

Dear Mukhtar Ahmad Ali
Executive Coordinator
Consumer Rights Commission of Pakistan

17 September 2003

We are writing to invite you to participate in an unprecedented international initiative designed to promote openness within the international financial and trade institutions (IFTIs) and to test the limits and the potential of domestic freedom of information legislation. Specifically, we are trying to test the ways in which national freedom of information laws can be used to access information about the activities of IFTIs such as the World Bank and the World Trade Organization (WTO).

International Financial Institutions and Freedom of Information:

IFTIs are reshaping the policy environment of every country in the world, but they continue to conduct much of their business in secrecy. The influence of the World Trade Organization (WTO) extends to the more than 140 countries that abide by the institution's agreements. These agreements shape a country's tariff and trade structure for goods, services and intellectual property and supersede the laws and jurisdiction of member states. The International Monetary Fund (IMF) and Multilateral Development Banks (MDBs) such as the World Bank and the Asian Development Bank lend about \$50 billion a year over roughly 110 countries. This money is used to influence and leverage hundreds of billions of dollars of investments and to affect government policies in a wide range of sectors. The World Bank and the IMF also play a central role in the development and implementation of global debt management initiatives and so-called poverty reduction strategies.

Given the growing influence of these institutions, the secrecy that continues to surround their operations is becoming increasingly controversial. Key documents are kept confidential or are released only after commitments have been made, rather than while agreements are being negotiated. Governing bodies, such as the World Bank's Board of Directors, operate in almost total secrecy.

The result is that IFTIs often deny communities their right to timely information and, by doing so, prevent meaningful participation in the design and implementation of projects and policies. IFTI secrecy undermines domestic democratic processes, reduces the development effectiveness of the institutions, increases the likelihood that their work will cause social and environmental damage and alienates interested parties.

A growing number of organisations and individuals are now working to cast light on the activities of these institutions. Labour unions, environmental organisations, faith-based groups, development agencies and human rights organisations are working together to promote the public's right to know. Their efforts are increasingly being joined by

academics, journalists and legislators who share a common belief in the importance of accountable and democratic international institutions.

It is ironic that as the power and impact of the IFTIs has increased and concern about their opacity has grown, a large wave of transparency legislation has swept across the globe. Since 1990 some thirty-five countries have passed freedom of information acts (FOIAs). Such laws provide for citizens to make requests for records held by government, subject to certain exemptions. Some of these laws are better than others of course; many are floundering on the rock of poor implementation or weak political will. Often the laws were passed merely to create the appearance of greater openness and democracy, and to encourage an improved external perception. But in nearly every case, having a FOIA is better than not having one.

A Collaborative Effort

Until recently, there has been little international cooperation between activists working on international financial institutions and those working on freedom of information issues. During the consultations around the review of the World Bank's Policy on Information Disclosure, these two different sectors came to learn in more detail of each other's work and the possibility of collaborating was discussed. This led to a meeting in February 2003 in Georgia, USA, bringing together a number of both IFTI and FOI groups.

At that meeting, we agreed to work together on a number of projects. We plan to undertake joint advocacy work and to prepare a consensus statement on what we think IFTIs disclosure policies should look like, a sort of Charter for the movement.

We are also proposing the present initiative, to test the effectiveness of national FOI laws in accessing information about IFTIs. As a first step, we are proposing a pilot project for 10 countries where an FOI law exists, including Pakistan.

Using FOIAs to Access IFTI Information - An Emerging Initiative

One of the main challenges in securing the effective implementation of the FOI laws is to ensure that they are used and that civil society activists recognise the potential they offer in terms of serving their day-to-day agenda. Therefore, this initiative combines two sets of imperatives: the determination to make the IFTIs more open and accountable, and the need to use new FOI laws so as to promote their effective implementation.

The first practical step is to identify national partners in each of the 10 pilot countries and this is specifically why we are writing to you. We would like to ask you to take the lead in Pakistan during this pilot phase of the project, working with other local groups to request key IFTI documents through the national FOI law.

We propose that a small working group be established for each country, consisting of at least one IFTI-activist or development-oriented organisation and one FOI specialist. If possible, the group should also include IFTI specialists who can help by providing guidance on the documents to be requested from regional development banks.

We propose a dual system of requests. First, similar requests will be made in each of the ten pilot countries for global IFTIs, such as the World Bank and World Trade Organisation. We have started to identify this list, which is appended to this letter. Obviously, national groups are free to go beyond our (fairly short) list for the global IFTIs and request other documents. Second, national groups will identify which documents they wish to request from regional IFTIs, such as the Asian Development Bank.

Once requests have been made and responded to, we will systematically compare the results before designing the second phase of the project.

It is our hope that this initiative will allow us to test the potential for using national FOI laws to extract accountability from international organisations and to develop a better understanding of the limitations of using FOI laws in this context. This enhanced understanding will inform our thinking about how domestic FOI laws need to be improved in the context of and in relation to IFTI Governance. This initiative is ultimately geared towards getting additional information into the hands of activists working on IFTI issues on a day-to-day basis.

If you are interested in further information about ongoing activities related to IFTI transparency, see the following websites:

<http://www.bicusa.org/>

<http://www.freedominfo.org/ifti.htm>

We hope that you will join us in this endeavour and we are happy to respond to any questions that you might have. Specifically, we ask that you agree to work with us on this exciting and important initiative. We note that this is just a first phase and that we hope that you will also work with us on some of the broader range of activities which were outlined briefly above.

We look forward to hearing from you shortly, at which point we can start to move forward with practical implementation of phase one in Pakistan.

Sincerely,



Toby Mendel
on behalf of the Global IFTI Transparency Initiative

List of Documents for FoIA in Pilot Countries

Pilot Countries: Thailand, Pakistan, Mexico, Peru, South Africa, Bulgaria, Hungary/Armenia, Canada, USA, Japan, Sweden, Netherlands

World Bank Documents:

A. Requests to be made in all pilot countries:

1. Summary of the Board Discussion on the Disclosure Policy Review, August 30, 2001

When the Board of Executive Directors meets to discuss a policy, project or other issue, a summary of the meeting is often prepared and distributed back to the Board. On August 30, 2001, the Board met to discuss and approve the revised World Bank Policy on Disclosure of Information. The summary of this Board meeting was distributed to Executive Directors (EDs) and relevant Government officials within a month following the discussion.

What to request: The Summary of Discussion at the Meeting of the Executive Directors of the Bank and IDA, from August 30, 2001.

2. Written statements from the Executive Director to the Board

Occasionally, Executive Directors will formally submit a written statement on a particular issue prior to or at a meeting of the Board of Directors. These statements are distributed to other Executive Directors and relevant government officials responsible for directing the activities of their government's Executive Director.

What to request: All written statements from the [country's] Executive Director to the Board.

B. Requests to be made in borrowing countries only (Thailand, Pakistan, Mexico, Peru, South Africa, Bulgaria, Hungary/Armenia): [NOTE: WE NEED TO DETERMINE IF THE DOCUMENTS IN THIS SECTION ARE ALSO MADE AVAILABLE TO DONOR COUNTRIES. IF SO, THEN WE SHOULD ALSO TRY AND ACCESS THEM THROUGH FOIAs IN DONOR COUNTRIES.]

1. Country Policy and Institutional Assessments

“The Bank conducts an annual performance assessment for its borrowing countries. The exercise, known as the Country Policy and Institutional Assessment (CPIA) assesses a country's present policy and institutional framework for fostering poverty reduction, sustainable growth and the effective use of development assistance.” – from the World Bank's website: http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000094946_03032704025855

According to the Bank's Disclosure Policy, CPIA ratings for countries eligible for IDA financing, classified by quintile, are publicly available. [NOTE: THIS IS CONFUSING. WE NEED TO DETERMINE HOW MUCH OF A GIVEN CPIA ANALYSIS IS MADE AVAILABLE TO THE BORROWING COUNTRY AND WHAT KIND OF ACCESS OTHER COUNTRIES HAVE.]

What to request: [NOTE: THIS IS PENDING UNTIL THE ABOVE NOTE IS RESOLVED.]

2. Memorandum of the President

When World Bank Management sends a loan to the Board of Directors for approval they provide a detailed description of the loan in a document that could generically be called a "Board Report" (the exact name of the document depends on whether it is an investment or an adjustment loan). Any confidential information in the Board Report is extracted and placed in an accompanying document called a Memorandum of the President (MoP), which is never disclosed. The MoP is, therefore, distributed to the Board and relevant government officials in order to inform their deliberations as they decide how to vote or respond to a given loan proposal.

What to request: [NOTE: FOR EACH COUNTRY WE WILL IDENTIFY A MoP THAT CAN BE REQUESTED]

3. Letter of Development Policy (LDP)

An LDP is prepared for all structural and sectoral adjustment loans. It is written by the borrowing government (therefore "owned" by the government) and outlines measures that the borrowing government has agreed to take in exchange for the loan. LDPs are now disclosed at the discretion of the borrowing government. Prior to 2002 they were kept confidential.

What to request: [NOTE: FOR EACH COUNTRY WE WILL IDENTIFY AN LDP THAT THE GOVERNMENT HAS DECIDED NOT TO DISCLOSE]

International Monetary Fund Documents:

Requests should be made to in all pilot countries:

1. Minutes of Discussion at the Meeting of the Executive Directors of the IMF

As above for the World Bank, we will FoIA the minutes of the Board Discussion where the disclosure policy was discussed.

What to request: [NOTE: WE NEED TO CONFIRM THE DAY/PERIOD WHEN THE IMF'S DISCLOSURE POLICY WAS DISCUSSED - September 23-27, 2002, discussions regarding Disclosure]

2. Mission Concluding Statements

The IMF holds bilateral discussions with its members, usually every year. As part of these consultations, a team or "mission" from the IMF visits the country to discuss with officials economic developments and strategies relating to fiscal, monetary and structural policies. The Mission Concluding Statements are the statements made by members of the mission after the team completes its visit to the member country. Mission Concluding Statements can be made public on a voluntary basis although probably less than half of them are.

What to request: All Mission Concluding Statements concerning IMF consultations with the government of [country].

3. Use of Fund Resources (UFR)

[NOTE: WE NEED TO FLUSH THIS ONE OUT]

World Trade Organization Documents:

[NOTE: THE FOLLOWING DOCUMENTS HAVE BEEN IDENTIFIED AND WE ARE IN CORRESPONDENCE WITH SHEFALI ABOUT REDUCING THE LIST TO TWO DOCUMENTS. THIS SECTION OBVIOUSLY STILL NEEDS WORK]

1. **Government offers on services for GATS negotiations**
2. **Draft government positions for Cancun, esp. New Issues (the four new agreements)**
3. **WTO ~non-papers~**
4. **Investment Working Group meeting minutes**

Regional Multilateral Development Bank Documents:

[NOTE: AS DISCUSSED, THIS SECTION WILL BE SELECTED DEPENDING ON THE COUNTRY IN QUESTION. HOWEVER, WE DO NEED TO THINK ABOUT THINGS THAT CAN BE REQUESTED REGARDING THE REGIONAL MDBs FROM DONOR COUNTRIES. SUMMARIES OF BOARD DISCUSSIONS ARE AN OBVIOUS OPTION].