

# Article 20 (3) – Transparency

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## Notes and General Comments regarding the whole Article

Negotiations in the Plenary finished in May 1993 (ECT 2, CONF 56).

<p><b>ECT 7 [CONF 96] (17/03/94)</b> <b>ECT 6 [CONF 82] (20/12/93)</b> <b>ECT 5 [CONF 72] (11/10/93)</b> <b>ECT 4 [CONF 64] (07/07/93)</b> <b>ECT 3 [CONF 60] (01/06/93)</b> <b>ECT 2 [CONF 56] (01/05/93)</b> Endnote* to Article 23 – Transparency</p>
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Norway contingency reserve.

<p><b>BA 37 (01/03/93)</b> <b>BA 35 (09/02/93)</b> <b>BA 31 (21/12/92)</b> <b>BA 26 (25/11/92)</b> Chairman's note + Endnote* to Article 15 – Transparency</p>
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Subject to the 2 specific reserves negotiations finished in WG II. The Article is being referred to the Legal Sub-Group.

EC reserve.

<p><b>BA 22 (21/10/92)</b> Chairman's note + Endnote* to Article 15– Transparency</p>
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Subject to the 3 reserves negotiations finished in WG II.

EC reserve

<p><b>BA 18 (18/09/92)</b> General Comment to Art. 15 – Transparency</p>
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USA asks provisionally for including a commitment to provide an opportunity for Investors to comment before the adoption of additional regulations having general effect.

<p><b>BA 15 (12/08/92)</b> <b>BA 14 (24/06/92)</b> <b>BA 13 (19/06/92)</b> Note and General Comment to Art. 15 – Transparency</p>
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Subject to USA alternative redraft.

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

USA asks provisionally for including a commitment to provide an opportunity for Investors to comment before the adoption of additional regulations having general effect.

**BA 12 (09/04/92)**  
Note and General Comment to Art. 15 – Transparency

Subject to USA alternative redraft (see general comments in Article 5)\*

USA asks provisionally for including a commitment to provide an opportunity for Investors to comment before the adoption of additional regulations having general effect.

**BA 6 (21/01/92)**  
Note and General Comment to Art. 15 – Transparency

Former paragraph (4) deleted.

USA asks provisionally for including a commitment to provide an opportunity for Investors to comment before the adoption of additional regulations having general effect.

**BA 4 (31/10/91)**  
Note and General Comments to Art. 12 – Transparency

Former paragraphs (4) and (5) dropped. New para (4) suggested by Chairman. The paragraph has been retained to meet the sentiment expressed in the Charter text on such transparency while removing any immediate detailed obligation. Contracting Parties will return to the question in appropriate Protocols.

**Japan:** “published promptly” in (1) should be more clearly specified.

**Switzerland:** the information should be available to the private sector.

**USA:** should include a commitment to provide an opportunity for investors to comment before the adoption of additional regulations having general effect.

**BP 2 (11/09/91)**  
*Explanatory Memorandum*

Article 12(1) requires that Contracting Parties publish certain categories of information that relate to the production, distribution or use of Energy Materials and Products. (Source: GATT Article X),

Article 12(2) grants an exception to the preceding requirement, where the disclosure of information might impede law enforcement or otherwise be contrary to the public interest or to law, or prejudice legitimate commercial interests of particular enterprises. (Source: GATT Article X)

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\* *Ed. note:* Content of general comments in Article 5:

“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.”

Article 12(3) requires contracting Parties to establish a central enquiry point where requests for relevant information may be addressed, and to inform the Charter secretariat of the details of this enquiry point.

Article 12(4) requires Contracting Parties to notify the charter secretariat of all laws and regulations relevant to the Basic protocol (and details of where such information may be obtained), plus any amendments to this information and reports on the implementation of energy policies.\*

Article 27 extends the provisions of Article 12 (“Transparency”) to Investors and Investments.

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\* *Ed. note:* Basic Protocol and BP 2 contained an additional paragraph 12.4, which disappears in BP 4:

“In respect of the matters the subject of this Agreement each Contracting Party shall notify the Secretariat established under Article 30 below of all laws and regulations applicable in its Territory and where enquiries about such laws and regulations should be directed, any amendments made to such laws or regulations from time to time, and information, at intervals to be determined by the Governing Council referred to in Article 28 below, on the implementation of its energy policies as defined in Article 6 above.”

### Article 20.3

<b>ECT as adopted (17/12/94)</b> <b>CONF 104 (Text for adoption) (14/09/94)</b>	<b>Interim Text (25/06/94)</b> <b>Interim Text (20/06/94)</b> <b>Compromise text [CONF 98] (22/04/94)</b> <b>ECT 7 [CONF 96] (17/03/94)</b> <b>ECT 6 [CONF 82] (20/12/93)</b> <b>ECT 5 [CONF 72] (11/10/93)</b> <b>ECT 4 [CONF 64] (07/07/93)</b> <b>ECT 3 [CONF 60] (01/06/93)</b> <b>ECT 2 [CONF 56] (01/05/93)</b>
Article 20.3 – Transparency	Article 23.3 – Transparency

Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request.

**(Compromise text) ECT 1 [CONF 50] (15/03/93)**  
Article 23.3 – Transparency

Each Contracting Party [DL] shall designate one or more enquiry points to which requests for information about [DL] the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and [DL] shall communicate promptly [DL] such designation to the Secretariat [DL] which shall make it available on request.

**BA 37 (01/03/93)**  
**BA 35 (09/02/93)**  
**BA 31 (21/12/92)**  
**BA 26 (25/11/92)**  
Article 15.4 – Transparency

Each Contracting Party undertakes to nominate one or more enquiry points to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate promptly the location of these enquiry points to the Secretariat established under Article 31, for provision by the Secretariat to any Investor on request.

**BA 22 (21/10/92)**  
Article 15.4 – Transparency

[Each Contracting Party undertakes to nominate one or more enquiry points to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate promptly the location of these enquiry points to the Secretariat established under Article 31, for provision by the Secretariat to any Investor on request]<sup>1</sup>.

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<sup>1</sup> EC scrutiny reserve.

**BA 18 (18/09/92) Options A, B and C**  
**BA 15 (12/08/92)**  
Article 15.3 – Transparency

Each Contracting Party undertakes to nominate [and publish details concerning a central]<sup>2</sup> enquiry point to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate [these details]<sup>3</sup> to the Secretariat established under Article 31, for provision by the Secretariat to any Investor on request.

**BA 14 (24/06/92)**  
**BA 13 (19/06/92)**  
**BA 12 (09/04/92)**  
Article 15.3 – Transparency

Each Contracting Party undertakes to nominate and publish details concerning a central enquiry point to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate these details to the Secretariat established under Article 31, for provision by the Secretariat to any Investor on request.

**BA 6 (21/01/92)**  
Article 15.3 – Transparency

Each Contracting Party undertakes to nominate and publish details concerning a central enquiry point to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate these details to the Secretariat established under Article 31, for provision by the Secretariat to any Investor on request.

**BA 4 (31/10/91)**  
Article 12.3 – Transparency

Each Contracting Party undertakes to nominate and publish details concerning a central enquiry point to which requests for Information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed [and to communicate these details to the Secretariat established under Article 30 below]<sup>4</sup>.

**BP 2 (11/09/91)**  
Article 12.3 – Transparency

Each Contracting Party undertakes to nominate and publish details concerning a central enquiry point to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate these details to the Secretariat established under Article 30 below.

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<sup>2</sup> EC suggests deletion.

<sup>3</sup> EC proposes replacing with “promptly the location of this enquiry point”.

<sup>4</sup> Japan suggests deletion.

<p style="text-align: center;"><b>Basic Protocol (26/08/91)</b> Article 10.3 – Transparency</p>
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Each Contracting Party undertakes to nominate and publish details concerning a central enquiry point to which requests for information about relevant laws, regulations, judicial decisions and administrative rulings may be addressed and to communicate these details to the Secretariat established under Article 28 below.