

Article 1(12) – 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 1.12

<p>Final Act and ECT as adopted (17/12/94) Article 1.12 – Definitions <i>Understanding 5 - With respect to Article 1(12)</i></p>

“Intellectual Property” includes copyrights and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Understanding 5 (With respect to Article 1(12))

The representatives recognize the necessity for adequate and effective protection of Intellectual Property rights according to the highest internationally-accepted standards.

<p>Text for adoption (01/09/94) Article 1.12 – Definitions <i>Understanding 5 - With respect to Article 1(12)</i></p>
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“Intellectual Property” includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Understanding 5 (With respect to Article 1(12))

The representatives recognize the necessity for adequate and effective protection of Intellectual Property rights according to the highest internationally accepted standards.

<p>Interim Text (25/06/94) Article 1.12 – Definitions <i>Understanding 5 – To Article 1(12)</i></p>
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“Intellectual Property” includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Understanding 5 (To Article 1(12))

Contracting Parties recognize the necessity for **an** adequate and effective protection of Intellectual Property rights according to the highest internationally accepted standards.

<p>Interim Text (20/06/94) Article 1.12 – Definitions <i>Understanding 5 – To Article 1(12)</i></p>	<p>Compromise text [CONF 98] (22/04/94) Article 1.12 – Definitions <i>Ministerial Declaration 5 – To Article 1(12)</i></p>
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“Intellectual Property” includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Understanding 5 (To Article 1(12)) / Ministerial Declaration 5 (To Article 1(12))

Contracting Parties recognize the necessity for an adequate and effective protection of Intellectual Property rights according to the highest internationally accepted standards.

ECT 7 [CONF 96] (17/03/94)
Article 1.12 – Definitions
Ministerial Declaration 5 – To Article 1(12)

“Intellectual Property” Includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Ministerial Declaration 5 (To Article 1(12))

Contracting Parties recognize the necessity for an adequate and effective protection of Intellectual Property rights according to the highest internationally accepted standards.¹

ECT 6 [CONF 82] (20/12/93)
ECT 5 [CONF 72] (11/10/93)
ECT 4 [CONF 64] (07/07/93)
Article 1.12 – Definitions
Ministerial Declaration 3 – To Article 1(12)
Endnote to Article 1 – Definitions*

“Intellectual Property” includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.²

Ministerial Declaration 3 (To Article 1(12))

[Contracting Parties recognise the necessity for an adequate and effective protection of Intellectual Property rights according to the highest internationally accepted standards.]^{160,3}

¹ USA general reserve; prefers to move it to the Preamble.

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

² The agreement on this definition has been reached in the Plenary [*ed. note:* the first sentence of the comment refers only to ECT 4]. **Canada** made its acceptance conditional provided that “as defined by national law” will be added to the definition. The Canada suggestion was supported by **Russian Federation** and **Romania**. The Plenary is prepared to consider the Canada suggestion provided it could help to solve the Canada concern in relation to the expropriation question in Article 15. **Canada** will consult with capital accordingly and notify the Secretariat [*ed. note:* ECT 4 adds “by 3 September 1993”] of its findings.

³ Except for Canada all delegations are in favour of having the Ministerial Declaration linked to Article 1(12). **Canada** prefers the Ministerial Declaration linked to the Charter Treaty as a whole. Subject to consultations with capitals.

ECT 3 [CONF 60] (01/06/93)
Article 1.13 – Definitions
*Sub-Group Chairman's note 1 and 2 under Article 6 – Intellectual
Property*

“Intellectual Property” [includes]⁴ copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

Sub-Group Chairman's note (under Article 6)

1. The Sub-Group in principle was in favour of including a Ministerial Declaration on the importance of securing Intellectual Property Rights. The Sub-Group Chairman will draft such a text to be circulated to the Group by 8 June 1993 and Sub-Group members will comment by 15 June 1993.
2. In relation to Article 1(13), definition of Intellectual Property, a majority of the Group could agree to the present definition with the understanding of it being an illustrative enumeration while Canada still prefers a closed list. Canada will redraft the definition with a view to appease its concern related to the expropriation question in Article 15. Canada will submit redraft of the definition to the Sub-Group participants by 8 June and the Group will in turn submit their comments on the redraft to the Sub-Group Chairman by 15 June.

ECT 2 [CONF 56] (01/05/93)
Article 1.13 – Definitions*

“Intellectual Property” [includes]⁵ copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.⁶

(Compromise text) ECT 1 [CONF 50] (15/03/93)
Article 1.13 – Definitions*

“Intellectual Property” includes copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

BA-37 (01/03/93)
Article 1.11 – Definitions*

“Intellectual Property” [includes]⁷ copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

⁴ **Canada** prefers to retain “refers to”, but will reconsider whether its concerns could be addressed through the Investment Part of the Agreement (see Sub-Group Chairman's note under Article 6).

* Ed. note: see also relevant deleted articles.

⁵ **Canada** prefers to retain “refers to”, but will reconsider whether its concerns could be addressed through the Investment Part of the Agreement.

⁶ **Romania** suggests that the definition should cover also software.

BA-35 (09/02/93) Article 1.11 – Definitions *	BA-31 (21/12/92) Article 1.10 – Definitions *
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["Intellectual Property" is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967^{8,9}.]¹⁰

BA-26 (25/11/92) Article 1.10 – Definitions *

["Intellectual Property" is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967^{167, 168}.]¹¹

BA-22 (21/10/92) Article 1.10 – Definitions *

["Intellectual Property" is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967^{167, 168}.]¹²

BA-15 (12/08/92) Article 1.11 – Definitions *

["Intellectual Property" is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967]¹³

⁷ **Canada** would prefer substitution with: "refers to". **USA** has a preference for the definition contained in the Convention establishing "WIPO" but will consider whether the word "includes" might be acceptable with the understanding of this being an illustrative enumeration. Australia and Japan scrutiny reserve.

⁸ **Australia** suggests adding: "and shall also include confidential information (including trade secrets and know-how), circuit layouts and semi-conductor chips and unregistered trademarks".

⁹ **USA** supports Australia footnote 1.22 [*ed. note*: BA-31 seems to erroneously state "footnote 1.23"(comment of Romania) instead of 1.29 (comment of Australia)] with some amendments, such that the addition should read: "including confidential information (including trade secrets and know-how), layout designs of integrated circuits and unregistered trademarks".

¹⁰ A Sub-Group established by the Chairman of WG II under Article 18 chaired by European Communities and consisting of Australia, Canada, Japan and USA shall prepare a new draft of the definition of Intellectual Property taking into account the implications for the Investment Articles of the Basic Agreement and also the relation to industrial and commercial property (see square bracketed part in draft of Article 7).

* *Ed. note*: see also relevant deleted articles.

¹¹ Sub-Group chaired by Australia and consisting of USA, Canada, European Communities and the Chairman of Legal Sub-Group shall prepare prior to December meeting of WG II or in the margins of the December meeting of WG 11 a new draft of the definition of Intellectual Property taking into account the implications for the Investment Articles of the Basic Agreement and also the relation to industrial and commercial property (see square bracketed part in draft of Article 7).

¹² Sub-Group chaired by Australia and consisting of USA, Canada, European Communities and the Chairman of Legal Sub-Group should prepare for the November meeting of WG 11 a new draft of the definition of Intellectual Property taking into account the implications for the Investment Articles of the Basic Agreement and also the relation to industrial and commercial property (see square bracketed part in draft of Article 7). The Secretariat will contact relevant bodies with the aim of informing negotiating parties on the progress and content of TRIPS negotiations.

¹³ **Australia** supported by **USA** suggests adding: "and shall also include confidential information (including trade secrets and knowhow) circuit layouts and semi-conductor chips and unregistered trade marks".

BA 14 (24/06/92)
BA 13 (19/06/92)
Article 1.12 – Definitions *

[“Intellectual Property” is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967]¹³.

BA 12 (09/04/92)
Article 1.12 – Definitions *

[“Intellectual Property” is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967]¹⁶⁷.

BA 6 (21/01/92)
Article 1.10 – Definitions *

“Intellectual property” is as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation, done at Stockholm, July 1967.

* *Ed. note:* see also relevant deleted articles.