



## Office of Hon Bill English

Deputy Prime Minister  
Minister of Finance  
MP for Clutha-Southland

06 JUN 2012

Kurt Sharpe  
fyi-request-223-4cd24a86@requests.fyi.org.nz

Dear Kurt Sharpe

Thank you for your Official Information Act request, received on 9 May 2012. You requested the following:

*"documentation that contains advice to the Minister outlining why legislative changes are being introduced to allow governments to increase New Zealand's multibillion-dollar commitment to the International Monetary Fund without this increase needing to be approved by Parliament."*

### Information Being Released

I wish to assure you that no legislative changes have been introduced to change the way in which New Zealand commits funds to the IMF. Currently, any commitments to the IMF are approved by Cabinet. The Budget also includes forecasts of New Zealand's expected commitments to the IMF and signals any major change: the 2011 Budget, for instance, signalled that New Zealand's IMF commitments were about to increase due to an increase in New Zealand's capital at the IMF. The Budget is debated and approved by Parliament.

Consequently, as my office holds no information covered by your request, section 18(e) of the Official Information Act is applicable – that the document alleged to contain the information requested does not exist.

That said, I have recently introduced the International Finance Agreements Amendment Bill. This Bill passed its first reading in Parliament on Tuesday 8 May, 2012. The principal aim of the Bill is to update New Zealand legislation to take account of changes that the IMF has made to its Articles of Agreement. Although these changes do not have any direct financial implications for New Zealand, it is important to note that the IMF has concurrently increased the amount that countries pay to members of the organisation – as noted above, I signalled this increase in the 2011 Budget. However, as the IMF has indicated that this increase will not come into force until member countries have accepted the recent changes to the Articles, the International Finance Agreements Amendment Bill therefore paves the way for an increased financial commitment by New Zealand to the IMF.

The Bill also introduces a regulation-making power so that if the IMF updates its Articles of Agreements in the future, these changes can be incorporated into New Zealand law via regulation rather than going through Parliament. I thought you might be interested in seeing the reasons why this is the case, and therefore enclose the following document:

Item	Date	Document Description	Decision
1.	21 April 2011	Treasury Report: Updating the International Finance Agreements Act	Release relevant portions

I have decided to release the relevant parts of the document listed above.

If you are particularly interested in the International Finance Agreements Amendment Bill, then I would highly encourage you to make a submission to the Finance and Expenditure Select Committee on the Bill. The closing date for submissions is Tuesday, 5 June 2012.

This fully covers the information you requested.

You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely



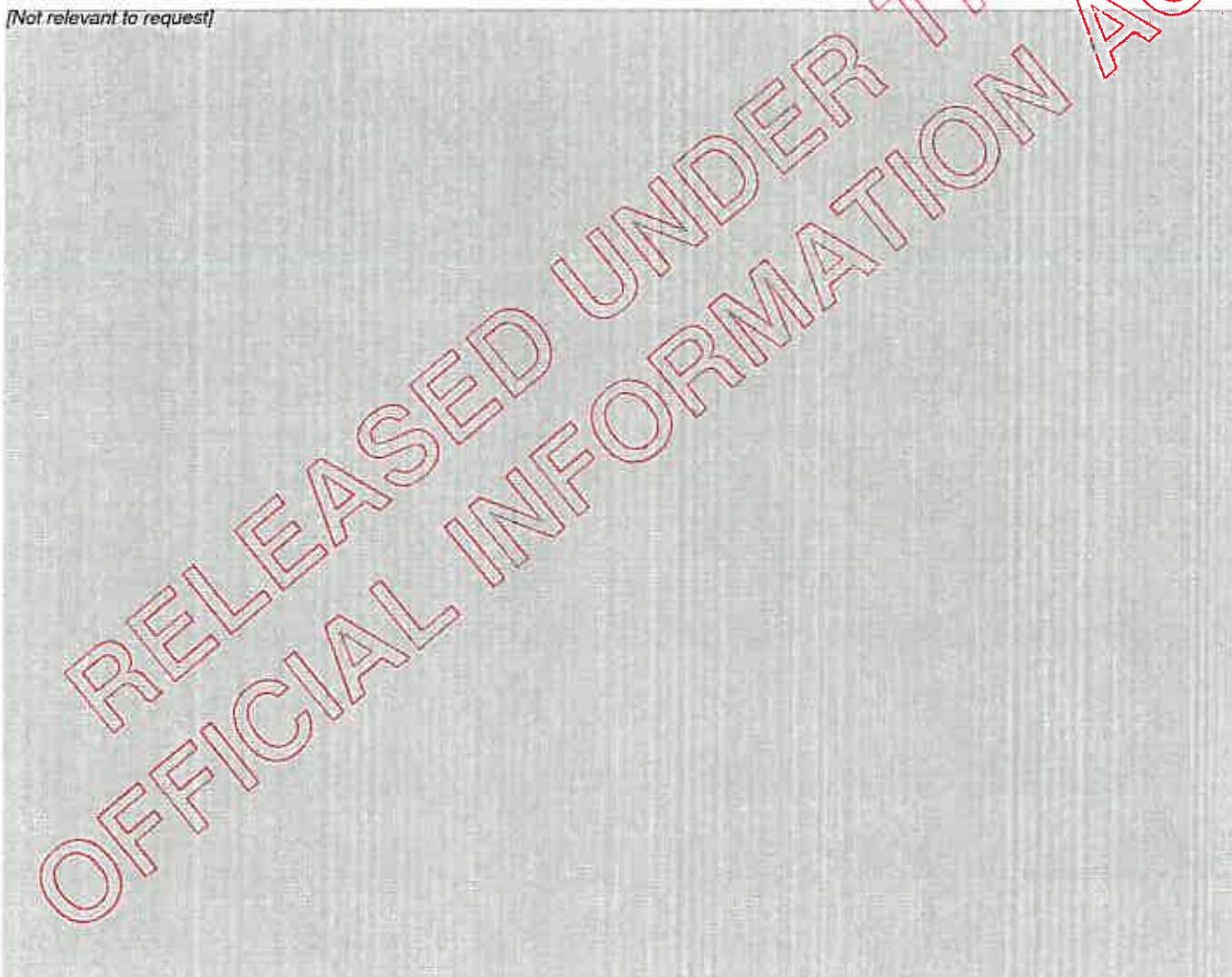
Hon Bill English  
**Minister of Finance**

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**Treasury Report: Updating the International Finance Agreements Act**

<b>Date:</b>	13 May 2011	<b>Report No:</b>	T2011/994
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[Not relevant to request]



13 May 2011

IM-1-1-1-6

**Treasury Report: Updating the International Finance Agreements Act****Purpose of Report**

1. This report seeks your agreement to submit the attached Cabinet paper to the Cabinet Economic Growth and Infrastructure Committee. The paper proposes a number of amendments to the International Finance Agreements Act (IFAA).

**Analysis****Aim of the Cabinet paper**


2. The attached Cabinet paper seeks agreement to amend the IFAA to:

*[Not relevant to request]*



- **Establish a regulation-making power** (pages 4 to 5). The paper seeks agreement to introduce a regulation-making power into the Act that allows for future updates to the Articles of Agreement to be made by the Executive rather than amending the Act.

*[Not relevant to request]*


**Introducing a regulation-making power**

4. We have considered whether it is appropriate to allow the Articles of Agreement of the International Financial Institutions (IFIs) to be updated by regulation. The key judgement about whether to establish a power rests on whether such amendments are of such significance that they warrant parliamentary scrutiny.
5. We have concluded that such a regulation-making power is appropriate for the following reasons:
  - a. The regulations would amend a government-to-government agreement that does not affect the rights of individuals or relate to crimes.

**IN-CONFIDENCE**

- b Once changes to the Articles are agreed by the requisite majority of members, New Zealand will be bound by the amendments regardless of whether we update the legislation.
  - c New Zealand's legislative approval of the amendments has little impact on overall global acceptance to changes because our shareholdings in the institutions are comparatively small.
  - d The decision to approve changes to the Articles of Agreement at the IFIs is effectively made at the time that the Minister of Finance votes on the matter as a Governor of the Institutions.
  - e The regulation-making power would not be unique. The Legislation Advisory Committee Guidelines note that a number of Acts have future-proofing clauses that allow the Executive, rather than Parliament, to update the text of a treaty. For example the Antarctica (Environmental Protection) Act allows for changes to the *Protocol on Environmental Protection to the Antarctic Treaty* to be incorporated into the Act by regulation.
6. The table below outlines the design options and our recommendations for the regulation-making power, which are reflected in the Cabinet paper.

Option	Description	Recommendation
<b>Process to make the updates</b>		
Updates made by Order-in-Council	Cabinet agreement required to make regulations that update the Articles of Agreement.	<i>Recommended.</i> We consider there is still value in Cabinet being informed of and considering the changes through the Order-in-Council process.
Updates incorporated by reference	The Act makes reference to, rather than includes, the Articles of Agreement. Any changes are automatically incorporated when the institution updates the Articles. This approach is used in Australia.	<i>Not recommended</i> as Cabinet would not have the opportunity to discuss the changes.
<b>Possible limits on the regulation-making power</b>		
Public notification of regulations	Regulations updating the Articles of Agreement must be publicly notified in the Gazette.	<i>Recommended.</i> This is a mandatory requirement for all regulation.
Validation or confirmation by Parliament	Regulations will cease to have effect unless they are validated or confirmed by an Act of Parliament within a fixed time.	<i>Not recommended.</i> This limit is contrary to the reasons for creating the power. It would also remove the benefits of reducing House time.
Limits to the scope of the power	The scope of the power would be limited to changes to the Articles of Agreement and no other parts of the Act. Decisions to withdraw/join new institutions and changes in tax status would be out of scope.	<i>Recommended.</i> It will be important that the scope does not allow for unusual or unexpected use.

Recommended Action

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7. We recommend that you:

a **agree** to seek Cabinet agreement to introduce a regulation-making power into the International Finance Agreements Act that:

i will allow for Articles of Agreement of the IMF, World Bank Group and Asian Development Bank to be updated without the need to amend the Act; and

ii is limited to changes to the Articles of Agreement for those institutions, and cannot be used to withdraw or join new institutions or alter their tax status.

*Agree/disagree.*

b **agree** to submit the attached paper to Cabinet Office for consideration by the Cabinet Economic Growth and Infrastructure Committee on 8 June 2011.

*Agree/disagree.*

Siân Roguski  
**Manager, International  
for Secretary to the Treasury**

Hon Bill English  
**Minister of Finance**