

AI Appeals Board Decision

Case Number AI4381

Certain information related to the Empowerment and Livelihood Improvement “Nuton Jibon” Project

(Decision dated February 3, 2017)

Decision of the AI Appeals Board

1. Reference is made to the above-mentioned case number. The Access to Information Appeals Board (the AI Appeals Board) has reviewed the application for appeal regarding the above case number and decided to admit the application in its entirety and affirm the decision by the Access to Information Committee (AIC) to uphold the initial decision by the World Bank to deny the requested information in its entirety, for the following reasons:

Background

2. On November 29, 2011, the Bank received a public access request for two sets of pieces of information related to the Empowerment and Livelihood Improvement ‘Nuton Jibon’ Project [“the project”], namely:
 - 2.1 Two letters, dated 25 September 2013 and 18 November 2015, respectively, from the government of Bangladesh requesting amendment to the financing agreement for the project [the ‘amendment letters’];
 - 2.2 Information contained within two Management Information System (MIS) reports pertaining to the project, namely, a copy of village matrix of Daskin Mohodipur and the amounts available in VCO of every village as on 31 March 2016 and 31 December 2014 [“the MIS report-related information”].
3. On August 11, 2016, access to both sets of pieces of information was denied by the Bank on the basis of AI Policy exception ‘Information Provided by Member Countries or Third Parties in Confidence’ (Section III. B.2(g)). On October 20, 2016, the AI Committee considered an appeal against the decision to deny access and decided as follows:
 - 3.1 In respect of the amendment letters, that they constituted ‘deliberative information’ and were therefore exempted from disclosure under the Bank’s AI Policy (Section III. B.2(i)); and
 - 3.2 In respect of the MIS report-related information, that the matter had already been addressed in its decision under Case No. AI4409 (in which it dismissed the appeal on the basis that the information was covered by the aforementioned ‘Information Provided by Member Countries or Third Parties in Confidence’ and, secondly, the ‘Financial Information’ (AI Policy Section III. B.2(j)) exceptions.
4. On November 28, 2016, the requester filed an application for appeal to the AI Appeals Board, which sat on 1-3 February 2017, to consider it and two other related appeals.

Admission of the Appeal

5. The AI Appeals Board admitted the application for appeal on the following grounds:
 - In Time: the application was filed before the AIC and the AI Appeals Board within 60 days.

- A *prima facie* case that the World Bank has violated the Policy by improperly or unreasonably restricting access to information that it would normally disclose under the policy has been established.

- Authority: The AI Appeals Board has authority to consider the appeal as it follows an AIC decision to uphold a World Bank decision to deny access on the basis that the denial did not violate the Policy.

AI Board Reasoning:

The Amendment Letters:

6. The stated purpose of the Deliberative Information exception set out in Section III. B.2(i) of the AI Policy is to permit the Bank “space to consider and debate issues away from public scrutiny”, and “to preserve the integrity of its deliberative processes by facilitating and safeguarding the free and candid exchange of ideas.” The Policy states that as a result the Bank “does not provide access to information prepared for, or exchanged during the course of its own internal deliberations.”
7. Furthermore, the AIC, which has the authority (Section III. B.8) to interpret the Bank’s Policy in line with its guiding principles, has made it clear that “the term “Deliberative Information” under the AI Policy is applied broadly to include any internal communications and communications with external parties.” (*Bank Directive/Procedure: Access to Information Interpretation* , July 1, 2015).
8. Consequently, the AI Appeals Board must determine whether the ‘amendment letters’ constitute “Deliberative Information” in coming to a view as to whether the Bank has violated its Policy on access to information. Contextually, it is important to note that the Bank not only disclosed information relating to the financing agreement to which the amendment letters relate, but also information about the change in the terms of the agreement that followed from the requests made by the government of Bangladesh (see the paragraph 8 of the decision of the AIC and the links embedded therein). Since the amendment letters formed part of a series of exchanges between the government and the Bank they were part of the deliberative process and so they do fall squarely within the Deliberative Information exception.

The MIS-report related information:

9. As noted above, the AIC determined that the matter had already been addressed in its decision under Case No. AI4409, which covers precisely the same pieces of information. The AIC’s decision in that case was also appealed and we have considered and decided it in this sitting of the AI Appeals Board. In our decision in that appeal we have decided that the Bank properly applied the AI Policy and that the ‘Information Provided by Member Countries or Third Parties in Confidence’ and the ‘Financial Information’ exceptions apply to the pieces of MIS-report related information that were requested by the applicant. Our full reasoning in respect of the appeal against the decision of the AIC to uphold the original decision of the Bank to withhold this information is set out in our decision in Case No. AI4409 and, since the applicant is the same in both cases, does not bear repetition here.

AI Appeals Board Findings

10. Accordingly, we must find that the Bank has not violated its Policy and so uphold the AIC’s decision.
11. The AI Appeals Board’s decision is final.