FN64. Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 112 and 113. See, also, Appellate Body Report, Canada - Periodicals, supra, footnote 48, at 473.

FN65. Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 111.

FN66. Ibid.

FN67. The meaning of the second sentence of Article III:2 is elaborated upon in the Interpretative Note to that provision. This note indicates that the second sentence of Article III:2 applies to "directly competitive or substitutable product[s]".

FN68. Supra, footnote 58, at 112 and 113.

FN69. Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 109 and 110.

FN70. Ibid., at 111.

FN71. Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 114.

FN72. Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 113.

FN73. See, further, Appellate Body Report, Japan - Alcoholic Beverages, supra, footnote 58, at 113 and, in particular, footnote 46. See, also, Panel Report, United States - Gasoline, supra, footnote 15, para. 6.8, where the approach set forth in the Border Tax Adjustment case was adopted in a dispute concerning Article III:4 of the GATT 1994 by a panel. This point was not appealed in that case.

FN74. The fourth criterion, tariff classification, was not mentioned by the Working Party on Border Tax Adjustments, but was included by subsequent panels (see, for instance, EEC - Animal Feed, supra, footnote 58, para. 4.2, and 1987 Japan - Alcoholic Beverages, supra, footnote 58, para. 5.6).

FN75. European Communities' other appellant's submission, para. 33.

FN76. Panel Report, paras. 8.114 and 8.115.

FN77. Ibid., para. 8.126.

FN78. Ibid., paras. 8.123, 8.124 and 8.126.