

Article 8 – Transfer of technology

Notes and General comments

ECT 6 [CONF 82] (20/12/93)
[Article 9] – Transfer of technology

USA suggests new text for this Article reading:

Access to and Transfer of Technology

Subject to the protection of the Intellectual Property rights, to non-proliferation and other international obligations, and to their laws and regulations, the Contracting Parties

- (a) agree to promote access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector on a commercial and non-discriminatory basis, in order to assist effective trade and Investment and to implement the objectives of the Charter; and
- (b) to give effect to paragraph (1), shall strive both to eliminate existing, and to create no new, obstacles to access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector.

USA proposal received no support. USA was asked to reconsider it.

ECT 5 [CONF 72] (11/10/93)
[Article 9] – Transfer of technology

Chairman stated that the agreement on this Article was reached in the WG II. Since then two delegations raised new suggestions (see specific comments). The Chairman invited USA and Russian Federation to discuss bilaterally their concerns and submit a compromise text to the Secretariat. The deadline for the previously requested submission has not been respected so far.

USA suggests new text for this Article reading:

Access to and Transfer of Technology

Subject to the protection of the Intellectual Property rights, to non-proliferation and other international obligations, and to their laws and regulations, the Contracting Parties

- (a) agree to promote access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector on a commercial and non-discriminatory basis, in order to assist effective trade and Investment and to implement the objectives of the Charter; and

- (b) to give effect to paragraph (1), shall strive both to eliminate existing, and to create no new, obstacles to access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector.

USA proposal received no support. USA was asked to reconsider it.

ECT 4 [CONF 64] (07/07/93) [Article 9] – Transfer of technology

Chairman stated that the agreement on this Article was reached in the WG II. Since then two delegations raised new suggestions (see specific comments) the Chairman asked USA and Russian Federation delegations to discuss bilaterally their concerns and submit a compromise to the Secretariat no later than 10 September 1993.

USA suggests new text for this Article reading:

Access to and Transfer of Technology

Subject to the protection of the Intellectual Property rights, to non-proliferation and other international obligations, and to their laws and regulations, the Contracting Parties

- (a) agree to promote access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector on a commercial and non-discriminatory basis, in order to assist effective trade and Investment and to implement the objectives of the Charter; and
- (b) to give effect to paragraph (1), shall strive both to eliminate existing, and to create no new, obstacles to access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector.

USA proposal received no support. USA was asked to reconsider it.

ECT 3 [CONF 60] (01/06/93) [Article 9] – Transfer of technology

Chairman stated that the agreement on this Article was reached in the WG II. Since then two delegations raised new suggestions (see specific comments) the Chairman asked USA and Russian Federation delegations to discuss bilaterally their concerns and submit a compromise to the Secretariat before next Plenary meeting.

USA suggests new text for this Article reading:

Access to and Transfer of Technology

Subject to the protection of the Intellectual Property rights, to non-proliferation and other international obligations, and to their laws and regulations, the Contracting Parties

- (a) agree to promote access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector on a commercial and non-

discriminatory basis, in order to assist effective trade and Investment and to implement the objectives of the Charter; and

- (b) to give effect to paragraph (1), shall strive both to eliminate existing, and to create no new, obstacles to access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector.

USA proposal received no support. USA was asked to reconsider it.

ECT 2 [CONF 56] (01/05/93) [Article 9] – Transfer of Technology

USA suggests new text for this Article reading:

Access to and Transfer of Technology

Subject to the provisions of Article 6, to non-proliferation and other international obligations, and to their laws and regulations, the Contracting Parties

- (a) agree to promote access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector on a commercial and non-discriminatory basis, in order to assist effective trade and Investment and to implement the objectives of the Charter; and
- (b) to give effect to paragraph (1), shall strive both to eliminate existing, and to create no new, obstacles to access to and transfer of technology and related equipment and services employed in Economic Activity in the Energy Sector.

USA proposal received no support. USA was asked to reconsider it.

BA-37 (01/03/93) BA-35 (09/02/93) BA-31 (21/12/92) BA-26 (25/11/92) BA-22 (21/10/92) BA-15 (12/08/92) BA-14 (24/06/92) BA 13 (19/06/92) Article 12 – Transfer of Technology

Chairman's note
Negotiations finished.

BA 12 (09/04/92) Article 12 – [Transfer of Technology]
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New text based on EC proposal.
USA requests deletion of this Article.

BA 6 (21/01/92)
Article 12 – Transfer of Technology

New Article based on USSR suggestion.

Article 8

ECT as adopted (17/12/94)
CONF 104 (Text for adoption) (14/09/94)
Article 8 – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.
- (2) Accordingly, to the extent necessary to give effect to paragraph (1) the Contracting Parties shall eliminate existing and create no new obstacles to the* transfer of technology in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

Interim text (25/06/94)
Article 9 – Transfer of technology

- (1) The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.
- (2) Accordingly, to the extent necessary to give effect to paragraph(1) the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

Interim text (20/06/94)
Article 9 – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

* *Ed. note:* in CONF 104 the text states “ ... obstacles **for** transfer...” (emphasis added)

Compromise text [CONF 98] (22/04/94)
Article 9 – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to nonproliferation and other international obligations.

ECT 7 [CONF 96] (17/03/94)
Article 9 – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter [[in accordance with their laws and regulations]¹, subject to]² the protection of the Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall³ eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

ECT 6 [CONF 82] (20/12/93)
[Article 9] – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter [in accordance with their laws and regulations]⁴, subject to the protection of the Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

¹ **Russian Federation** reserve; to be withdrawn if present text of paragraph (2) is agreed.

² **USA** suggests replacing with: “subject to their laws and regulations and”.

³ **USA** suggests insertion of “strive to”.

⁴ **Russian Federation** will reconsider this Chairman's compromise and in case it will not be acceptable will circulate its own redraft in good time before the next Plenary.

ECT 5 [CONF 72] (11/10/93)
[Article 9] – Transfer of Technology

- (1) The Contracting Parties agree to promote [in accordance with their laws and regulations]⁵ access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter, subject to the protection of the Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

ECT 4 [CONF 64] (07/07/93)
ECT 3 [CONF 60] (01/06/93)
[Article 9] – Transfer of Technology

- (1) The Contracting Parties agree to promote [in accordance with their laws and regulations]⁵ access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter, subject to the protection of the Intellectual Property rights.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

ECT 2 [CONF 56] (01/05/93)	(Compromise text) ECT 1 [CONF 50] (15/03/93)	BA-37 (01/03/93) BA-35 (09/02/93) BA-31 (21/12/92) BA-26 (25/11/92) BA-22 (21/10/92)
[Article 9] – Transfer of Technology	Article 9 – Transfer of Technology	Article 12 – Transfer of Technology

- (1) The Contracting Parties agree to promote in accordance with their laws and regulations access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter, subject to the provisions of Article 6^{*}
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

⁵ **Russian Federation** suggests deletion.

^{*} Ed. note: in BA-37, BA-35, BA-31, BA-26 and BA-22 the reference is given to Article 7. In all cases (Article 6 or Article 7) reference is to the then Article on “Intellectual Property”.

BA-15 (12/08/92)
BA-14 (24/06/92)
BA 13 (19/06/92)
Article 12 – Transfer of Technology

- (1) The Contracting Parties agree to promote in accordance with their laws and regulations access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter, subject to the provisions of Article 7.
- (2) Accordingly to the extent necessary to give effect to paragraph (1), the Contracting Parties shall eliminate existing and create no new obstacles for transfer of technology, in the field of [Energy Materials and Products] and related equipment and services, subject to non-proliferation and other international obligations.

BA 12 (09/04/92)
Article 12 – [Transfer of Technology]

- (1) The Contracting Parties agree to promote access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment and to implement the objectives of the Charter, subject to the provisions of Article 7⁶.
- (2) Accordingly the Contracting Parties shall eliminate existing and create no new administrative or legal obstacles for transfer of technology, and related [Energy Materials and Products], equipment and services between Investors, subject to non-proliferation and other international obligations.

BA 6 (21/01/92)
Article 3.8 – Principles
Article 12 – Transfer of Technology

The Contracting Parties shall promote transfer of technology by eliminating any administrative or legal obstacles for such transfer, subject to protection of intellectual property rights.

Article 12 – Transfer of Technology

- (1) The Contracting Parties agree to promote access to and transfer of technology on a commercial and non-discriminatory basis to assist effective trade and Investment activities and to implement the objectives of the Charter.
- (2) Accordingly the Contracting Parties shall eliminate existing and create no new administrative or legal obstacles for transfer of technology, and related [Energy Materials and Products], equipment and services between Investors subject to the recognition and protection of Intellectual property rights.

⁶ **Japan** argues that exceptions provided in Article 27 should apply also to this proposal.