

AIC decision on appeal #43

**CASE NUMBER AI3982
INFORMATION RELATED TO NIGERIA STOLEN ASSET RECOVERY**

(Decision dated April 20, 2016)

Summary of Decision

- The Access to Information Committee (“AIC”) found that the appeal is not properly before the AIC for consideration. The appeal in this case was filed 75 calendar days after the Bank’s initial decision. Under the Bank Policy on Access to Information, appeals to the AIC must be filed within 60 calendar days of the Bank’s decision. For this reason, the appeal is dismissed for failure to file within the required time.
- Notwithstanding the above, the AIC found that the appeal contains a request for additional information, not previously submitted by the requester, and which the Bank has neither considered nor denied. Accordingly, the AIC refers back to the Archives Unit this portion of the appeal for processing as a new request for public access.

The Decision

Facts

1. On September 21, 2015, the requester submitted a request (“Request”) for “documents relating to spending of recovered assets stolen by Late General Sani Abacha and the Bank’s role in the implementation of any projects funded by the recovered assets and any other on-going repatriation initiatives on Nigeria with which the Bank is engaged.” On November 25, 2015, the World Bank (“Bank”) responded to the Request by providing the requester with 11 documents. On February 8, 2016, the secretariat to the Access to Information Committee received an application (“Application”) appealing the Bank’s decision.

2. The Application challenges the Bank’s decision on both a “violation of policy” and “public interest” basis. The Application states, in relevant part, the following:

[Intentionally omitted] is sending this Appeal to the AI Appeals Board against the World Bank decision dated 25 November 2015 to provide patently insufficient information on the spending of recovered stolen funds by the late General Sani Abacha. We consider this a serious violation of the AI Policy, as it amounts to improper or unreasonable restriction of access to information.

[...]

Following receipt of several documents from the World Bank totalling over 700 pages on the Abacha loot, *[intentionally omitted]* commenced independent investigations and verification of some of the information supplied with appropriate agencies and institutions of government.

[*Intentionally omitted*] is concerned that the World Bank failed and/or neglected to provide several portions of the information requested on the spending of recovered Abacha loot managed by the Bank.

[*Intentionally omitted*] notes that one of the guiding principles of the Policy on Access to Information (AI Policy) is recognizing the right to an appeals process when a request for information in the World Bank's possession is improperly or unreasonably denied.

[*Intentionally omitted*] argues that there is a strong public interest case here to override the corporate administrative matters, deliberative information or financial information exceptions of the AI Policy if the information being requested falls under one of these exceptions.

[*Intentionally omitted*] believes that it is not harmful for the Bank to disclose specific details of the information requested. [*Intentionally omitted*] also notes that the sole remedy available to those who prevail in the appeals process is to receive the information requested.

[*Intentionally omitted*] therefore requests the Access to Information (AI) Appeals Board [*sic*] to exercise its prerogative and allow disclosure of the following specific information and any feedback from the World Bank Evaluation Team on the issues below:

1. Evidence and list of the 23 projects allegedly completed with recovered Abacha loot, and whether the 26 projects were actually completed; and what became of the 2 abandoned projects.
2. Evidence and location of the 8 health centers built with recovered Abacha loot reviewed by the World Bank
3. Evidence and location of the 18 power projects confirmed by the World Bank
4. How the \$50mn Abacha loot received before 2005 kept in the special account was spent
5. Evidence and location of schools which benefited from the Universal Basic Education (UBE) program in the amount of NGN24.25bn
6. Evidence and location of the 13 road projects completed with the recovered Abacha loot, including the names of the 3 of the largest road and bridge projects in each geo-political zone

Findings and Related Decision

3. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Application;
 - (c) the date of the Bank's initial decision; and
 - (d) the date when the Application was filed before the AIC.

4. In this case, the Bank's response was issued on November 25, 2015. The Application was filed with the AIC on February 8, 2016, i.e., 75 calendar days after the Bank's initial decision. Under the *Bank Policy: Access to Information*, July 1, 2015, Catalogue No. EXC4.01-POL.01 ("AI Policy"), appeals to the AIC "must be filed (...) within 60 calendar days of the Bank's initial decision to deny access to the requested information" (see AI Policy, at Section III.B.8 (b) i). In view of this requirement, the Application is not properly before the AIC for consideration.

5. For the above reason, and pursuant to the *Bank Directive/Procedure: Access to Information*, July 1, 2015, Catalogue No. ECR4.01-DIR.01, at Section III.D.1 a (i), the Application is dismissed for failure to file within the required time.

6. Notwithstanding the above, the AIC found that the Application contains a request for additional information, not previously submitted by the requester, and which the Bank has neither considered nor denied. Accordingly, the AIC refers back to the Archives Unit this portion of the Application for processing as a new request for public access.