

ANNEX 39

MONETARY ENFORCEMENT ASSESSMENTS

1. For the first year after the date of entry into force of this Agreement, any monetary enforcement assessment shall be no greater than 20 million dollars (U.S.) or its equivalent in the currency of the Party complained against. Thereafter, any monetary enforcement assessment shall be no greater than .007 percent of total trade in goods between the Parties during the most recent year for which data are available.

2. In determining the amount of the assessment, the panel shall take into account:

- (a) the pervasiveness and duration of the Party's persistent pattern of failure to effectively enforce its occupational safety and health, child labor or minimum wage technical labor standards;
- (b) the level of enforcement that could reasonably be expected of a Party given its resource constraints;
- (c) the reasons, if any, provided by the Party for not fully implementing an action plan;
- (d) efforts made by the Party to begin remedying the pattern of non-enforcement after the final report of the panel; and
- (e) any other relevant factors.

3. All monetary enforcement assessments shall be paid in the currency of the Party complained against into a fund established in the name of the Commission by the Council and shall be expended at the direction of the Council to improve or enhance the labor law enforcement in the Party complained against, consistent with its law.