

AIC decision on appeal # 15

CASE NUMBER AI0265

**WORLD BANK OVERSIGHT MECHANISM EVALUATION TERMS OF REFERENCE
AND/OR PROGRESS REPORT**

(Decision dated May 2, 2012)

Summary of Decision

- The requester filed an appeal against the World Bank’s decision to deny access to information on the “World Bank Oversight Mechanism Evaluation Terms of Reference and / or progress report, cited to in pgh 56 of DC2010-0004 (4) (referring to evaluation of IEG, IAD, the Inspection Panel, IFC CAO, and INT) – assessment of the mandate and ToRs of these agencies.”
- Under the AI Policy, the Access to Information Committee (“AIC”) has no authority over decisions made by the World Bank’s Board of Executive Directors (“Board”).
- The Access to Information Committee (“AIC”) found that:
 - (a) the requested information consists of four Board papers, dated 2010, classified as "Confidential" and covered by the "Deliberative Information" and/or the "Corporate Administrative Matters" exception under the AI Policy;
 - (b) the Board papers are not eligible for declassification at this time;
 - (c) for such restricted Board papers, only the Board has authority to exercise the Bank’s prerogative to disclose. In this light, the Board decided not to exercise the Bank’s prerogative to disclose the restricted Board papers in question.
 - (d) the Bank’s decision to deny access to the requested Board papers, therefore, resulted from a decision of the Board, over which the AIC does not have authority to consider.
- For the above reasons, the Application is dismissed for appealing a matter that the AIC does not have authority to consider.

Decision

1. On April 9, 2012, the World Bank (“Bank”) denied the public access request for information on the “World Bank Oversight Mechanism Evaluation Terms of Reference and / or progress report, cited to in pgh 56 of DC2010-0004 (4) (referring to evaluation of IEG, IAD, the Inspection Panel, IFC CAO, and INT) – assessment of the mandate and ToRs of these agencies” on the basis that the requested information is covered by the “Deliberative Information” exception under the Bank’s Access to Information Policy

("AI Policy") and, for one of the documents, the information is also covered by the "Corporate Administrative Matters" exception under the AI Policy.

2. On April 11, 2012, the applicant filed the attached application ("Application"). The Application indicates two grounds for the appeal, namely "violation of the AI Policy" and "public interest". The Application states the following:

There is an obvious public interest in the nature of this discussion about the five internal accountability mechanisms. The deliberative information exception is applied with excessive [sic] discretion when no explanation of why the matters encompassed within these reports would harm Bank capacity to take internal decisions. Without a full explanation of potential harm to internal deliberative processes, we are left to conclude that the benefits to the public interest are greater.

Some of the information contained in these reports has already been made available to the public.

As draft reports, terms of reference, and proposals, which are normally disclosed for a wide variety of Bank documents, not disclosed them in this instance is a violation of the access to information policy.

Findings and Decision of the Access to Information Committee

3. The Access to Information Committee ("AIC") considered the Application in accordance with the AI Policy. Under the AI Policy, a requester who is denied access to information by the Bank may file an appeal if the requester is able (a) to establish *prima facie* case that the Bank has violated the AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy, or (b) to make a public interest case to override the AI Policy exceptions that restrict the information requested (limited to those exceptions set out in paragraph 15 (Corporate Administrative Matters), paragraph 16 (Deliberative Information), and paragraph 17 (a), (b), and (c) (relating to certain Financial Information) of [the AI Policy] statement.)" (AI Policy at paragraph 36.) The AI Policy also states that because the AIC has no authority over decisions by the Board, appeals of Board decisions are automatically dismissed (AI Policy at footnote 28). Paragraph 40 of the AI Policy recognizes that a requester is notified if the appeal is dismissed for appealing a matter that the AIC does not have authority to consider.

4. In this case, the requested information consists of four Board papers, dated 2010 and classified as Confidential. All the Board papers are covered by the "Deliberative Information" exception, and one Board paper is also covered by the "Corporate Administrative Matters" exception. The Board papers are not eligible for declassification at this time, because: (a) they are less than 20 years old; and (b) for one of the papers, the information is also covered by the "Corporate Administrative Matters" exception, which is not subject to declassification. While the papers may be made publicly available by the exercise of the Bank's prerogative to disclose, only the Board has the authority to exercise this prerogative in the case of Board papers (restricted by these exceptions) that are classified as "Confidential" (see AI Policy at paragraph 18 (a)). The AIC found that the Board considered this matter and decided not to exercise the

Bank's prerogative to disclose the restricted Board papers. Because the denial resulted from a Board decision, which the AIC does not have authority to consider, the Application must be dismissed in accordance with the AI Policy (see AI Policy at footnote 28 and at paragraph 40).

5. For the above reasons, the Application is dismissed for appealing a matter that the AIC does not have authority to consider.