

AIC decision on appeal # 13

CASE NUMBER AI1170

STATEMENTS OF EXECUTIVE DIRECTORS REGARDING COUNTRY ASSISTANCE STRATEGIES BETWEEN 1997 AND JUNE 2001

(Decision dated December 14, 2011)

Summary of Decision

- The requester filed an appeal against the World Bank's decision to deny access to (a) 839 statements of Executive Directors ("EDs"), and (b) data reflecting "what EDs issued statements on what countries' (Country Assistance Strategies)" between 1997 and June 2001. The requester alleged that the denial violated the Policy on Access to Information ("Policy") and that there are public interests for the Bank to disclose the information requested.
- With respect to the portion of the appeal concerning the request for statements of EDs, the AIC found that, based on the requester's own modification of the original request for information, the requester had not requested access to the statements of EDs. As a result, the Bank neither considered nor denied the disclosure of EDs' statements. Hence, the matter is not yet eligible for an appeal. For this reason, the AIC decided to dismiss this portion of the appeal and refer the request for the EDs' statements back to the Bank's Archives Unit for processing.
- With respect to the portion of the appeal challenging the World Bank's refusal to provide data concerning EDs' statements, the AIC found that, to fulfill the request, the Bank would need to create, develop, or collate information or data that does not already exist or is not available in the Bank's records management system. Because the Policy explicitly reserves the Bank's right to refuse such requests, the AIC found that the Bank's denial does not violate the Policy. The AIC also found that the requester provided no reason in support of the public interest appeal for the Bank to create or collate such data. For this reason, the public interest portion of the appeal is dismissed.

Decision

1. On September 22, 2011, the World Bank ("Bank") denied a public access request for data related to statements of Executive Directors ("EDs") regarding Country Assistance Strategies ("CASs") for the period between 1997 and June 2001 on the basis that the request was unreasonable under the Bank's Access to Information Policy ("Policy"). On October 4, 2011, the Secretariat to the Access to Information Committee ("Secretariat") received the attached application ("Application") appealing the Bank's decision to deny access.
2. The Application indicates two grounds for the appeal, namely "violation of Policy" and "public interest."

Findings and Decisions of the Access to Information Committee

3. The Access to Information Committee (“AIC”) considered the Application on both grounds. In considering the Application in accordance with the Policy, the AIC reviewed the requester’s Application and other documents of record and found the following:

(a) On August 2, 2011, the Bank received a public access request for:

... ED statements (and cosignatories on same) from CASes for the period of 1997-June 2001 (so those more than 10 years old), as well as the CAS documents regarding which these statements were made.

In response, the Bank provided the requester access to 135 CAS documents. The Bank also asked the requester to narrow the scope of his request for the statements of EDs.

(b) On September 1, 2011, the requester responded by stating, in the relevant part, the following:

... it's all ED statements for all countries that I need. That said, I don't actually need the text of the statements - I just need the summary details - how many statements, how many (and which) cosignatories of each statement, etc. Might this ease/expedite the review? In addition, the length of the board discussion of each CAS (which I believe can be extracted from the minutes?) would also be very helpful.

(Underscoring added.)

(c) On September 19, 2011, the Bank informed the requester that: (i) there are 839 EDs’ statements related to CAS between 1997 and 2001, out of which three are joint statements; and (ii) information or data regarding the length of the Board discussions on each CAS does not exist.

(d) Also on September 19, 2011, the requester sent a reply, in which the requester made a request for additional data, thereby further modifying the original request of August 2, 2011. In the September 19 reply, the requester stated, in relevant part, the following:

... would it be possible to get statements (or summaries) by country? That is to say, e.g. (this is hypothetical) Gambia CAS 1997, 9 statements - Germany US Africa1 (6 more). Guyana 1998 CAS, 4 statements - x y z....

It's not the total number, but the number (of statements) by CAS by ED...

(e) On September 22, 2011, the Bank denied the request for the additional data on the basis that the request was “unreasonable because it requires the Bank to create, develop, or collate information or data that does not already exist in the format requested.”

(f) The requester responded by questioning the Bank’s denial, stating, in the relevant part, the following:

... I would be happy to arrange for a friend who works inside the WB... to collate this information on my behalf.... This data (without the text of the statements) would then be communicated ... to me for research use

(Underscoring added.)

(g) On September 28, 2011, the Bank clarified its denial, in which the Bank stated, in the relevant part, the following:

...we regret to inform you that your request is considered unreasonable because it requires the Bank to create, develop, or collate information or data that does not already exist in the format requested.... Responding to your additional request would require the collation of information that is not readily available. This is not within the scope of the Access to Information Policy according to paragraph 26 of the Policy.

(h) The requester's appeal challenges the Bank's decision to deny access to the following two sets of documents/information:

(i) 839 statements of Executive Directors; and

(ii) data reflecting "what EDs issued statements on what countries' CASs" between 1997 and June 2001.

Portion of Appeal Relating to Request for 839 Statements of Executive Directors

4. Pursuant to the Policy, the Bank declassifies and discloses – routinely and in response to requests – certain types of restricted information (*see* paragraph 31 of the Policy). Statements of EDs may be declassified after 10 years, provided that they do not contain or refer to information that is not eligible for declassification (*see* paragraph 33 of the Policy). In view of this Policy requirement, the Bank must carry out certain processes to verify that the information is eligible for declassification before making it publicly available. Thus, while the Policy provides that the statements of EDs may be declassified after 10 years, a determination must first be made that they should in fact be declassified before their actual disclosure. In this case, on September 1, 2011, the requester modified the original request for EDs' statements by informing the Bank: "I don't actually need the text of the statements" (*see* paragraph 3 (b) above). Based on the requester's decision not to ask for the text of the EDs' statements, the Bank had no reason to pursue the process for declassifying the EDs' statements. Instead, the Bank proceeded based on the requester's subsequent requests for data.

5. Both the Bank's denial and subsequent clarification stated that the request to which access was being denied "*requires the Bank to create, develop, or collate information or data that does not already exist in the format requested*" (*see* paragraphs 3 (e) and (g) above). Additionally, the clarification stated that the "additional request would require the collation of information that is not readily available"

(underscoring added, *see* paragraph 3 (g) above). Thus, the record shows that the Bank did not deny a request for EDs' statements, but rather the requester's request for data.

6. In accordance with the Policy, the AIC considers appeals that challenge the Bank's decisions to deny access to information (*see* paragraph 36 of the Policy). Based on the requester's modification of the original request, the AIC finds that the Bank has not yet either considered or denied a request for EDs' statements. Additionally, the denial of access by the Bank was limited to the requester's additional request for data made on September 19 (*see* paragraph 3(d) above). The appeal challenging the Bank's decision to deny access to the statements of EDs is not yet eligible for consideration and, therefore, not properly before the AIC.

7. For the above reasons, the AIC dismisses the portion of the Application concerning the statements of EDs and refers this portion of the appeal back to the Archives Unit for processing as a request for information.

Portion of Appeal Relating to Request for Data on Executive Directors' Statements

"Violation of Policy"

8. Pursuant to the Policy, a requester who is denied access to information by the Bank may file an appeal if the requester is able to establish a *prima facie* case that the Bank has violated the Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy (*see* paragraph 36 (a) of the Policy). The Policy states that the Bank reserves the right to refuse any request that would require the Bank to create, develop, or collate information or data that does not already exist or is not available in the Bank's records management system (*see* paragraph 26 of the Policy).

9. The AIC determined that the data requested does not already exist and is not readily available, and would need to be created or collated in order to meet the request. On this basis, the AIC found that the Bank did not violate the Policy by denying the request for data relating to the EDs' statements.

10. Under the Policy, if the AIC upholds the initial decision to deny access to information in appeals alleging "violation of the Policy," the requester may file an appeal to the Access to Information Appeals Board ("AI Appeals Board") as the second and final stage of appeals (*see* paragraph 38 of the Policy). If you wish to file an appeal to the AI Appeals Board, click here or copy and paste the following URL into your browser:

[URL provided in original decision sent to the requester.]

"Public Interest" case

11. Pursuant to the Policy, a requester may file an appeal on a "public interest" basis if the requester is able to make a public interest case to override certain Policy exceptions that restrict the information requested. Public interest appeals are limited to information restricted under the "Corporate

Administrative Matters,” “Deliberative Information,” and “Financial Information” (other than banking and billing information) exceptions (*see* paragraph 36 (b) of the Policy).

12. The AIC found that the requester provided no reason in support of the public interest appeal. For this reason, the AIC decided to dismiss the public interest portion of the appeal concerning the request to collate data.

13. Under the Policy, the decision of the AIC is final for appeals that assert a public interest case (*see* Policy at paragraph 37).