

Article 4

Non-Derogation from WTO Agreement

General comments and notes

Compromise text [CONF 98] (22/04/94)
Article 4 – Trade

Article 4 was redrafted by the Legal Sub-Group. Some concerns persist in relation to the protection of the EU coal regime.

ECT 7 [CONF 96] (17/03/94)
Article 4 – Trade
Specific comment related to the whole Article
General comments

General reserve pending results of discussion on Article 35 and advice from the Legal Sub-Group (footnote 4.4).*

General comments

- The March Plenary agreed that – in relation to those laws and practices of GATT parties which may not be fully compatible with the provisions of GATT but have not been tested through the dispute resolution procedures of GATT – the objectives of the Article are as follows:
 - a) the Article should not limit the rights of GATT members to take them to dispute resolution. However, non-GATT members should not be able to challenge them under the provisions of Article 35 in case that might upset the balance of understanding within the GATT;
 - b) the political message of this Article should be kept, taking account of any legal changes necessary.
- In Canada's view consideration needs to be given to whether to exclude government procurement from the scope of Article 13 for the following reasons:
 - a) The GATT Agreement on Government Procurement already prohibits, in Article II:2(a), discrimination among locally established suppliers on the basis of degree of foreign affiliation or ownership;
 - b) The delegations have accepted the objectives set out in footnote 4.4; and

* *Ed. note:* footnote 4.4 reads as: "The Legal Sub-Group should be asked to look at this Article again and recommend an approach for the whole Treaty to ensure that:

- this Article states clearly that trade in the long and permanent term will be governed by GATT rules and Related Instruments;
- nothing derogates from rights and obligations under GATT."

- c) Article 35 excludes the Government Procurement Agreement in Annex G.
- See also general comments under Article 35*

ECT 6 [CONF 82] (20/12/93)
Article 4 – Trade in Energy Materials and Products
Comment + Ministerial Declaration

EC reserve.

Ministerial Declaration: The Charter Conference will consider how to apply the Energy Charter Treaty to energy related services and address the matter of procurement after the negotiations in the Uruguay Round are concluded.

ECT 5 [CONF 72] (11/10/93)
ECT 4 [CONF 64] (07/07/93)
Article 4 – Trade in Energy Materials and Products
Comment + Ministerial Declaration

EC reserve.

Ministerial Declaration: In an accompanying Ministerial declaration it will be stated that the Charter Conference will consider how to apply the Energy Charter Treaty to energy related services after the negotiations in the Uruguay Round on services are concluded.

An accompanying Ministerial declaration will request that the Charter Conference address the matter of procurement after negotiations in the Uruguay Round are concluded.

ECT 3 [CONF 60] (01/06/93)
ECT 2 [CONF 56] (01/05/93)
Article 4 – Trade in Energy Materials and Products and Related
Services
Ministerial Declaration

In an accompanying Ministerial declaration it will be stated that the Charter Conference will consider how to apply the Energy Charter Treaty to energy related services after the negotiations in the Uruguay Round on services are concluded.

An accompanying Ministerial declaration will request that the Charter Conference address the matter of procurement after negotiations in the Uruguay Round are concluded.

* *Ed. note:* General comments under Article 35 on “Interim Provisions on Trade Related Matters” can be found under Article 29.

(Compromise text) ECT 1 [CONF 50] (15/03/93)
Article 4 – Trade in Energy Materials and Products and Related
Services
Ministerial Declaration

In an accompanying Ministerial declaration it will be stated that the Charter Conference will consider how to apply the Energy Charter Treaty to energy related services after the negotiations in the Uruguay Round on services are concluded.

An accompanying Ministerial declaration will request that the Charter Conference address the matter of procurement after negotiations in the Uruguay Round are concluded.

BA-37 (01/03/93)
BA-35 (09/02/93)
Article 5 – Trade in Energy Materials and Products and Related
Services
*Comment + Ministerial Declaration**

There are presently 4 alternative texts for Article 5. This draft represents Chairman's compromise text. The new underlined text is to ensure that Basic Agreement does not accidentally derogate in any respect from the rights and obligations under GATT of Contracting Parties who are Members of GATT in relation to each other.

For reference to the other three texts, see document 40/92, BA-18 of 18 September 1992.

Ministerial Declaration: In an accompanying Ministerial declaration it will be stated that the Charter Conference will consider how to apply the BA to energy related services after the negotiations in the Uruguay Round on services are concluded. USA and Sweden have reservation on this proposal.

BA-31 (21/12/92)
BA-26 (25/11/92)
Article 5 – Trade in Energy Materials and Products [and Related
Services]

- Substance of this Article has been agreed on 16 November 1992. Article is now referred to the Legal Drafting Sub-Group for ensuring compliance with some concerns raised by delegations, in particular:
 - a) how to deal with services if Uruguay Round negotiations are not finished before signature of the Basic Agreement (e.g. by means of the ministerial declaration accompanying BA expressing the wish of Contracting Parties for inclusion of related services in the BA after Uruguay Round negotiations are completed or by means of some other provision),
 - b) how to incorporate relevant text in case of earlier conclusion of the Uruguay Round negotiations,

* *Ed. note:* in BA-35, the Ministerial Declaration is part of the general comments.

- c) whether free-standing Article for services would not be a better solution for covering of both options (a) and (b),
 - d) that compliance should be ensured in the relevant terminology (related instruments – associated legal instrument).
- There are presently 4 alternative texts for Article 5. *This draft represents Chairman's compromise text. The underlined language has been proposed by the Sub-Group on Article 24 as indicated in Room Document 25 of 18 December 1992.* * For reference to the other three texts, see document 40/92, BA-18 of 18 September 1992.

<p>BA-22 (21/10/92) Article 5 – Trade in Energy Materials and Products and Related Services</p>
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There are presently 4 alternative texts for Article 5, only one of which, the Chairman's revised compromise text, is herein represented. For reference to the other three texts, see document 40/92, BA-18 of 18 September 1992.

<p>BA-18 (18/09/92) Trade and trade related Articles <i>Note from the Secretariat</i></p>
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Trade and trade-related Articles are on the agenda for the next Working Group II meeting on 12-14 October 1992. For the key Articles there are presently three alternatives.

To facilitate negotiations the Secretariat has prepared a document (see Annex) composed of all the Articles relevant to trade including key definitions for each option:

option A - current draft as in BA-15

option B - first alternative of USA's proposal as in BA-17

option C - second alternative of USA's proposal as in BA-17

BA-18 systematizes the trade parts of BA-15 and Room Documents 1, 7 and 9 from September session. The only completely new proposal made by Australia is to be found in footnote 27.19. USA note on trade disputes is annexed to Article 24. There is not sufficient information for completion of Article 24 in three options.

* *Ed. note:* text in italic (added) appears only in BA-31.

BA-15 (12/08/92)
BA 14 (24/06/92)
BA 13 (19/06/92)
Article 5 – Liberalisation and Non-Discrimination

USA will forward a complete alternative text for handling the GATT issues based on the “Reference approach”. The text will be circulated to delegations during the summer, in good time before the next meeting of WG II on 7-11 September 1992.

Canada, Japan, Norway general reserve on whole Article.

BA 12 (09/04/92)
Article 5 – Liberalisation and Non-Discrimination
Alternative A

Canada, Japan, Norway general reserve on whole Article.

Since many delegations, including Russian Federation considered in particular drafting of para (2) inadequate, the Chairman suggested two alternatives approaches to be discussed at the next meeting:

- alternative A: the current draft with added footnotes;
- alternative B: based on USA draft which would implicitly replace a number of other BA provisions.

BA 6 (21/01/92)
Article 5 – Liberalisation and Non-Discrimination

Substantially redrafted former Article 10.

In relation to unfair trading practices, Contracting Parties may wish to note in an accompanying document their intention to observe the GATT anti-dumping code if they are parties to it, or to apply the code's rules and procedures as closely as possible they are not parties to it.

Addendum to BA 4 (5/11/91)
Article 10 – Non-Discrimination

New text suggested by Chairman taking into account remarks of many delegations. Former subparas (c) and (d) deleted.

(Japan): reserved position on the whole Article.

(Australia): wants clarification as to whether it is the intention of subparagraph (a) to extend to all Contracting Parties to the Basic Agreement, the tariff benefits from existing customs unions or free trade arrangements.

(EC, Canada, USA): definition of Energy Products and Materials needed.

<p style="text-align: center;">BA 4 (31/10/91) Article 10 –Non-Discrimination</p>
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New text suggested by Chairman taking into account remarks of many delegations. Former subpara (c) deleted.

(Japan): reserved position on the whole Article.

(Australia): wants clarification as to whether it is the intention of subparagraph (a) to extend to all Contracting Parties to the Basic Agreement, the tariff benefits from existing customs unions or free trade arrangements.

(USA): The relationship between subpara (c) and Articles 20 and 21 should be clarified.

(Canada): clarify “discrimination” in subpara (c).

(EC, Canada, USA): definition of Energy Products and Materials needed.

(Japan): it should be clearly provided in subpara (b) and (c) that the regulations and arrangements of Contracting Parties in line with existing international agreements should be valid in this Agreement.

<p style="text-align: center;">BP 2 (11/09/91) <i>Explanatory Memorandum</i></p>

Article 10 makes provision to ensure that Contracting Parties own laws, regulations and requirements apply equally to its own operations and investors of another Contracting Party so as to promote international trade. (Source: based on GATT Articles X and III). Specific reference is made to customs duties or charges, domestic or imported production, and technical and safety regulations and standards, Article 10(d) covers freedom of establishment for an investor of another Contracting Party and, once established, access to energy resources.

Article 4

ECT as amended (24/04/98)*
CC 113 (04/03/98)*
CC 107 (03/12/97)*
Article 4 - Non-Derogation from WTO Agreement

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are members of the WTO, from the provisions of the WTO Agreement as they are applied between those Contracting Parties.

CC 100 (14/11/97)*
CC 96 (17/10/97)*
Article 4 – Non-Derogation from WTO Agreement and
Related Instruments

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are members of the WTO, from the provisions of the WTO Agreement and Related Instruments as they are applied between those Contracting Parties.

<p style="text-align: center;">ECT as adopted (17/12/94) CONF 104 (Text for adoption) (14/09/94) Article 4 – Non-Derogation from GATT and Related Instruments</p>	<p style="text-align: center;">Interim text (25/06/94) Article 4 – Non-Derogation From GATT and Related Instruments Trade</p>	<p style="text-align: center;">Interim text (20/06/94) Article 4 – Trade</p>
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Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied between those Contracting Parties.

Compromise text [CONF 98] (22/04/94)
Article 4 – Trade

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied from time to time between those Contracting Parties.

* *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.

* *Ed. note:* As modified by Attachment 5 to document CC 100.

* *Ed. note:* As modified by Attachment 4 to document CC 96.

ECT 7 [CONF 96] (17/03/94)
Article 4 – Trade

[Trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and Related Instruments, [as they are applied between particular Contracting Parties which are parties to the GATT [or as they are set out in Article 35.]¹]²]³

ECT 6 [CONF 82] (20/12/93)
Article 4 – Trade in Energy Materials and Products

[Except as otherwise provided in this Agreement trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and Related Instruments, as they are applied under GATT rules between particular Contracting Parties which are parties to the GATT].⁴

ECT 5 [CONF 72] (11/10/93)
ECT 4 [CONF 64] (07/07/93)
Article 4 – Trade in Energy Materials and Products

[Except as otherwise provided in this Agreement trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and Related Instruments, as they are applied under GATT rules between particular Contracting Parties who are members of the GATT].⁴

¹ USA reserve. USA was asked to withdraw its reserve, unless it could be demonstrated that these words are really harmful.

² EC reserve. EC want a reference to GATT and Related Instruments with wording along the lines of Article 35(1). EC was asked to discuss this with Australia, Canada and USA and propose a solution which leaves the objective of Article 4 intact.

³ The Legal Sub-Group should be asked to look at this Article again and recommend an approach for the whole Treaty to ensure that:

- this Article states clearly that trade in the long and permanent term will be governed by GATT rules and Related Instruments;

- nothing derogates from rights and obligations under GATT.

⁴ In the June Plenary several delegations questioned the wording on the relation of the Charter Treaty to GATT and its Related Instruments. No conclusion could be reached. Chairman proposed that the delegations involved would have informal consultations, with the aim of reaching agreement. In this context it should be noted that the Legal Sub-Group was asked to draft a general provision assuring that the Charter Treaty does not derogate from the GATT. The wording proposed by the Legal Sub-Group is: “Nothing in this Agreement shall derogate from the provisions of the GATT and Related Instruments, as they are applied from time to time between particular Contracting Parties which are parties to the GATT.”

ECT 3 [CONF 60] (01/06/93)
ECT 2 [CONF 56] (01/05/93)
(Compromise text) ECT 1 [CONF 50] (15/03/93)
Article 4 – Trade in Energy Materials and Products and Related
Services

Except as otherwise provided in this Agreement trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and Related Instruments, as they are applied under GATT rules between particular Contracting Parties who are members of the GATT.

BA-37 (01/03/93)
BA-35 (09/02/93)
Article 5 – Trade in Energy Materials and Products and Related
Services

Except as otherwise provided in this Agreement trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and related instruments, as they are applied under GATT rules between particular Contracting Parties who are Members of the GATT.

BA-31 (21/12/92)
Article 5 – Trade in Energy Materials and Products [and Related
Services]

Except as otherwise provided in this Agreement trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and related instruments, other than the Agreement on Government Procurement and agreements, arrangements, decisions, understandings, declarations and other joint action pursuant to that latter Agreement.

BA-26 (25/11/92)
Article 5 – Trade in Energy Materials and Products [and Related
Services]

Trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and related instruments, other than the Agreement on Government Procurement and agreements, arrangements, decisions, understandings, declarations and other joint action pursuant to that latter Agreement.

<p>BA-22 (21/10/92) Article 5.1+5.2 – Trade in Energy Materials and Products and Related Services</p>

- (1) Trade in Energy Materials and Products between Contracting Parties shall be governed by the provisions of the GATT and related instruments, other than the Agreement on Government Procurement and agreements, arrangements, decisions, understandings, declarations and other joint action pursuant to that latter Agreement.
- (2) [(Depending upon definitions agreed under Article 1(11) and text agreed to Article 28) Protocols may compliment, supplement, extend or amplify the provisions of the GATT and related instruments but may not conflict with them.]

<p>BA-18 (18/09/92) [Article 5A]⁵ – Liberalisation and Non-Discrimination</p>	<p>BA-15 (12/08/1992) [Article 5] – Liberalisation and Non-Discrimination</p>
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- (1) ⁶Contracting Parties undertake to remove progressively the barriers to trade with each other in [Energy Materials and Products] and [related equipment and services]⁷ in a manner consistent with their other international obligations so as to achieve the [greatest possible degree of]⁸ liberalisation in the market⁹.
- (2) In particular, Contracting Parties [undertake]¹⁰ in relation to [Energy Materials and Products] and [related equipment and services]¹¹:
 - (a) ¹²not to [increase]¹³ custom duties and other charges nor to introduce new quantitative restrictions or measures having similar effect on imports or exports as [from the date of entry into force]¹⁴ of this Agreement;
 - (b) ¹⁵not to apply any customs duties, charges or other regulations relating to importation or exportation in a discriminatory manner as between other Contracting Parties, provided that Contracting Parties may take action according to established international criteria against unfair trading practices;

⁵ **Canada, Japan, Norway** general reserve on whole Article.

⁶ **Australia** reserve, **Finland** scrutiny reserve.

⁷ Subject to Definitions.

⁸ **Norway** delete.

⁹ **Norway** supported by **Russian Federation** asks for adding: “observing in particular the principles contained in the Article 11”.

¹⁰ Deferred to later discussion.

¹¹ Subject to Definitions.

¹² **Poland** asks for balance by introducing a “restructuring clause” permitting to reintroduce tariffs or charges in case of restructuring industries or heavy unemployment. Points out that transitional arrangements provisions are not clearly sufficient here.

¹³ **Norway** suggests replacing with “institute or maintain”.

¹⁴ **Norway** asks for similar language as used in Article 16, suggests replacing with: “after the signature”.

¹⁵ **Poland** reserve pending the discussion on Article 27.

- (c) not to apply internal laws, taxes, charges, standards or other regulations in such a manner as to treat domestic products or services more favourably than similar products¹⁶ of other Contracting Parties.

<p style="text-align: center;">BA-18 (18/09/92) Article 5B – Trade in Energy Materials and Products*</p>	<p style="text-align: center;">BA-18 (18/09/92) Article 5C – Trade in Energy Materials and Products</p>
<p>(1) Except as otherwise specifically provided in this Agreement.</p> <p>(a) Trade in [Energy Materials and Products] between Contracting Parties that are also contracting parties to the GATT shall be governed by the provisions of the GATT and related instruments as such provisions apply to the Contracting Parties in question.</p> <p>(b) Trade in [Energy Materials and Products]</p> <p>(i) between Contracting Parties to this Agreement, both of which are contracting parties to the GATT and relevant related instruments but which do not apply the GATT or such related instrument between themselves;</p> <p>(ii) between a Contracting Party to this Agreement that is a contracting party to the GATT and relevant related instruments and a Contracting Party that is not; and</p> <p>(iii) between Contracting Parties to this Agreement, neither of which is a contracting party to the GATT and relevant related instruments</p> <p>shall be governed by provisions of the GATT and relevant related instruments as in effect of July 1, 1992 except as listed in ANNEX G.</p> <p>(2) (a) Any Contracting Party to this Agreement encountering a problem concerning its existing domestic legal authority to carry out any obligation arising under this Article, in</p>	<p>(1) Contracting Parties recognize that the rules and disciplines as embodied in the GATT and its related instruments are as relevant to the efficient functioning of international trade in [Energy Materials and Products] as other internationally traded items. All Contracting Parties to this Agreement will make best efforts to apply provisions of the GATT and related instruments to trade in [Energy Materials and Products] among themselves.</p> <p>(2) Contracting Parties that are contracting parties to the GATT reaffirm that trade in [Energy Materials and Products] among them are governed by the rules and disciplines of the GATT and its related instruments as such provisions apply to the Contracting Parties in question. Those Contracting Parties are committed to the improved application of existing rules and disciplines to trade in [Energy Materials and Products] and recognize the improvement to those disciplines which could emerge from the Uruguay Round of Multilateral Trade Negotiations.</p> <p>(3) Recognizing that full integration into the international trading community will ultimately provide the most secure application of the rules and disciplines of the GATT and its related instruments, Contracting Parties that are not also contracting parties to the GATT commit to accede to the GATT at the earliest appropriate time. These Contracting Parties further recognize the importance of adopting a domestic economic and legal framework which embodies free market principles to establishing confidence in the value of the commitments undertaken in this Agreement.</p>

¹⁶ EC suggest insertion of “or services”.

* *Ed. note:* In the original version, Annex G is attached to this alternative B.

<p>relation to another Contracting Party under circumstances described in Article (5)(1)(b), shall request immediate consultations with such other Contracting Party. The Contracting Party receiving such a request shall enter into such consultations as soon as possible.</p> <p>(b) Should the Contracting Party requesting consultations pursuant to subparagraph (a) determine that it does not have the domestic legal authority to carry out in relation to the other Contracting Party the obligation with respect to which such consultations arose, either Contracting Party may suspend performance of such obligation in relation to the other Contracting Party. In such event the Contracting Parties concerned will, to the extent practicable and consistent with their respective laws, seek to minimize disruption in trade in [Energy Materials and Products] between them during the time in which performance of the obligation in question is suspended.</p> <p>(3) Tariffs: Each Contracting Party shall provide to all other Contracting Parties a schedule of tariff rates for [Energy Materials and Products] prior to entry into force of this Agreement.</p>	<p>(4) Trade in [Energy Materials and Products] between Contracting Parties that are also contracting parties to the GATT shall be governed by the provisions of the GATT and related instruments as such provisions apply to the Contracting Parties in question.</p> <p>(5) Any Contracting Party to this Agreement encountering a problem concerning energy trade relations under this Article may request consultations with the other Contracting Party. The Contracting Party receiving such a request shall enter into such consultations as soon as possible. In such an event, the Contracting Parties concerned should to the extent practicable and consistent with their respective laws, seek to minimize the disruption in trade in [Energy Materials and Products] between them.</p>
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BA 14 (24/06/92)
BA 13 (19/06/92)
Article 5 – Liberalisation and Non-Discrimination

- (1) ⁶Contracting Parties undertake to remove progressively the barriers to trade with each other in [Energy Materials and Products] and [related equipment and services]⁷ in a manner consistent with their other international obligations so as to achieve the [greatest possible degree of]⁸ liberalisation in the market⁹.
- (2) In particular, Contracting Parties [undertake]¹⁰ in relation to [Energy Materials and Products] and [related equipment and services]¹¹:
- (a) ¹²not to [increase]¹³ custom duties and other charges nor to introduce new quantitative restrictions or measures having similar effect on imports or exports as [from the date of entry into force]¹⁴ of this Agreement;

- (b) ¹⁵ not to apply any customs duties, charges or other regulations relating to importation or exportation in a discriminatory manner as between other Contracting Parties, provided that Contracting Parties may take action according to established international criteria against unfair trading practices;
- (c) not to apply internal laws, taxes, charges, standards or other regulations in such a manner as to treat domestic products or services more favourably than similar products of other Contracting Parties.

<p>BA 12 (09/04/92) Article 5 – Liberalisation and Non-Discrimination <i>Alternative A</i></p>

- (1) ⁶Contracting Parties undertake to remove progressively the barriers to trade with each other in [Energy Materials and Products] and [related equipment and services]⁷ in a manner consistent with their other international obligations so as to achieve the [greatest possible degree of]⁸ liberalisation in the market⁹.
- (2) In particular, Contracting Parties [undertake]¹⁰ in relation to [Energy Materials and Products] and [related equipment and services]¹¹:
 - (a) ¹²not to [increase]¹³ custom duties and other charges nor to introduce new quantitative restrictions or measures having similar effect on imports or exports as [from the date of entry into force]¹⁴ of this Agreement;
 - (b) ¹⁵not to apply any customs duties, charges or other regulations relating to importation or exportation in a discriminatory manner as between other Contracting Parties, provided that Contracting Parties may take action according to established international criteria against unfair trading practices;
 - (c) not to apply internal laws, taxes, charges, standards or other regulations in such a manner as to treat domestic products or services more favourably than similar products of other Contracting Parties.

<p>BA 12 (09/04/92) Article 5 – Rules Governing Trade in [Energy Materials and Products] <i>Alternative B</i></p>
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- (1) For Contracting Parties who are parties to the GATT, trade in [Energy Materials and Products] between them shall be governed by the GATT.
- (2) The GATT existing as of 1 May 1992 will govern trade in [Energy Materials and Products] between Contracting Parties who are not parties to the GATT upon entry into force of this Agreement, as well as trade between such non-parties to the GATT and Contracting Parties who are also parties to the GATT.

- (3) All Contracting Parties agree to meet not less frequently than every two years in order to consider whether to amend this Agreement to take into account GATT rules and codes adopted after 1 May 1992.
- (4) The above provisions shall not affect the applications of Articles 5, 6, 7, 11, (15), 24 and 27 and Article(s) on Competition.

BA 6 (21/01/92) Article 5 – Liberalisation and Non-Discrimination

- (1) Contracting Parties shall progressively eliminate the custom duties and other charges or quantitative restrictions and measures having similar effect on imports and exports of [Energy Materials and Products] and related equipment and services so as to achieve the greatest possible degree of liberalisation in the market.
- (2) In particular, Contracting Parties undertake in relation to [Energy Materials and Products] and related equipment and services:
 - (a) not to increase custom duties and other charges nor to introduce new quantitative restrictions or measures having similar effect on imports or exports as from the date of entry into force of this Agreement;
 - (b) not to apply any customs duties, charges or other regulations relating to importation or exportation in a discriminatory manner as between other Contracting Parties, provided that Contracting Parties may take action according to established international criteria against unfair trading practices;
 - (c) not to apply internal laws, taxes, charges, standards or other regulations in such a manner as to treat domestic products or services more favourably than those of other Contracting Parties.

Addendum to BA 4 (5/11/91) Article 10 – Non-Discrimination
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- (1) Each Contracting Party undertakes in the administration of its own laws, regulations and requirements affecting production of and trade in [Energy Materials and Products]:
 - (a) To apply any customs duties or charges imposed in connection with importation or exportation immediately and unconditionally in the same way to [Energy Materials and Products] originating in or destined for any other Contracting Party;
 - (b) ¹⁷To apply laws, regulations and requirements and charges governing the internal access to resources, production, conversion, treatment, sale, offering for sale, purchase, transportation, distribution or use of [Energy Materials and Products] without discrimination as between domestic and imported production or on the basis of nationality of origin of an investor;

¹⁷ EC: the wording of subpara (1b) could create a potential conflict with Article 5.

(2) In applying the provision of this Article Contracting Parties who are also members of GATT shall have regard to the provisions and criteria of the GATT and relevant GATT-related instruments as amended or otherwise applied or implemented from time to time. Contracting Parties who are not members of GATT shall have regard to the GATT Articles and GATT-related Instruments appended to this Agreement. If subsequent to the signature of this Agreement amendments are made to the Articles or Instruments appended to this Agreement or a further GATT-related Instrument is agreed which supplements or expands upon the obligation of this Article and so long as all CPs are not parties to GATT or the relevant Instruments, amendments will be proposed to this Article to supplement or expand it in accordance with that GATT-related Instrument.

BA 4 (31/10/91)
Article 10 – Non-Discrimination

Each Contracting Party undertakes to administer its own laws, regulations and requirements affecting production of and trade in [Energy Materials and Products] with regard to the provisions and criteria of the General Agreement on Tariffs and Trade and its related Agreements as renegotiated from time to time, and in particular:

- (a) To apply any customs duties or charges imposed in connection with importation or exportation immediately and unconditionally in the same way to [Energy Materials and Products] originating in or destined for any other Contracting Party;
- (b) ¹⁸To apply laws, regulations and requirements and charges governing the internal production, conversion, treatment, sale, offering for sale, purchase, transportation, distribution or use of [Energy Materials and Products] without discrimination as between domestic and imported production or on the basis of nationality of origin of an investor;
- (c) To permit an investor based in another Contracting Party
 - (i) freedom of establishment, and
 - (ii) once established, access to energy resources,

without discrimination against such investor on the basis of its nationality or origin.

BP 2 (11/09/91)
Article 10 – Non-Discrimination

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:

¹⁸ EC: the wording of subpara (b) could create a potential conflict with Article 5.

- (a) To apply any customs duties or charges imposed in connection with importation or exportation immediately and unconditionally in the same way to Energy Materials and Products originating in or destined for any other Contracting Party;
- (b) To apply laws, regulations and requirements and charges affecting the internal production, conversion, treatment, sale, offering for sale, purchase, transportation, distribution or use of Energy Materials and Products without discrimination as between domestic and imported production or on the basis of nationality of origin of an investor;
- (c) To ensure that technical and safety regulations and standards are not prepared, adopted or applied so as to create obstacles to international trade or to discriminate as between domestic and imported products;
- (d) Subject to observance of its laws and regulations, to permit an investor based in another Contracting Party
 - (i) freedom of establishment, and
 - (ii) once established, access to energy resources,

without discrimination against such investor on the basis of its nationality or origin.

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

- (a) To apply any customs duties or charges imposed in connection with importation or exportation immediately and unconditionally in the same way to Energy Materials and Products originating in or destined for any other Contracting Party;
- (b) To apply laws, regulations and requirements and charges affecting the internal production, sale, offering for sale, purchase, transportation, distribution or use of Energy Materials and Products without discrimination as between domestic and imported production;
- (c) To ensure that technical and safety regulations and standards are not prepared, adopted or applied so as to create obstacles to international trade or to discriminate as between domestic and imported products;
- (d) Subject to observance of its laws and regulations, to permit an investor based in another Contracting Party freedom of establishment and access to energy resources, without discrimination against such investor on the basis of its nationality of origin.