THIRD PARTY PARTICIPATION IN PANELS

Note by the Chairman of the Council

At the February 1994 Council meeting the United States raised the question of third party participation in panels. The late notification by a contracting party of its intention to participate as a third party in a panel may create difficulties, for example in relation to the determination of the panel's composition. Another problem that has occurred relates to the reception by third parties, in good time, of the submissions of the parties to the dispute to the first meeting of a panel.

After consulting on this matter, I have come to the conclusion that it would be useful to clarify certain practices in future which would avoid such difficulties. Unless I hear otherwise from delegations, I would therefore propose to make the attached statement at the meeting of the Council on 21 June 1994. This statement is intended to clarify current practices regarding third party participation. It addresses the question of the announcement of a country's intention as a third party and also the question of the reception by third parties of the first substantive submission of the parties to the dispute to a panel.

This statement would in no way prejudice the rights of contracting parties under established dispute settlement procedures.
STATEMENT BY THE CHAIRMAN OF THE COUNCIL

At the February 1994 Council meeting the United States raised the question of third party participation in panels. The late notification by a contracting party of its intention to participate in a panel may create difficulties, for example in relation to the determination of the panel’s composition. Another problem that has occurred relates to the reception by third parties, in good time, of the submissions of the parties to the dispute to the first meeting of a panel.

After consultations, and in order to avoid such difficulties I propose that the Council agree to the following practices in future, without prejudice to the rights of contracting parties under established dispute settlement procedures:

1. Delegations in a position to do so, should indicate their intention to participate as a third party in a panel proceeding at the Council session which establishes the panel. Others who wish to indicate a third party interest should do so within the next ten days.

2. Further to paragraph F(e) (3) of the Decision of 12 April 1989 (BISD 36S/61) and to the Decision of 22 February 1994 (L/7416), it is the understanding of the Council that third parties shall receive the submissions of the parties to the dispute to the first meeting of a panel established by the Council pursuant to Article XXIII:2 of the General Agreement.