

AIC Decision on appeal #44

**CASE NUMBER AI4191
INTERNATIONAL INCOME DISTRIBUTION DATA SET (I2D2)**

(Decision dated May 20, 2016)

Summary of Decision

- The Access to Information Committee (“AIC”) found that the application, which asserts an appeal on a public interest basis, is not properly before the AIC for consideration. The requested information in this case, namely the International Income Distribution Data Set (I2D2), is restricted by the *Information Provided by Member Countries or Third Parties in Confidence* exception under the *Bank Policy: Access to Information*, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”). Under the AI Policy, public interest appeals may not be made to override this exception. For this reason, the appeal is dismissed for appealing a matter that the AIC does not have authority to consider.

The Decision

Facts

1. On February 8, 2016, the requester submitted a request (“Request”) seeking to access “the i2d2 [International Income Distribution Data Set] database” (the “Database”). On April 6, 2016, the World Bank (“Bank”) denied the Request on the basis that the Database is restricted by the *Information Provided by Member Countries or Third Parties in Confidence* exception under the *Bank Policy: Access to Information*, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”). On April 7, 2016, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny public access to the Database.

2. The Application challenges the Bank’s decision to deny public access to the Database on the basis that there is a “public interest” case to override the AI Policy exceptions that restrict the Database. The Application states, in relevant part, the following:

I am appealing the restriction of access to the i2d2 dataset because the work that I would like to use this dataset for is of great importance, and also cannot be undertaken without this data.

[...]

Although, between my colleagues and I, we have conducted this analysis for a total of 17 developing countries, there are still many countries that we cannot conduct this analysis for without the use of the i2d2 dataset.

[...]

Access to the i2d2 data, even if in limited form, would allow a range of new analyses to take place, which would contribute greatly to creating a better understanding of education in developing countries.

[...]

Granting access to this data is a critical first step in generating knowledge on developing countries that are often barely-researched and hence not well understood.

Findings and Related Decision

3. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Bank’s denial of access to the Database;
 - (c) the Application;
 - (d) the nature and the source of the information contained in the Database;
 - (e) the AI Policy’s *Information Provided by Member Countries or Third Parties in Confidence* exception that justified the Bank’s decision to deny public access to the Database; and
 - (f) the information provided by the relevant business units concerning the Database.

“Public Interest” case

4. Pursuant to the AI Policy, a requester who is denied public access to information by the Bank may file an appeal on a “public interest” basis if the requester is able to make a public interest case to override certain AI Policy exceptions that restrict the information. Public interest appeals are limited to information restricted by the *Corporate Administrative Matters, Deliberative Information, and/or Financial Information* (other than banking and billing information) exceptions (see AI Policy at Section III.B.8 (a) ii).

5. The AI Policy states that the Bank “does not provide access to documents that contain or refer to information listed in sub-paragraphs (a) through (j)” of Section III.B.2 of the AI Policy, which set out the AI Policy’s list of exceptions. Sub-paragraph (g) of Section III.B.2 of the AI Policy provides, under the *Information Provided by Member Countries or Third Parties in*

Confidence exception, that the Bank has an obligation to protect information that it receives in confidence and, thus, does not provide access to information provided to it by a member country or a third party on the understanding of confidentiality, without the express permission of that member country or third party. The AI Policy also states, in relevant part, that “[w]hen a member country or a third party provides [...] non-public information to the Bank with the understanding that it will not be disclosed, the Bank treats the information accordingly” (see AI Policy at footnote 7). The *Bank Directive/Procedure: Access to Information*, July 1, 2015, Catalogue No. ECR4.01-DIR.01 (“AI Directive/Procedure”) further specifies that “[t]he [AI] Policy’s *Information Provided in Confidence by a Member Country or Third Party* exception applies to information, data, reports and analysis [...], deliberations, and any other work product generated as a result of or in response to the confidential information received from a member country or third party” (see AI Directive/Procedure at Section III.B.4 a). The AI Directive/Procedure further recognizes that if the Bank believes that information was given by a member country or third party (explicitly or implicitly) in confidence, the information is classified accordingly and restricted from disclosure pursuant to the *Information Provided by Member Countries or Third Parties in Confidence* exception (see AI Directive/Procedure at Section III.B.3 d).

6. In this case, the AIC found that: (a) the Database includes data provided by member countries or third parties (primarily national statistical agencies) to support the analytic and corporate goals of the Bank; (b) the parties concerned have provided such data on the condition that the Bank will not further distribute them and, thus, with at least an implied understanding of confidentiality; and (c) the parties concerned have not authorized the disclosure of such data. For these reasons, the AIC concluded that the Database contains confidential information received from member countries or third parties and is, thus, restricted by the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy.

7. The AIC further recognized that the AI Policy allows requesters to make a public interest case to override certain AI Policy exceptions that restrict the public’s access to information, limited to the *Corporate Administrative Matters*, *Deliberative Information*, and *Financial Information* (other than banking and billing information) exceptions (see AI Policy at Section III.B.8 (a) ii). Because the AI Policy does not allow requesters to make a public interest case to override the *Information Provided by Member Countries or Third Parties in Confidence* exception, the AIC concluded that the public interest appeal to override this exception restricting the Database is not properly before the AIC for consideration (see AI Directive/Procedure at Section III.D.1 a (iii)).

8. For the above reasons, and pursuant to Section III.D.1 a (iii) of the AI Directive/Procedure, the appeal is dismissed for appealing a matter that the AIC does not have authority to consider.

9. Under the AI Policy, the decision of the AIC is final for appeals that assert a public interest case to override an AI Policy exception (see AI Policy at Section III.B.8 (b) i).

10. Notwithstanding the above, the AIC recognizes the importance of data for development and research, and, thus, notes the Bank's efforts to maximize access to data in its possession, in accordance with the AI Policy. With respect to the particular Request, the AIC notes that the Bank, through the Archives unit, remains available to suggest alternative public data that may be relevant or useful to the requester.