

Article 1(11) – 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 1.11

ECT as amended (24/04/98)*
CC 113 (04/03/98)*
CC 107 (03/12/1997)*
Article 1.11 – Definitions

- (a) “WTO” means the World Trade Organization established by the Agreement Establishing the World Trade Organization.
- (b) “WTO Agreement” means the Agreement Establishing the World Trade Organization, its Annexes and the decisions, declarations and understandings related thereto, as subsequently rectified, amended and modified from time to time.
- (c) “GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A to the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified from time to time.”

CC 100 (14/11/97)*
Article 1.11 – Definitions

- (a) “WTO” means the World Trade Organization established by the Agreement Establishing the World Trade Organization.
- (b) “WTO Agreement”¹ means the Agreement Establishing the World Trade Organization including the multilateral trade agreements contained in its Annexes 1, 2 and 3, which are binding on all members of the WTO, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended and modified.
- (c) “Related Instruments” means the plurilateral trade agreements contained in Annex 4 to the Agreement Establishing the World Trade Organization and agreements, arrangements or other legal instruments including decisions, declarations and understandings, concluded under the auspices of the WTO, which are binding on those members of the WTO that have accepted them, as subsequently rectified, amended or modified.
- (d) “GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A to the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.”

* *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.

¹ The definitions of “WTO Agreement” and “Related Instruments” may require further reflection.

CC 96 (17/10/97)*
Article 1.11 – Definitions
Note by the Secretariat

- (a) “WTO” means the World Trade Organization established by the Agreement Establishing the World Trade Organization.
- (b) “WTO Agreement”¹⁵³ means the Agreement Establishing the World Trade Organization including the multilateral trade agreements contained in its Annexes 1, 2 and 3, which are binding on all members of the WTO, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended and modified.
- (c) “Related Instruments”¹⁵³ means the plurilateral trade agreements contained in Annex 4 to the Agreement Establishing the World Trade Organization and agreements, arrangements or other legal instruments including decisions, declarations and understandings, concluded under the auspices of the WTO, which are binding on those members of the WTO that have accepted them, as subsequently rectified, amended or modified.
- (d) “GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A to the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.”

Note by the Secretariat

The definition of “GATT 1994” remains unchanged as compared with the present text of Article 1 (11) (c) of the ECT.

ECT as adopted (17/12/94)
Article 1.11 – Definitions

- (a) “GATT means “GATT 1947” or “GATT 1994”, or both of them where both are applicable.
- (b) “GATT 1947” means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.
- (c) “GATT 1194” means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.

A party to the Agreement Establishing the World Trade Organization is considered to be a party to GATT 1994.

- (d) “Related Instruments” means, as appropriate:
 - (i) agreements, arrangements or other legal instruments, including decisions, declarations and understandings, concluded under the auspices of GATT 1947 as subsequently rectified, amended or modified; or

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

- (ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended or modified.

CONF 104 (Text for adoption) (14/09/94) Article 1.11 – Definitions
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- (a) “GATT” means “GATT 1947” and/or “GATT 1994”, as appropriate.

“GATT 1947” means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

“GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.

A party to the Agreement Establishing the World Trade Organization is considered to be a party to GATT 1994.

- (b) “Related Instruments” means, as appropriate,
 - (i) agreements, arrangements or other legal instruments, including decisions, declarations and understandings, concluded under the auspices of the GATT 1947 as subsequently rectified, amended or modified; and/or
 - (ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended or modified.

Interim Text (25/06/94) Article 1.11 – Definitions
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- (a) “GATT” means “GATT 1947” and/or “GATT 1994”, as appropriate.

“GATT 1947” means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

“GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization as subsequently rectified, amended or modified.

- (b) “Related Instruments” means, as appropriate,

- (i) agreements, arrangements or other legal instruments concluded under the auspices of the GATT 1947 as subsequently rectified, amended or modified; and/or
- (ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), **and** its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified , amended or modified.

Interim Text (20/06/94) Article 1.11 – Definitions
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- (a) “GATT 1947” means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended or modified.

“GATT 1994” means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization as subsequently rectified, amended or modified.

“GATT” means GATT 1947 and/or GATT 1994.

- (b) “Related Instruments” means agreements, arrangements or other legal instruments concluded under the auspices of the GATT 1947 as subsequently rectified, amended or modified and/or the Agreement Establishing the World Trade Organization including its Annex 1 except GATT 1994, and its Annexes 2, 3 and 4, as subsequently rectified, amended or modified.

Compromise text [CONF 98] (22/04/94) Article 1.11 – Definitions

- (a) “GATT” means the General Agreement on Tariffs and Trade dated October 30, 1947 as subsequently rectified, amended, supplemented or otherwise modified (hereinafter referred to as “the General Agreement” in this paragraph), including the decisions, understandings or other legal instruments adopted by the contracting parties to the General Agreement pursuant to the relevant provisions of the General Agreement, and/or the General Agreement on Tariffs and Trade 1994 annexed to the Agreement establishing the World Trade Organization as appropriate.
- (b) “Related Instruments” means agreements, arrangements or other legal instruments concluded under the auspices of the GATT.

ECT 7 [CONF 96] (17/03/94) Article 1.11 – Definitions

- [(a) “GATT” means the General Agreement on Tariffs and Trade dated October 30, 1947 as subsequently rectified, amended, supplemented or otherwise modified (hereinafter referred to as “the General Agreement” in this paragraph), including the decisions, understandings or other legal instruments adopted by the contracting parties to the General Agreement pursuant to the relevant provisions of the General Agreement, and/or the General Agreement on

Tariffs and Trade 1994 annexed to the Agreement establishing the World Trade Organization as appropriate.

- (b) “Related Instruments” means agreements, arrangements or other legal instruments concluded under the auspices of the GATT.]²

<p style="text-align: center;">ECT 6 [CONF 82] (20/12/93) ECT 5 [CONF 72] (11/10/93) Article 1.11 – Definitions <i>Endnote* to Article 1 – Definitions</i></p>
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[“GATT and Related Instruments” means:

- (a) the General Agreement on Tariffs and Trade, done at Geneva October 30, 1947; and
- (b) agreements, arrangements, decisions, understandings, or other joint action within the framework of the General Agreement on Tariffs and Trade.]³

<p style="text-align: center;">ECT 4 [CONF 64] (07/07/93) Article 1.11 – Definitions</p>

“GATT and Related Instruments” means:

- (a) the General Agreement on Tariffs and Trade, done at Geneva October 30, 1947; and
- (b) agreements, arrangements, decisions, understandings, or other joint action within the framework of the General Agreement on Tariffs and Trade.

² General reserve. This definition cannot be finalized until after the results of the Marrakesh Conference on the Uruguay Round. The Secretariat will also give attention to adequate wording to distinguish between GATT 1947 and GATT/UR 1994.

* *Ed. note*: Endnote is included at the end of the Draft.

³ **Japan** suggests replacing the current definition with 3 separate definitions reading:

- “GATT” means the General Agreement on Tariffs and Trade dated October 30, 1947 as subsequently rectified, amended, supplemented or otherwise modified (hereinafter referred to as “the General Agreement” in this paragraph), including the decisions, understandings or other legal instruments adopted by the contracting parties to the General Agreement pursuant to the relevant provisions of the General Agreement, and/or the successor agreement of the General Agreement, as appropriate.
- “Related Instruments” means agreements, arrangements or other legal instruments concluded under the auspices of the GATT.
- “Contracting Parties to the GATT and Related Instruments” means a government or a Regional Economic Integration Organisation to which the GATT and/or one or more of the Related Instruments are applicable in accordance with the relevant provisions of the GATT and Related Instruments.

Japan further proposes, with relation to those definitions, replacing the wording “member of the GATT,” in this Treaty (for example in Articles 4 and 35) with “Contracting Parties to the GATT” [*Ed. note*: this last paragraph of the comment refers only to ECT 5].

ECT 3 [CONF 60] (01/06/93) Article 1.12 – Definitions

["GATT and Related Instruments" means:

- (a) the General Agreement on Tariffs and Trade, done at Geneva October 30, 1947;
- (b) agreements, arrangements, decisions, understandings, or other joint action [pursuant to]⁴ the General Agreement on Tariffs and Trade;

[and any successor agreement or agreements thereto.]⁵⁶

ECT 2 [CONF 56] (01/05/93) (Compromise text) ECT 1 [CONF 50] (15/03/93) Article 1.12 – Definitions	BA-37 (01/03/93) BA-35 (09/02/93) Article 1.10 – Definitions	BA-31 (21/12/92) BA-26 (25/11/92) BA-22 (21/10/92) Article 1.9 – Definitions
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"GATT and Related Instruments" means:

- (a) the General Agreement on Tariffs and Trade, signed at Geneva October 30, 1947;
- (b) agreements, arrangements, decisions, understandings, or other joint action pursuant to the General Agreement on Tariffs and Trade;

and any successor agreement or agreements thereto.

BA-15 (12/08/92) Article 1.9 + 1.10 – Definitions	BA 14 (24/06/92) BA 13 (19/06/92) Article 1.10 + 1.11 – Definitions
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(9)/(10) ⁷"GATT" means GATT, its related instruments, applicable term schedules and relevant jurisprudence including reports of dispute settlement Panels, agreements and decisions of the Contracting Parties.

(10)/(11)¹⁵⁹"GATT-related instrument" means an agreement, arrangement, decision, understanding, declaration, or other joint action pursuant to the General Agreement on Tariffs and Trade.

⁴ This wording should be checked by the Legal Sub-Group to ensure that all relevant GATT – texts are covered (e.g. Technical Barriers to Trade).

⁵ Legal Sub-Group should check whether this text is really necessary.

⁶ **Japan** scrutiny reserve.

⁷ References of GATT and GATT-related instruments as currently drafted in items, (9/10) and (10/11) are overlapping and will be reworked after the discussion of trade related Articles.

BA 12 (09/04/92)
Article 1.10 + 1.11 – Definitions

(10) “GATT” means GATT, its related instruments, applicable term schedules and relevant jurisprudence including reports of dispute settlement Panels, agreements and decisions of the Contracting Parties.

(11) “GATT-related instrument” means an agreement, arrangement, decision, understanding, declaration, or other joint action pursuant to the General Agreement on Tariffs and Trade.

BA 6 (21/01/92)
Article 1.8 – Definitions

“GATT-related instrument” means an agreement, arrangement, decision, understanding, declaration, or other joint action pursuant to the General Agreement on Tariffs and Trade.

BA 4 (31/10/91)
Article 1.8 – Definitions

“GATT-related instrument” means an agreement, arrangement, decision, understanding, declaration, or other joint action pursuant to the General Agreement on Tariffs and Trade.