

Comments Provided for Consultation on the 2013 Review of the IMF's Transparency Policy

The IMF thanks all NGOs, academia, think tanks, private sector, governments and individuals who provided written comments during the 2013 Review of the IMF's Transparency Policy consultation period. The on-line process officially ended in March, 2013. Please find below the comments submitted in February 11, 2013 – February 27, 2013.



Oslo, March 29th, 2013

Submission: Consultation on the 2013 Review of the IMF's Transparency Policy

The Norwegian Forum for Environment and Development appreciates the opportunity given by the IMF to submit our comments to the review of IMF's Transparency Policy.

Our main concern relates to lack of openness of board meetings, where the IMF lags behind other global institutions in transparency. Draft documents should be released to the public in advance of being sent to the Board, so that stakeholders can have a fair chance of influencing decisions/positions taken by their board members.

Transparency of board discussions and decisions made also needs to improve. Currently, just short summaries are published, without attribution to individual board members' positions. In the optimal case, a transcript of the sessions would be published, or they could be livestreamed online.

We are also of the opinion that *all* documents should be under the remit of transparency policy, from staff directory, EDs' 'gray statements', board documents and guidance notes to staff, internal memos, draft staff reports etc.

Although Fund transparency has improved to assume disclosure, rather than not, there are still many opportunities to withhold information. We suggest the IMF adopts a new principle of not recommending approval of a Fund loan unless the loan papers received have consent to be published.

Finally, we are concerned that the current policy lacks the opportunity to appeal information request rejections. We recommend the IMF adopt an independent appeals process to handle disputes over exemptions or rejections. Other multilateral finance institutions have such independent appeals mechanisms.

Again, we thank you for the opportunity to provide comments.

Yours sincerely,

Andrew Preston
Executive Director
The Norwegian Forum for Environment and Development

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March 28, 2013

IMF Civil Society Team
International Monetary Fund
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RE: Public Consultation for 2013 Review of IMF Transparency Policy

Dear Karla, Tilla and other members of the IMF Civil Society Team,

Thank you for the opportunity to submit comments and recommendations during this public consultation period for the 2013 review of the IMF's Transparency Policy. We appreciate the time and effort that the Civil Society team has dedicated to this process. We anticipate that our recommendations and the recommendations of others will be incorporated into this review process. Therefore, we expect that the new IMF Transparency Policy reflect the comments and recommendations from all the submissions received, including those in this document.

We look forward to an updated and much improved IMF Transparency Policy.

Sincerely,



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2013 IMF Transparency Policy Review

Comments and Recommendations

- 1) First, we recommend that all public consultation submissions for this Transparency Policy review and future reviews be published on the IMF website. This will demonstrate a genuine commitment to greater transparency and establish a mechanism of accountability for the Transparency Policy review process. This mechanism being that the public will be able to compare submitted recommendations with the updated IMF Transparency Policy.

- 2) Accessible language:
 - a. Published documents should be written in accessible and non-technical language when possible.
[Background Paper, External Stakeholder's Views, paragraph 11, pg. 8]
[Background Paper, APPENDIX I. SUMMARY OF COMMENTS FROM CIVIL SOCIETY ORGANIZATIONS, paragraph 67, pg. 35]

- 3) Deletions
 - a. Market sensitive information should be more clearly defined *[Authorization and Consent, Paragraph 6, pg. 17]*. An independent and external body should be designated to define "market sensitive" or other terms for deletions.
 - b. Member country requests for deletions that are rejected by the IMF should be made public – and be used to formulate a comprehensive definition of market sensitive information *[Authorization and Consent, Paragraph 7, pg. 18]*
 - c. Transparency policy indicates that the Managing Director approves member requests for deletions. Who is responsible for approving deletions when the MD is unavailable?

- 4) Executive Board
 - a. All Executive Board Meetings should have "minutes" available to the public *[Supplementary Information and Proposed Decision, Decision II: Archives Policy, Paragraph 2, pg. 32]*
 - b. Once the 2010 reforms package becomes effective, the process and outcomes of the all-elected Board of Executive Directors should be fully transparent, including: ??

5) Ex-Ante Impact Assessment

- a. We presume that the IMF conducts ex-ante impact assessments of all policy recommendations, including Article IV policy recommendations. This information, the process and findings should be available to the public. This measure is essential for meaningful transparency and accountability.

[Background Paper, APPENDIX I. SUMMARY OF COMMENTS FROM CIVIL SOCIETY ORGANIZATIONS, paragraph 67, pg. 35]

6) Advanced announcement of IMF Country Missions

- a. The IMF should release far in-advance the schedule of its Missions – Article IV consultations, loan negotiations, interim reviews, etc.
 - i. In addition, this must be complemented by information on how civil society can engage with the IMF Mission team. This should include: the process for consultations, how to participate, how CSOs are vetted/selected to participate, prompt and clear correspondence, times and locations of consultations.

[Background Paper, APPENDIX I. SUMMARY OF COMMENTS FROM CIVIL SOCIETY ORGANIZATIONS, paragraph 67, pg. 35]

7) Translations:

- a. Any document published that is related to a member country should be available in the national language of the country.

[I cannot find anything about that. The document called Supplementary Information and Proposed Decisions only says the documents written in non-English tend to have lags for public access, and the IMF is trying to reduce such lags]

8) Technical Assistance:

- a. IMF Technical Assistance Reviews need to be more transparent and should include:
 - i. The specific work of the Technical Assistance Teams, Country Missions and Technical Assistance Centers
 - ii. How the technical assistance programs are decided
 - iii. How the Technical Assistance Reviews are evaluated

[see [Staff Operational Guidelines on Dissemination of Technical Assistance Information](#) or [DISSEMINATION OF TECHNICAL ASSISTANCE INFORMATION](#)]

9) Staff of Executive Director Offices

- a. The staff and advisors that represent their country in the office of the Executive Directors should be available to the citizens from that country. *[I cannot find anything relevant at all]*

Oxfam input into IMF transparency policy

DRAFT

Be transparent about what you truly believe

IMF loans are negotiated agreements between the IMF and governments. They balance the positions of each party, and it is often not clear what the IMF insisted on and what the borrowing government insisted on.

The IMF should tell publicly what it truly believes:

- 1) Technical assistance papers: They contain IMF advice but their publication requires approval of client governments. The IMF should move to a “presumption of transparency” as it does for board papers: automatic publication unless the client government objects.
- 2) Article IV reports: Article IV reports mix statements of facts (“national authorities have done X”) with recommendations (“national governments should do X”). Oftentimes, though, the wording of sentences is ambiguous about which is which. Fixing this would be an easy task of editing.
- 3) Board policies: The IMF produces a variety of thought pieces on many subjects, from “working papers” that clearly reflect only the opinion of individual staff to “policies” that presumably reflect the IMF’s institutional views. The status of papers is not always clearly labeled on the front page, and searching the “policies” section of documents on the IMF website retrieves many different kinds of papers, some of which do not look like policies at all. On a recent exercise to identify the IMF views on tax policy, it took a direct dialogue with staff to identify what the right paper was (i.e., “the one we give to new staff for induction”).

Reach out to the diversity of civil society

The IMF should put more effort into reaching out to more diverse civil society organizations.

Some quips heard in the lobby:

“In Manila, if you want to visit the office of the IMF rep, you need a US visa.”

“Participants in IMF CSO consultation calls are all based in Washington, London or Brussels.”

This points to some low-hanging fruits to improve outreach to groups and people that don’t speak English, are not based in capitals, and are not macroeconomists. Oxfam endorses the recommendations of Professor Jan-Aart Scholte:

- create a presence on the IMF website for those resident representative offices that currently lack one
- integrate all materials related to a country into a single easily found location on the IMF website (as opposed to dispersed content as at present)
- include on country pages of the IMF website news of forthcoming and recently completed staff visits, new technical assistance projects, meetings with CSOs, etc.

- prepare for each country a single-page summary information sheet ('The IMF in X') that can be handed out to CSO visitors and posted at the top of each country location on the IMF website
- take care not to overestimate the effectiveness of the website as a tool of IMF transparency
- maintain in each resident representative office an electronic mailing list of key civil society interlocutors in the country and use it to circulate any IMF document relevant to the country as soon as that paper is publicly released
- circulate on the country civil society mailing list a short advance notification of each impending management and staff visit
- deposit a hard copy of incoming IMF documents at the local World Bank information centre (where such a centre exists and is open to the public)
- upgrade the number and speed of translations of key IMF policy documents for countries where English is not the principal language
- complement the website and e-mailings with greater IMF presence in the press and broadcast media
- undertake, on the arrival of a new resident representative, a round of courtesy calls to the main CSOs in a country
- become more involved (especially through resident representatives) in the many forums of public consultation (governmental and nongovernmental) where CSOs are present



ONE
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29 March 2013

RE: ONE Submission on Revising the IMF Transparency Policy

The Value of the Transparency Policy and the Need for Its Evolution

We are grateful for the opportunity to comment on the IMF’s revision of the Transparency Policy (the “Policy”). In our work, we frequently make use of IMF documents for purposes of both research and advocacy. Therefore, the ability to access IMF documents in a timely and straightforward fashion is of considerable importance to ONE, our partners, and the individuals we seek to help.

We commend the IMF for making noticeable improvements in the turnaround time of documents published in 2011 compared to the previous two years. The lag time for publication of Article IVs and UFR staff reports decreased by seven days, on average, between 2010 and 2011, a positive trend that we hope continues. But we find concerning the fact that 10 percent of Article IVs, and nine percent of all staff reports, were not published in 2011, with no justification provided to the public. This significantly hinders the ability of citizens to assess the progress, or lack thereof, that their governments are making to meet economic and socioeconomic objectives. Furthermore, the IMF’s failure to act in a transparent fashion by providing the public with a justification for nondisclosure hinders the ability of the public to evaluate and understand the basis for nondisclosure and risks threatening the IMF’s credibility as an independent actor. In short, a robust transparency policy must make every effort to be transparent, even (or especially) in cases where exemptions from disclosure are permitted.

It is our hope that, through this review process, the IMF will update its Policy to reflect changing transparency norms and practices since its last revision in 2009. In recent years, other International Financial Institutions (IFIs) have made significant improvements to their transparency policies, in line with a broader global shift toward more transparent and accountable governance practices. With key revisions to its Policy, the IMF can recognize and respond to this historic shift, thereby remaining up-to-date with best practices and becoming more responsive and accountable to the citizens whose lives it ultimately aims to improve.

Key Recommendations for Revisions to the Policy

Below we provide suggestions for consideration as part of the IMF's revision process. While changes to the Policy in 2009 represented a step in the right direction in specific areas, we believe that the IMF should do more to ensure greater transparency, particularly in light of recent positive transparency measures taken by other IFIs.

1. Publication of documents

a. **Archived Material:** Access to some archived material is currently limited to in-person visits to the IMF headquarters. For some information-seekers, travelling to Washington, DC is costly, time-consuming, and in certain cases, unfeasible. To alleviate the burden on end-users, the IMF should work to modernize its data storage system by digitizing and posting archived material on its website for its global audience.

b. **Refusals to Publish:** When the disclosure of certain information is deemed sensitive, the IMF should provide detailed explanations for the confidential classification of such documents on its website, possibly on the relevant "Country Information" page where the document otherwise would have been published, or on a standalone "Disclosure Exemptions" page. Furthermore, the IMF should publicly state when a government has asked that a document not be published or that a document (or significant part of a document) be deleted, along with the reason(s) provided to the IMF by the government, so that citizens can make determinations about whether governments are acting in good faith when such requests are made.

c. **Transparent Governance:** Decision-making, as it relates to the IMF's governance, should be opened up to allow greater public-scrutiny. The IMF should maximize transparency by reducing the lag time for releasing Executive Board documents (which are available to the public under 3, 5, and 20-year rules except for items exempted from public disclosure), and provide full justification in instances where that is not possible.

d. **Right to Request Information:** As part of its Policy, the IMF should provide clear guidelines on how the public can submit requests for information. In addition, the IMF should provide a transparent appeals process in cases where requests for information are refused.

2. Publication of Data

Open Data: Given its technical expertise and its access to a wealth of official documents and statistics, the IMF is well positioned to be a leader on open data. The IMF should strive to provide free online access to all of its statistical data and datasets in machine readable, reusable electronic formats, and in line with emerging standards for open data.

3. Comparison with Other IFIs

The IMF should follow the World Bank's model of providing open and free access to all of its development statistics, research, and knowledge, available in an internationally agreed standard data format, and cease placing certain select data behind a paywall. The IMF can also follow the World Bank's lead in establishing a formal Open Access Policy (launched in

Summer 2012) for all of its research outputs and knowledge products which, by default, are made freely available on the Open Knowledge Repository (<https://openknowledge.worldbank.org/>) and are licensed under the Creative Commons Attribution License.

This submission is made by:

ONE, a global campaigning and advocacy organization backed by more than 3 million people around the world who are committed to eradicating extreme poverty and preventable disease, and to promoting transparent and accountable political and economic governance.

Contact Information

We are grateful for this opportunity to comment, and would be pleased to discuss these inputs in more detail at the IMF's request. For further information, please contact:

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Re: IMF Transparency Policy

In response to the call for comments on IMF's Transparency Policy, EG Justice, an advocacy organization that promotes human rights, the rule of law, transparency, and civic participation in Equatorial Guinea, submits the following suggestion:

The IMF should publicly state the reason(s) for non-publication of a country's Article IV report.

Equatorial Guinea, the third largest oil-producing nation in sub-Saharan Africa, is a classic example of the "resource curse;" its citizens live in poverty despite living in a resource-rich country. One of the reasons for this paradox is the secrecy surrounding the country's revenues from oil, natural gas, timber, and other natural resources. State-sponsored attempts at increased transparency in Equatorial Guinea have not gone beyond lip service. In 2010, the country was expelled from the Extractive Industries Transparency Initiative.

IMF reporting is an avenue through which the citizens hope to receive sorely lacking financial data about Equatorial Guinea's economy. This is why the government's preventing the publication of the 2011 Article IV data is disconcerting. By allowing Equatorial Guinea to avoid publication without any public statement or explanation, IMF tacitly supports a culture of secrecy.

EG Justice urges the IMF to publish all Article IV reports on Equatorial Guinea; or, at a minimum, give a public explanation of any and all reasons why it permitted a country to avoid publication of this important report. This action will increase transparency efforts, a common goal shared by both the IMF and EG Justice. Thank you for the opportunity to comment, and for your consideration of our request.



**CENTRE FOR LAW
AND DEMOCRACY**

**Submission on the Transparency Policy of the
International Monetary Fund**

March 2013

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Introduction

The right to information (RTI) has gained broad recognition as a human right in recent years, one which gives everyone a right to access information held by public bodies. It is entrenched within international human rights guarantees of freedom of expression, as recognised in decisions of the Inter-American Court of Human Rights¹ and the European Court of Human Rights,² as well as the UN Human Rights Committee's 2011 General Comment on Article 19 of the International Covenant on Civil and Political Rights (ICCPR).³

The Global Transparency Initiative (GTI)⁴ is a global network of organisations which promote RTI within international financial institutions (IFIs), to which the Centre for Law and Democracy belongs. The GTI has long held that IFIs are bound by international guarantees of the right to information, a standard that was clearly articulated in the core GTI document, the *Transparency Charter for International Financial Institutions: Claiming our Right to Know* (the GTI Charter), adopted in 2006, which sets out key standards for transparency at the IFIs.⁵

The recognition of RTI as a human right has been accompanied by the development, through jurisprudence and international standard setting, of established better practices for the implementation of this right. At the core of RTI is the basic idea that the people, from whom public bodies ultimately derive their (legitimate) authority, have a right to access information held or created by these bodies. RTI also delivers many functional benefits, including because greater transparency serves to promote more responsible stewardship of public resources and discourages frivolous spending and corruption.

Most IFIs have recognised the imperatives of openness, including in relation to their own activities, and have adopted disclosure policies in order to provide a policy framework for this. The early policies were essentially positive disclosure lists, or commitments to disclose various documents on a proactive basis. These policies were in stark contrast to national RTI laws which, in addition to providing for proactive disclosure, establish a strong presumption of openness, put in place clear procedures for making and responding to requests for information, contain developed lists of exceptions and establish administrative complaints systems.

¹ *Claude Reyes and Others v. Chile*, 19 September 2006, Series C, No. 151.

² *Társaság A Szabadságjogokért v. Hungary*, 14 April 2009, Application no. 37374/05.

³ General Comment No. 34, 12 September 2011, CCPR/C/GC/34, para. 18. Article 19 is the one in the ICCPR which guarantees freedom of expression.

⁴ See: <http://www.ifitransparency.org/>.

⁵ Available in several languages at: <http://www.ifitransparency.org/activities.shtml?x=44474>.

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Over the last ten years, many IFIs – including the World Bank, the Asian Development Bank and the Inter-American Development Bank – have transformed their disclosure policies so that have come to resemble national RTI laws more closely. In the case of the IMF, however, the latest Transparency Policy, adopted in 2009,⁶ remains stuck in the position of being a positive disclosure list. The main challenge for the IMF in the current review is, therefore, to bring its policy more closely into line with standards on RTI, and the practice of the more progressive IFIs in the area of openness, by transforming it from a disclosure list into a policy giving effect to a true presumption of disclosure.

This Submission, prepared in response to the Consultation on the 2013 Review of the IMF's Transparency Policy,⁷ outlines the major areas where the IMF Transparency Policy is deficient and provides substantive recommendations for improvement based on international standards. In addition to the GTI Charter, this Submission relies on the 2009 *Model World Bank Policy on Disclosure of Information*, adopted by the GTI in the context of a review by the World Bank of its disclosure policy, but which contains standards that are relevant for all IFIs.⁸ Together, these two documents provide a clear set of standards for implementing the right to information at IFIs.

This Submission was prepared by the Centre for Law and Democracy, an international human rights organization based in Canada which provides expert legal services on foundational rights for democracy, including freedom of expression, access to information, the right to participate and freedom of assembly and association.

Moving to a True Presumption of Disclosure

The focus of the current IMF Transparency Policy is entirely on the proactive or automatic disclosure of information. As such, and as noted above, it fails to establish a proper system of openness which, in addition to the proactive disclosure of information, also involves a system for responding to requests for information. In this regard, it has failed to make the transition that has been made by other IFIs in their information disclosure policies.

⁶ Available at: <http://www.imf.org/external/np/pp/eng/2009/102809.pdf>. The policy came into force in March 2010.

⁷ See <http://www.imf.org/external/np/exr/consult/2013/transpol/index.htm> for more information about this.

⁸ Available at:

http://www.ifitransparency.org/uploads/7f12423bd48c10f788a1abf37ccfae2b/GTI_WB_Model_Policy_final.pdf.

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According to the GTI Charter:

Everyone has the right to request and to receive information from international financial institutions, subject only to a limited regime of exceptions, and the procedures for processing such requests should be simple, quick and free or low-cost.

The fact that the IMF's Transparency Policy patently fails to live up to this standard means that it has to be considered one of the worst IFI policies in this area.

The IMF has embraced what might be termed a mini-request driven system through the adoption of its Transparency Policy - Archives Policy, in a parallel decision to the adoption of the main Transparency Policy. Pursuant to this Policy, a few categories of documents become available to the public after three or five years, but the majority are only released after twenty years.⁹ Even after that point, there remain exceptions for attorney-client privilege, confidential documentary materials provided by external parties, personnel files, and documents and proceedings of the IMF Grievance Committee. Beyond these listed exceptions, the Managing Director and the Executive Board have the power to classify documents indefinitely. There are no listed mechanisms for appealing against these classifications, or any limits on what can be permanently classified.

To achieve the transition to an approach based on a presumption of disclosure, the the Policy needs to incorporate the following additional elements:

Presumption of Openness

The policy should include a statement establishing a true presumption of openness. The statement quoted above from the GTI policy is a good example of this. Another good example is from the Asian Development Bank's (ADB) Public Communications Policy 2011: Disclosure and Exchange of Information, paragraph 29 of which states:

The policy is based on a presumption in favor of disclosure. Therefore, all documents that ADB produces or requires to be produced may be disclosed unless they contain information that falls within the exceptions of the policy specified in paras. 97 and 101.

Procedures

The policy should include a clear set of procedures governing the making of and responding to requests. This should include such items as a dedicated email and physical address to which requests may be sent, clear timelines for responding to requests, and a commitment to provide assistance to help requesters. As an example of this, clear procedures are provided for in paragraphs 24-27 of the World Bank's 2010 Policy on Access to Information. Paragraph 24 starts by stating: "Information that is disclosable under this policy and is not on the Bank's external website is available on request (subject to paragraph 26)."

⁹ See: [http://www.imf.org/external/pubs/ft/sd/index.asp?decision=14498-\(09/126\)](http://www.imf.org/external/pubs/ft/sd/index.asp?decision=14498-(09/126)).

Exceptions

The policy should include a narrow set of exceptions which is designed around the idea that access to information may only be refused where disclosure of the information would cause harm to a legitimate interest (harm-based exceptions), rather than containing a list of types of information that shall be kept secret. Indeed, is a cardinal openness principle that access to information should only be refused where disclosure of the information would lead to a demonstrable and specific harm. As Principle 5 of the GTI Charter states:

The regime of exceptions should be based on the principle that access to information may be refused only where the international financial institution can demonstrate (i) that disclosure would cause serious harm to one of a set of clearly and narrowly defined, and broadly accepted, interests, which are specifically listed; and (ii) that the harm to this interest outweighs the public interest in disclosure.

The list of legitimate interests recognised under international law is limited to the following: national security; international relations; public health and safety; the prevention, investigation and prosecution of legal wrongs; privacy; legitimate commercial and other economic interests; management of the economy; fair administration of justice and legal advice privilege; conservation of the environment; and legitimate policy making and other operations of public authorities. The exceptions found in para. 97 of the ADB's Public Communications Policy 2011 largely conform to these standards inasmuch as they are largely harm-based and limited to the items listed above.

Even where a legitimate interest is engaged, information should still be released unless the harm outweighs the public interest in disclosure. An example of a well-crafted public interest override can be found in para. 26 of the 2007 Public Disclosure Policy of the European Investment Bank, which provides that access to information will be refused where disclosure would undermine various interests, unless "there is an overriding public interest". A more discretionary approach is taken by the World Bank, which reserves the right to disclose information covered by the regime of exceptions, "if the Bank determines that the overall benefits of such disclosure outweigh the potential harm to the interest(s) protected by the exception(s)." (para. 18 of the Policy).

Right of Appeal

The policy should also establish a right to appeal against refusals to provide information and other claimed breaches of the policy to an independent complaints body. In its 2010 Policy on Access to Information, the World Bank created both an internal Access to Information Committee (see para. 37) and an independent information Appeal's Panel (see para. 38). Similar independent bodies have been

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established at both the Asian Development Bank and the Inter-American Development Bank.

Recommendation:

- The whole approach of the Transparency Policy should be substantially enhanced by establishing a true presumption of openness along with a comprehensive system to give effect to it, involving the elements outlined above.

Automatic Disclosure

The IMF's Transparency Policy is essentially structured around automatic disclosure. There are 24 enumerated categories of documents which are supposed to be published promptly on a rolling basis. According to the IMF's *Key Trends in Implementation of the Fund's Transparency Policy for 2012*,¹⁰ lag times in publication vary considerably depending on the country. Some documents are published less than a week after being considered, while for others, publication is delayed for nearly a year. This discrepancy is indicative of an initial problem with the Transparency Policy, which is that it does not provide specific timeframes for when documents should be published.

A more serious problem is that, for 20 of the 24 categories of documents listed, publication is contingent on the consent of the affected member State. According to Section 2(a) of the Transparency Policy, consent is "voluntary but presumed" and members are "encouraged" to consent. There is, however, no requirement for member States to ground their objection in a legitimate concern or any mechanism for appealing against a member's objection.

Giving members a blanket veto over the disclosure of documents that relate to their dealings with the IMF directly breaches the fundamental principle on which the right to information is founded, as well as the broader principles of openness which the IMF's Transparency Policy is meant to reflect. It is a cardinal openness principle that access to information should only be refused where disclosure of the information would lead to a demonstrable and specific harm.¹¹ Giving members a veto also runs against the values set out in the Preamble to the Transparency Policy, which begins by stating: "[T]he Fund will strive to disclose documents and

¹⁰ Available at: <http://www.imf.org/external/np/pp/eng/2012/071612.pdf>.

¹¹ See, for example, Principle 5 of the GTI Charter.

information on a timely basis unless strong and specific reasons argue against such disclosure.”

The disclosure rates noted in *Key Trends in Implementation of the Fund's Transparency Policy* provide a good indication of why it is problematic to leave decisions about disclosure up to the discretion of member States. There is a notable trend in the list of countries that did not publish any of their specified documents in 2011 – namely Antigua and Barbuda, Brazil, Brunei Darussalam, Djibouti, Dominican Republic, Equatorial Guinea, Ethiopia, Libya, Myanmar, Oman, Sri Lanka, Turkmenistan and Vietnam – which includes some of the world's worst human rights offenders and, with a few exceptions, countries that are generally hostile towards democracy and transparency.

Instead of accommodating the wishes of member States, the IMF should require any State which wishes to object to the disclosure of a document to show cause grounded in a demonstrable harm to a legitimate exception.

Sections 2(c), 3(a) and 3(b) state that members who receive certain types of assistance from the IMF are expected or required to consent to the disclosure of documents related to that assistance. While this is helpful, it only applies to certain specific categories of information and to certain States. For other categories of information, the bar for disclosure is set higher, for example in Section 2(d), which requires explicit consent.

Recommendations:

- The Transparency Policy should include clear timeframes for the publication of documents.
- Member States should not have a veto over the disclosure of information otherwise subject to automatic publication. Instead, any State wishing to keep all or part of any document secret should be required to demonstrate that disclosure would harm a legitimate interest.

Conclusion

In 2008, the GTI issued a briefing on the major problems with the IMF's Transparency Policy.¹² The briefing was prepared as a submission for the IMF's last

¹² Available at:

http://www.ifitransparency.org/uploads/7f12423bd48c10f788a1abf37ccfae2b/IMF_Transparency_Policy_Briefing_Final.pdf.

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major information disclosure policy review. It urged the IMF to use the review as an opportunity to substantially improve its Policy, noting:

The transparency policy of the IMF contains no recognition of the right of access to information, a basic requirement for effective and accountable governance of an institution. Additionally it is limited in coverage and badly integrated with the archives policy. The IMF has no clear rules or decision-making system around documents classified as confidential and strictly confidential. Though more than half of IMF executive directors have freedom of information legislation in place in their home countries, they have not moved to put such standards in place at the Fund.

The briefing further pointed out that the IMF failed to meet five of the nine principles of the GTI Charter, and only partially met the other four. Five years later, and despite a major overhaul of the automatic disclosure provisions of the policy at the end of 2009, all of these deficiencies remain.

It is worth noting that the fundamental deficiencies noted in both this Submission and the GTI's 2008 policy briefing stand in stark contrast to the positive and optimistic language of the IMF's own factsheet on transparency:

Transparency in economic policy and access to reliable data on economic and financial developments is critical for sound decision-making and for the smooth functioning of an economy. The IMF has policies in place to ensure that meaningful and timely information—both about its own role in the global economy and the economies of its member countries—is provided in real time to its global audiences...

Greater openness and clarity by the IMF about its own policies and the advice it provides to its member countries contributes to a better understanding of the IMF's own role and operations, and makes it easier to hold the Fund accountable for its policy advice.¹³

In other words, although the IMF recognises the importance of transparency to engagement, accountability and effective governance, it has not taken the necessary steps to ensure that its Transparency Policy will give practical effect to these openness benefits. The Policy signally fails to conform to international standards which are accepted not only by openness advocates but also by national governments and an increasingly significant number of IFIs.

At the very minimum, the IMF should incorporate a proper system for request-based access to information into its Policy, based on a presumption of disclosure. This should be accompanied by a requirement that refusals be harm-based and subject to an independent appeals process. In terms of its rules on automatic disclosure, the IMF should not allow countries to veto the release of information, but should require this to be tested against the same harm-based exceptions that apply to request-based access.

¹³ Available at: <http://www.imf.org/external/np/exr/facts/trans.htm>.

Absent a strong commitment along these lines, the IMF is set to languish far behind other IFIs in terms of transparency policy. As such, it would be failing to give effect to a fundamental human right. Furthermore, and given the increasingly important role played by the IMF in world affairs, it would go against the very values which the IMF has itself proclaimed are served by transparency.