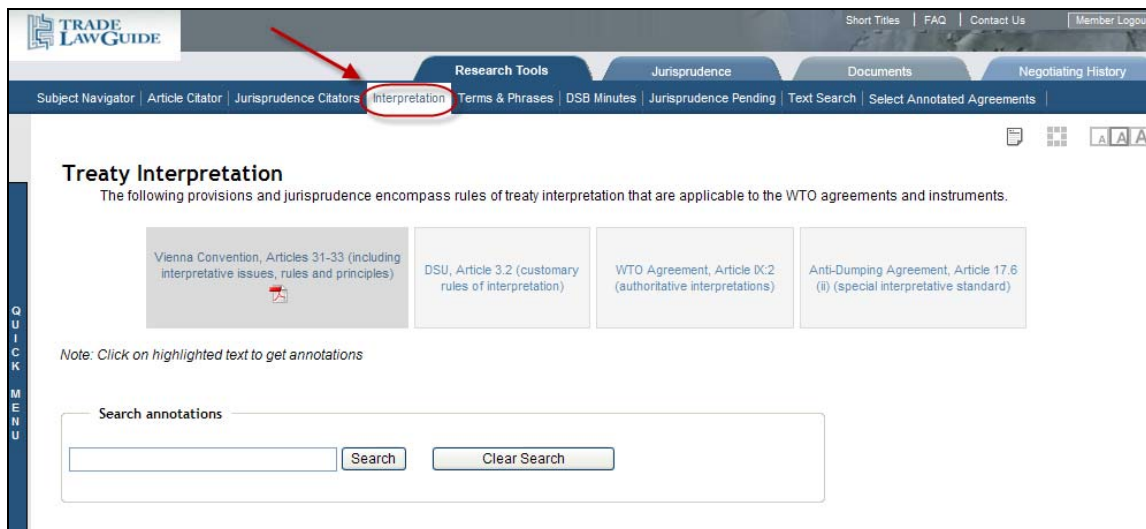


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## 1. Overview

The Treaty Interpretation tool provides you with the provisions and jurisprudence encompassing the rules of treaty interpretation applicable to the WTO agreements and instruments. These are:

1. Articles 31-33 of the *Vienna Convention on the Law of Treaties*;
2. Article 3.2 of the Dispute Settlement Understanding (DSU);
3. Article IX:2 of the WTO Agreement; and
4. Article 17.6(i) of the Anti-Dumping Agreement.




**Treaty Interpretation**  
The following provisions and jurisprudence encompass rules of treaty interpretation that are applicable to the WTO agreements and instruments.

- Vienna Convention, Articles 31-33 (including interpretative issues, rules and principles)
- DSU, Article 3.2 (customary rules of interpretation)
- WTO Agreement, Article IX:2 (authoritative interpretations)
- Anti-Dumping Agreement, Article 17.6 (i) (special interpretative standard)

Note: Click on highlighted text to get annotations

Search annotations

To select particular rules, click on the relevant link.

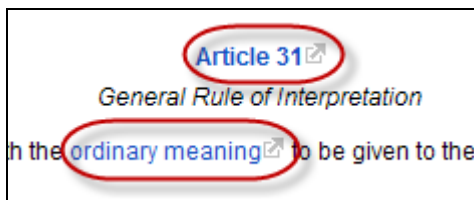
Vienna Convention, Articles 31-33 (including interpretative issues, rules and principles) 	DSU, Article 3.2 (customary rules of interpretation)	WTO Agreement, Article IX:2 (authoritative interpretations)	Anti-Dumping Agreement, Article 17.6 (ii) (special interpretative standard)
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## 2. Annotated Texts

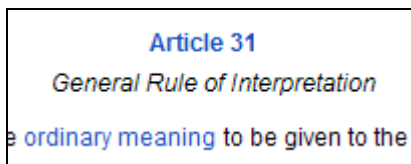
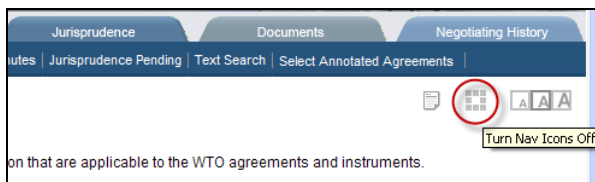
The WTO jurisprudence is presented in the form of annotations to the relevant legal text.

### 2.1. Highlighted Text and Navigation Icons

The annotations are identified with highlighted text and navigation icons. Just click on an annotation and the relevant information is displayed.



If you find that the navigation icons interfere with reading the text, you can turn it off by clicking on the control icon at the top of the page.



### 2.2. Structure and Content of Annotations

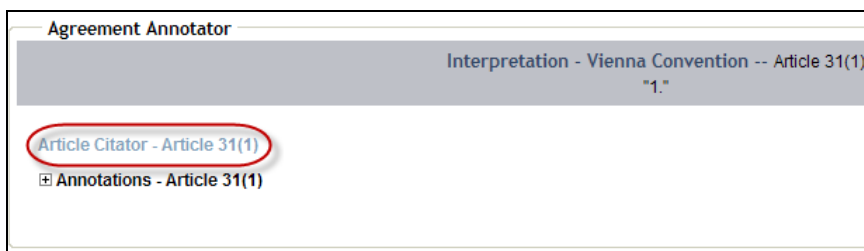
The annotations have a hierarchical structure. In the Treaty Interpretation tool, the top of the hierarchy is the annotation to section of a text (i.e., Part III, Section 3 of the Vienna Convention), which contains information pertaining to Section 3 as a whole. In the middle of the hierarchy are the annotations to the Article headings and to the paragraphs and subparagraphs of the Article. These annotations contain information relevant to the Article heading, paragraph or subparagraph

as a whole. The bottom of the hierarchy is the annotation to a specific term in the text, which contains information relevant to that term only.

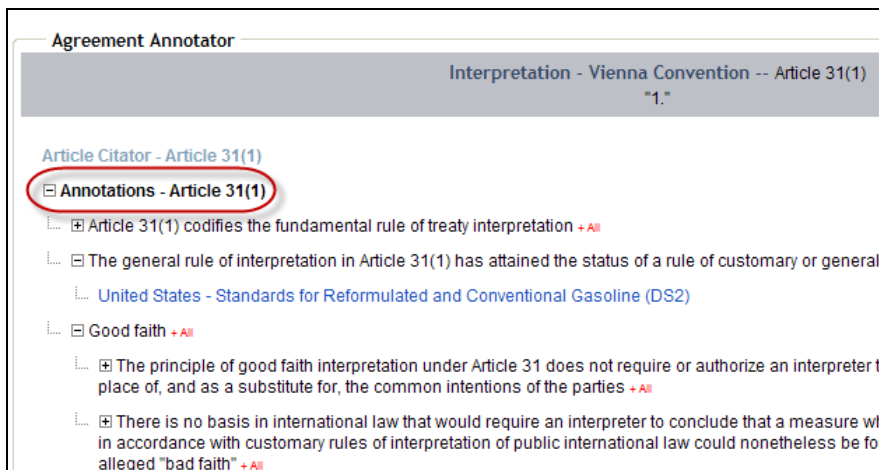


The content of the annotations will vary depending on the annotation in question.

The annotations to the Article headings, paragraphs and subparagraphs include links to the Article Citator for that provision. The purpose of this link is to provide you with immediate access to all WTO jurisprudence citing that provision without having it filtered by annotations.



The annotations concisely set out the jurisprudence in a tree/branch structure.



## 2.3. Articles 31-33 of the Vienna Convention on the Law of Treaties & Interpretative Issues, Rules and Principles

Articles 31-33 of the Vienna Convention are the principal rules used to interpret the texts of the WTO Agreements and instruments.

These rules are presented in annotated form.

**VIENNA CONVENTION ON THE LAW OF TREATIES**

Part III, Section 3 - Interpretation Of Treaties

Article 31

*General Rule of Interpretation*

1. A treaty shall be interpreted in [good faith](#) in accordance with the [ordinary meaning](#) to be given to the terms of the treaty in their [context](#) and in the light of its [object and purpose](#).

2. The [context](#) for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

- (a) any agreement relating to the treaty which was made between [all the parties](#) in connection with the conclusion of the treaty;
- (b) any instrument which was made by [one or more parties](#) in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

- (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
- (b) any [subsequent practice](#) in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
- (c) any relevant rules of international law applicable in the relations between the parties.

4. A [special meaning](#) shall be given to a term if it is established that the parties so intended.

Article 32

*Supplementary Means of Interpretation*

Recourse may be had to supplementary means of interpretation, including the [preparatory work](#) of the treaty and the [circumstances of its conclusion](#), in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd or unreasonable.

Article 33

*Interpretation of Treaties Authenticated in Two or More Languages*

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

Numerous interpretative rules and principles have been developed in the context of the rules of interpretation of the Vienna Convention. These are presented in tree/branch form below the annotated text.

## INTERPRETATIVE ISSUES, RULES AND PRINCIPLES

- ⊕ Antecedent/precursor agreements and provisions
- ⊕ Common intention of the parties
- ⊕ Cross-references
- ⊕ Effective treaty interpretation (*ut res magis valeat quam pereat*), giving meaning and effect to all of the terms of a treaty
- ⊕ Examination of comparable treaties
- ⊕ Exceptions and limitations
- ⊕ Far-reaching interpretations

### 2.4. Article 3.2 of the Dispute Settlement Understanding (DSU)

Article 3.2 of the DSU sets out the requirement to interpret the covered agreements "in accordance with customary rules of interpretation of public international law". These customary rules are codified in Articles 31-33 of the Vienna Convention.

#### UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU)

##### Article 3.2

The dispute settlement system of the WTO is a central element in providing security and predictability to the multilateral trading system. The Members recognize that it serves to preserve the rights and obligations of Members under the covered agreements, and to clarify the existing provisions of those agreements in accordance with customary rules of interpretation of public international law. Recommendations and rulings of the DSB cannot add to or diminish the rights and obligations provided in the covered agreements.

### 2.5. Article IX:2 of the WTO Agreement

Article IX:2 of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) establishes that the Ministerial Conference and the General Council have the exclusive authority to adopt interpretations of the WTO Agreement and of the Multilateral Trade Agreements.

#### MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION (WTO AGREEMENT)

##### Article IX:2

The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

## 2.6. Article 17.6(ii) of the Anti-Dumping Agreement

Article 17.6(ii) of the Anti-Dumping Agreement sets out a special rule of interpretation for the provisions of the Anti-Dumping Agreement.

**SPECIAL STANDARD OF REVIEW IN ARTICLE 17.6(ii) OF THE ANTI-DUMPING AGREEMENT**

[Article 17.6\(ii\)](#)

The panel shall interpret the relevant provisions of the Agreement in accordance with customary rules of interpretation of public international law<sup>2</sup>. Where the panel finds that a relevant provision of the Agreement admits of more than one permissible interpretation, the panel shall find the authorities' measure to be in conformity with the Agreement if it rests upon one of those permissible interpretations.

## 3. Searching the Annotations

The Treaty Interpretation tool provides a search function to search the contents of the annotated texts and associated information.

Type a term into the search field.

**Search annotations**

Click on the relevant result.

**SEARCH RESULTS FOR: "effective" in the annotations of Treaty Interpretation**

**effective** treaty interpretation (*ut res magis valeat quam pereat*), giving meaning and effect to all of the terms of a treaty

- ☒ of all wto disciplines, the dsu is one of the most important instruments to protect the security and predictability of the multilateral trading system and through it that of the market-place and its different operators; therefore, dsu provisions must be interpreted in the light of this object and purpose and in a manner which would most **effectively** enhance it
- ☒ of all wto disciplines, the dsu is one of the most important instruments to protect the security and predictability of the multilateral trading system

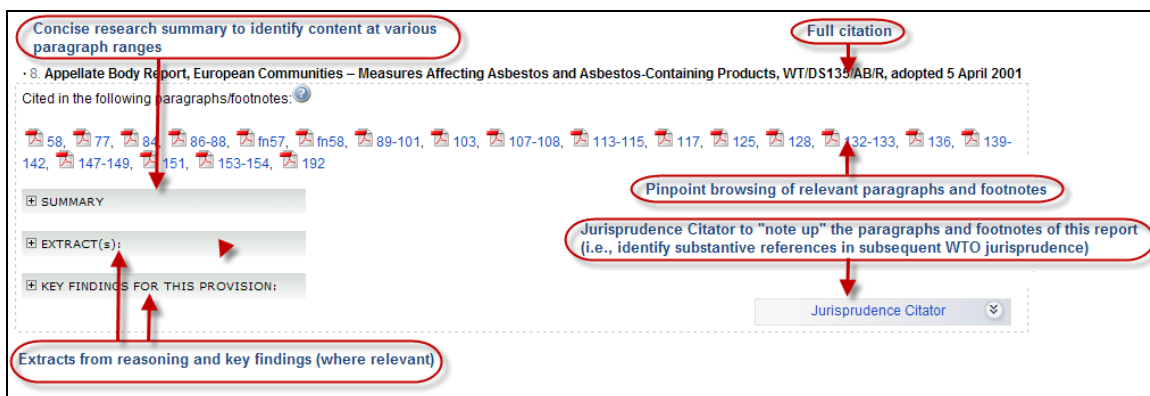
The requested information is displayed.

☒ **Effective treaty interpretation (*ut res magis valeat quam pereat*), giving meaning and effect to all of the terms of a treaty**

- ☐ An interpreter is not free to adopt a reading that would result in reducing whole clauses or paragraphs of a treaty to redundancy or inutility + All
- ☐ A treaty interpreter must read all applicable provisions of a treaty in a way that gives meaning to all of them, harmoniously + All
- ☐ The words actually used in an article provide the basis for an interpretation that must give meaning and effect to all its terms + All
- ☐ One part of a provision setting forth a methodology is not rendered *inutile* simply because, in a specific set of circumstances, its application would produce results that are equivalent to those obtained from the application of a comparison methodology set out in another part of that provision + All
- ☐ The fact that an interpretation of Article III:4, under the customary international law rules, implies a less frequent recourse to Article XX(b) does not deprive the exception in Article XX(b) of *effet utile*; Article XX(b) would only be deprived of *effet utile* if that provision could not serve to allow a Member to "adopt and enforce" measures "necessary to protect human ... life or health" + All

## 4. Integrated Browser

To see the Article Citator data for a particular entry, click on the citation or short name. The Article Citator uses the TradeLawGuide integrated PDF browser to enable you to view PDF documents efficiently and with pinpoint accuracy.

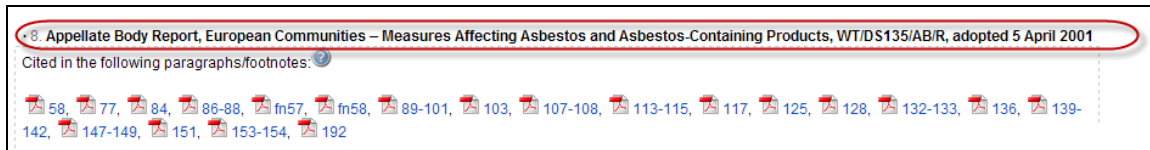


The screenshot shows the Integrated Browser interface for the entry: "8 Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001". The interface includes a list of cited paragraphs and footnotes, a SUMMARY section, an EXTRACT(s) section, and a KEY FINDINGS FOR THIS PROVISION section. Annotations highlight the following features:

- Concise research summary to identify content at various paragraph ranges**: Points to the list of cited paragraphs and footnotes.
- Full citation**: Points to the title of the entry.
- Pinpoint browsing of relevant paragraphs and footnotes**: Points to the list of cited paragraphs and footnotes.
- Jurispudence Citator to "note up" the paragraphs and footnotes of this report (i.e., identify substantive references in subsequent WTO jurisprudence)**: Points to the Jurispudence Citator dropdown menu.
- Extracts from reasoning and key findings (where relevant)**: Points to the EXTRACT(s) and KEY FINDINGS FOR THIS PROVISION sections.

### 4.1.1. Full Citation

The integrated browser provides the full citation of all WTO jurisprudence documents so you can cut and paste the citation into your research document. If you would like to use a short title instead of the full citation, it is available from the "Short Titles" tool (discussed above).



The screenshot shows the Full Citation section for the entry: "8 Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001". The full citation is displayed in a red-bordered box, and the list of cited paragraphs and footnotes is shown below it.

### 4.1.2. Pinpoint Browsing of Paragraphs and Footnotes

TradeLawGuide provides thousands of links to the relevant paragraphs and footnotes of WTO jurisprudence documents. Browsing these links efficiently is made possible by the pinpoint browsing function in the integrated browser.

· 8. Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001  
Cited in the following paragraphs/footnotes:

58, 77, 84, 86-88, fn57, fn58, 89-101, 103, 107-108, 113-115, 117, 125, 128, 132-133, 136, 139-142, 147-149, 151, 153-154, 192

VIEWING TIP: FOR DISPLAY & SEARCHING – CLICK IN DOCUMENT AND PRESS F8 FOR TOOLBAR

80. On appeal, the European Communities requests that we reverse the Panel's findings that the two sets of products examined by the Panel are "like products" under Article III:4 of the GATT 1994, and requests, in consequence, that we reverse the Panel's finding that the measure is inconsistent with Article III:4 of the GATT 1994. The European Communities contends that the Panel erred in its interpretation and application of the concept of "like products", in particular, in excluding from its analysis consideration of the health risks associated with chrysotile asbestos fibres. According to the European Communities, in this case, Article III:4 calls for an analysis of the health objective of the regulatory distinction made in the measure between asbestos fibres, and between products containing asbestos fibres, and all other products. The European Communities argues that, under Article III:4, products should not be regarded as "like" unless the regulatory distinction drawn between them "entails [a] shift in the competitive opportunities" in favour of domestic products.<sup>56</sup>

B. *Meaning of the Term "Like Products" in Article III:4 of the GATT 1994*

87. Article III:4 of the GATT 1994 reads, in relevant part:

The products of the territory of any Member imported into the territory of any other Member shall be accorded treatment no less

SUMMARY

EXTRACT(s):

KEY FINDINGS FOR THIS PROVISION:

Jurisprudence Citator

Click in PDF Document then Click "F8" on your Keyboard for Full PDF Toolbar:

· 7. Appellate Body Report, United States – Section 211 Omnibus Appropriations Act of 1998, WT/DS176/AB/R, adopted 1 February 2002

· 8. Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001  
Cited in the following paragraphs/footnotes:

58, 77, 84, 86-88, fn57, fn58, 89-101, 103, 107-108, 113-115, 117, 125, 128, 132-133, 136, 139-142, 147-149, 151, 153-154, 192

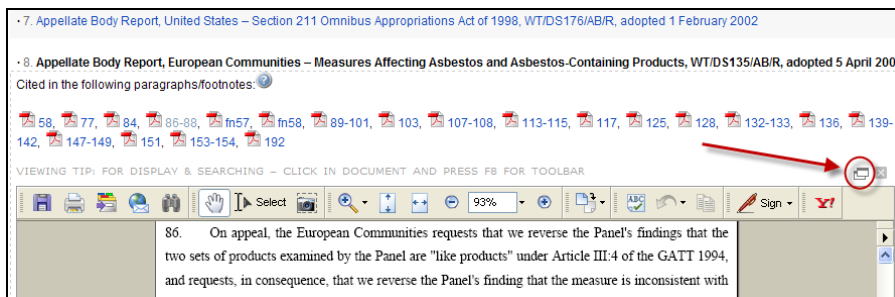
VIEWING TIP: FOR DISPLAY & SEARCHING – CLICK IN DOCUMENT AND PRESS F8 FOR TOOLBAR

86. On appeal, the European Communities requests that we reverse the Panel's findings that the two sets of products examined by the Panel are "like products" under Article III:4 of the GATT 1994, and requests, in consequence, that we reverse the Panel's finding that the measure is inconsistent with Article III:4 of the GATT 1994. The European Communities contends that the Panel erred in its interpretation and application of the concept of "like products", in particular, in excluding from its analysis consideration of the health risks associated with chrysotile asbestos fibres. According to the European Communities, in this case, Article III:4 calls for an analysis of the health objective of the regulatory distinction made in the measure between asbestos fibres, and between products containing asbestos fibres, and all other products. The European Communities argues that, under Article III:4, products should not be regarded as "like" unless the regulatory distinction drawn between them "entails [a] shift in the competitive opportunities" in favour of domestic products.<sup>56</sup>

B. *Meaning of the Term "Like Products" in Article III:4 of the GATT 1994*

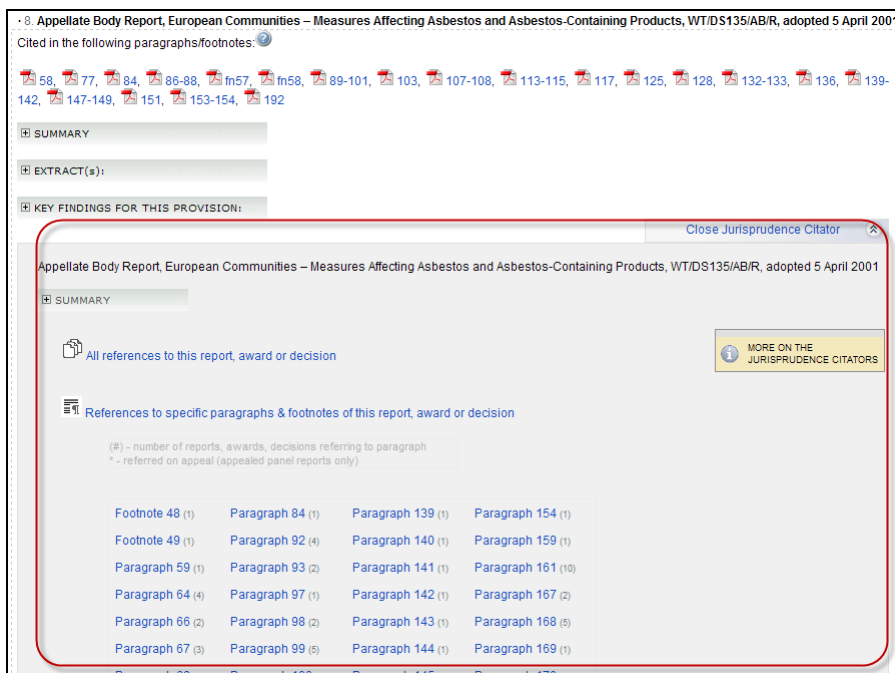
87. Article III:4 of the GATT 1994 reads, in relevant part:

Open PDF Document into New Window:



### 4.1.3. Integrated Jurisprudence Citator

To enable you to "note up" the jurisprudence that is being displayed, the bottom right hand corner of the integrated browser has a link to the Jurisprudence Citator data for that report, award or decision. You can find all substantive references to the paragraphs and footnotes of that report, award or decision that are made in subsequent WTO jurisprudence. Please see a more detailed explanation of this tool in "Jurisprudence Citator".



### 4.1.4. Concise Research Summary



A concise research summary of the main findings and conclusions is provided to enable you to ascertain the content of the WTO jurisprudence at the various paragraph ranges and whether the provision you are researching is a central part of the reasoning and analysis.

The summary is succinct and written at a high level of generality. It summarizes findings and conclusions in respect of both substantive and procedural claims. It does not detail legal reasoning or interpretations developed in the course of arriving at findings and conclusions.

In addition to providing an overview of the content of the document, where there are a large number of paragraph and footnote links, this will enable you to determine which links to click on first.

• 8. Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001

Cited in the following paragraphs/footnotes: 


 58,  77,  84,  86-88,  fn57,  fn58,  89-101,  103,  107-108,  113-115,  117,  125,  128,  132-133,  136,  139-142,  147-149,  151,  153-154,  192

☐ SUMMARY

The Appellate Body recalled the procedures it had adopted governing *amicus curiae* submissions (paras. 50-57). The Appellate Body reversed the Panel's finding that the TBT Agreement did not apply to the part of the Decree relating to the ban on imports of asbestos and asbestos-containing products because that part did not constitute a "technical regulation" within the meaning of Annex 1.1 to the TBT Agreement, and found that the measure, viewed as an integrated whole, did constitute a "technical regulation" under the TBT Agreement (paras. 59-83). The Appellate Body reversed the Panel's interpretation of "like products" under Article III:4 of GATT 1994, and reversed the Panel's finding that the measure was inconsistent with Article III:4 of the GATT 1994 (paras. 84-154). The Appellate Body upheld the Panel's finding that the measure at issue was "necessary to protect human ... life or health", within the meaning of Article XX(b) of GATT 1994, and found that the Panel acted consistently with Article 11 of the DSU in reaching this conclusion (paras. 175-181). The Appellate Body found that the Panel did not act inconsistently with Article 11 of the DSU (paras. 176-181). The Appellate Body upheld the Panel's finding that measures justified under Article XX of GATT 1994 may nonetheless give rise to a cause of action under Article XXIII:1(b) of GATT 1994 (paras. 182-191).

☐ EXTRACT(s):

☐ KEY FINDINGS FOR THIS PROVISION:

Jurisprudence Citator 

#### 4.1.5. Extracts from Reasons (where relevant)

Where there is considerable reasoning on a particular subject, key points from that reasoning may be extracted. The extracts are intended solely to assist you in quickly identifying information that is relevant to your research. Please consult the full text of the jurisprudence using the links provided. This function is most widely used in the Article Citator.

• 8. Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001

Cited in the following paragraphs/footnotes: 

 58,  77,  84,  86-88,  fn57,  fn58,  89-101,  103,  107-108,  113-115,  117,  125,  128,  132-133,  136,  139-142,  147-149,  151,  153-154,  192

☐ SUMMARY

☐ EXTRACT(s):

Paragraph 89:

[W]hile the meaning attributed to the term "like products" in other provisions of the GATT 1994, or in other covered agreements, may be relevant context in interpreting Article III:4 of the GATT 1994, the interpretation of "like products" in Article III:4 need not be identical, in all respects, to those other meanings.

Paragraph 90:

Bearing these considerations in mind, we turn now to the ordinary meaning of the word "like" in the term "like products" in Article III:4. According to one dictionary, "like" means:

Having the same characteristics or qualities as some other ... thing; of approximately identical shape, size, etc., with something else; similar.

Paragraph 91:

This meaning suggests that "like" products are products that share a number of identical or similar characteristics or qualities. The reference to "similar" as a synonym of "like" also echoes the language of the French version of Article III:4 "*produits similaires*" and the Spanish version

#### 4.1.6. Key Findings (where relevant):

Where key findings are made on a particular WTO provision, the Article Citator extracts those findings.

8. Appellate Body Report, European Communities – Measures Affecting Asbestos and Asbestos-Containing Products, WT/DS135/AB/R, adopted 5 April 2001

Cited in the following paragraphs/footnotes:

58, 77, 84, 86-88, fn57, fn58, 89-101, 103, 107-108, 113-115, 117, 125, 128, 132-133, 136, 139-142, 147-149, 151, 153-154, 192

SUMMARY

EXTRACT(s):

KEY FINDINGS FOR THIS PROVISION:

The Appellate Body reversed the Panel's interpretation of "like products" under Article III:4 of GATT 1994, and reversed the Panel's finding that the measure was inconsistent with Article III:4 of the GATT 1994 (paras. 84-154).

Jurisprudence Citator

## 5. Links to Redacted Texts

The links to WTO jurisprudence documents are to redacted versions of the texts.

Redacted versions are limited to the introduction and "reasoning" sections of reports, awards and decisions (e.g., procedural issues, preliminary findings, interim review, findings, conclusions and recommendations). Parts of the texts containing solely argument or attachments that are outside of the reasoning sections are removed to reduce the size of the electronic files. These versions are also optimized for fast web viewing. The complete version of all reports, awards and decisions can be obtained by clicking on the "Jurisprudence" tool (see "Jurisprudence Tool").