

ANNEX 4

MONETARY ASSESSMENTS

1. In determining the amount of the monetary assessment, the panel shall take into account:
 - (a) the pervasiveness and duration of the Party's failure to comply with its obligations within the meaning of subparagraph 2(b) of Article 17;
 - (b) the reasons for the Party's failure to comply with such obligation, including, where relevant, its failure to observe the terms of an action plan;
 - (c) the level of compliance that could reasonably be expected of the Party given its resource constraints;
 - (d) the efforts made by the Party to begin remedying such non-compliance after the final report of the panel, including through the implementation of any mutually agreed action plan; and
 - (e) any other relevant factors.

The amount of the assessment shall not exceed 15 million U.S. dollars annually, or its equivalent in the currency of the Party complained against.

2. On the date on which the panel determines the amount of the monetary assessment under paragraph 2 of Article 20, or at any time thereafter, the requesting Party may provide notice in writing to the other Party demanding payment of the monetary assessment. The monetary assessment shall be payable in U.S. dollars, or in an equivalent amount of the currency of the other Party, in equal, quarterly instalments beginning 60 days after the requesting Party provides such notice and ending on the date of any panel determination under paragraph 2 of Article 21.

3. In Canada, the procedures for enforcement of the monetary assessment shall be the following:

- (a) Peru may file in a court of competent jurisdiction a certified copy of a panel determination under Article 20(2) only if Canada has failed to comply with a notice provided under Article 20(4) within 180 days of it being made;