and correct. Canada's arguments on this issue amount to a request that the Appellate Body make new factual and scientific findings on appeal, contrary to the limits on the scope of appellate review set out in Article 17.6 of the DSU.

*9 27. The European Communities believes that the Panel concluded that the ban on asbestos was "necessary" based on a series of objective and verifiable findings, made after a detailed and careful evaluation of the factual and scientific evidence presented. In assessing whether the ban was "necessary", the Panel was not obliged to undertake a "quantitative" assessment of the identified risk. Neither the ordinary meaning of the terms "necessary to protect" in Article XX(b) nor the concept of risk assessment mandate such an approach. An assessment of risk may be made either in quantitative or qualitative terms. The European Communities adds that the Panel correctly found that, after the European Communities had established a prima facie case for the existence of a health risk in connection with the use of chrysotile, Canada bore the burdenof refuting that case by showing the absence of such a health risk.

28. On the issue of whether another measure was reasonably available, the European Communities submits that Canada cannot, on appeal, make arguments based on the health risks associated with the substitute products for asbestos, or on the safety of the "controlled use" of asbestos, as both arguments seek to have the Appellate Body revisit factual findings made by the Panel on the basis of the evidence submitted and the opinions advanced by the experts consulted.

29. With respect to the alleged inconsistency with Article 11 of the DSU, the European Communities considers that Canada's claim that the Panel committed a fundamental error in its appreciation of the facts seems to be based solely on the fact that the Panel based itself exclusively on the opinions of the experts consulted in this case. In this regard, the European Communities emphasizes that Canada did not object to the selection of the experts by the Panel, that Canada proposed one of those experts itself, and that the experts themselves answered a question on "controlled use" rather than professing a lack of expertise on the issue. As for Canada's argument that the Panel erred in law in failing to evaluate the scientific evidence in accordance with the principle of preponderance of the evidence, the Panel's approach does not seem inconsistent with such a principle and, in any case, the principle of preponderance of the evidence is inapposite in the context of risk assessment since such an approach would preclude Members from basing their regulatory decisions on diverging scientific opinions. The European Communities refuses to accept that the evidence relied on by the Panel - representing the unanimous views of the four experts consulted and of all international institutions that have evaluated asbestos - reflects, as Canada seems to suggest, a divergent, minority scientific point of view on asbestos.

C. Claims of Error by the European Communities - Appellant

1. "Like Products" in Article III:4 of the GATT 1994

30. The European Communities requests the Appellate Body to reverse the Panel's findings that chrysotile asbestos fibres are "like" polyvinyl alcohol ("PVA"), cellulose and glass fibres, and that chrysotile-cement products are "like" fibro-cement products, as well as the Panel's consequent finding that, with respect to the products found to be "like", the Decree violates Article III:4 of the GATT 1994.

*10 31. The Panel's interpretation of the term "like products" in Article III:4, is of serious concern to the European Communities; is contrary to the ordinary