (in pecuniary form or in kind)³ and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees, unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment.

¹ **Romania** supported by **USA** suggests replacing the whole definition with: "Returns means the amounts derived from or associated with an Investment, irrespective of the form in which is paid, including profit, dividends, interest, capital gain, royalty payment, management, technical assistance or other fee, or returns in kind."

² **Romania** suggests replacing the whole definition with: "Returns means the amounts derived from or associated with an Investment, irrespective of the form in which is paid, including profit, dividends, interest, capital gain, royalty payment, management, technical assistance or other fee, or returns in kind."

³ **Canada** may wish to discuss this in relation to amounts yielded "in kind" once Working Group II has discussed the trade provisions of the Basic Agreement.

BA 12 (09/04/92)
Article 1.8 – Definitions

“Returns” means the amounts yielded by an Investment (in pecuniary form or in kind) and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees, unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment.

BA 6 (21/01/92)
Article 1.6 – Definitions

⁴“Returns” means the amounts yielded by an Investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees;

BA 4 (31/10/91) Article 1.6 – Definitions	BP 2 (11/09/91) Basic Protocol (26/08/91) Article 1.1(g) – Definitions
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“Returns” means the amounts yielded by an Investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees;

⁴ Many delegations stressed the need for a better definition of Returns, in particular in relation to Article 19. Specific comments of delegations on Article 19 have now been transferred to Article 1 with the aim of utilizing them as the basis for a new definition. They are listed below.

The Secretariat will propose such a definition at the next WG II meeting.

EC: “... of payments in connection with an investment, in particular

- a) of the returns;
- b) in repayment of loans;
- c) of the proceeds from the liquidation or the sale of the whole or any part of the investment.”

United States of America: "returns in kind"

Switzerland: "other payment related to an Investment"

Australia: "such funds include the following:

- a) the initial capital plus any additional capital used to maintain or expand the investment;
- b) returns;
- c) proceeds from the sale or partial sale or liquidation of the investment ;
- d) payments made pursuant to a loan agreement or for losses referred to in Article 17;
- e) unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment”.