

AIC decision on appeal #8

CASE NUMBER AI0773

**THE IMATACA FOREST RESERVE AND ENVIRONS: ISSUES IN RESOURCE PLANNING,
PUBLIC PARTICIPATION AND SUSTAINABLE MANAGEMENT, AUGUST 1999**

(Decision dated July 13, 2011)

1. On April 21, 2011, the World Bank (the “Bank”) had denied a public access request for the “Report No. 18159-VE, Venezuela – The Imataca Forest Reserve and Environs: Issues in Resource Planning, Public Participation and Sustainable Management, August 1999 (Green Cover)” (the “Report”) on the basis that the Report is covered by the “Deliberative Information” exception under the Bank’s Access to Information Policy (the “Policy”). On April 26, 2011, the Secretariat to the Access to Information Committee (the “Secretariat”) received the attached application (the “Application”) appealing the Bank’s decision to deny access to the Report.

2. The Application indicates two grounds for the appeal, namely “violation of Policy” and “public interest”. It states in relevant part:

I am writing to appeal the decision to withhold "Report No. 18159-VE, Venezuela The Imataca Forest Reserve and Environs: Issues in Resource Planning, Public Participation and Sustainable Management, August 1999 (Green Cover)." I have been informed that the report was not deemed eligible for release due to it containing "deliberative information." I have read the AI Policy and note that this is a particularly broad exemption. It would be unreasonable to deny the release of the report under this ground and contrary to the general public interest favouring transparency. I would therefore like the World Bank to reconsider its decision to withhold the report for a number of reasons:

- the report is old (written in 1999) and any information deemed "deliberative" would likely be out of date.
- there has not been a revision or final version to this report making it impossible to obtain this information elsewhere.
- the subject matter is not sensitive. It is an environmental report that does not affect the interests of Venezuela or other stakeholders.

3. On June 13, 2011, the applicant was asked to provide additional information to support the “public interest” case for making the Report publicly available. On June 14, 2011, the applicant provided an additional statement (“Additional Statement”), which is reflected below in part:

With regard to the requested report, [“]Report No. 18159-VE, Venezuela The Imataca Forest Reserve and Environs: Issues in Resource Planning, Public Participation and Sustainable Management, August 1999 (Green Cover)”, the public interest relates to the nature of this report. The document comprises of analysis based on information that is not readily available pertaining to an important biologically diverse environment situated near an UN designated World Heritage

site. There is clear public interest in learning about the World Bank's findings and analyses on South America's ecologically vulnerable rain forests. I would also note that the report appears to contemplate the engagement of civil society as indicated in the title of the report (i.e. "issues in... public participation"). I also query whether the report has already been released to some degree given that I had learned about it in a citation of an academic article. If this report has been release, then clearly there is no so-called deliberative information.

Findings and Decisions of the Access to Information Committee

4. The Access to Information Committee (the "AIC") considered the Application on both grounds. In reviewing the Application in accordance with the Policy, the AIC considered:

- (a) the original request;
- (b) the Application;
- (c) the Additional Statement provided by the applicant in support of the appeal on "public interest" grounds; and
- (d) the nature of the Report.

"Violation of Policy"

5. 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 "does not provide access to documents that contain or refer to information listed in paragraphs 8-17" of the Policy, which set out the Policy's list of exceptions. Paragraph 16 of the Policy explicitly states, under the "Deliberative Information" exception, that the Bank does not provide access to information prepared for, or exchanged during the course of its deliberations with member countries or other entities with which it cooperates, or information prepared for, or exchanged during the course of the Bank's own deliberations (*see* paragraph 16 (a) and (b) of the Policy).

6. In this case, the AIC found that the Report at issue is classified as "Confidential" and is information prepared for and exchanged during the course of the Bank's deliberations with a member country. As such, the Report is covered by the "Deliberative Information" exception under the Policy and is, thus, restricted from public access under the Policy.

7. Based on the above finding, the AIC concluded that the Bank had properly and reasonably denied access to the Report based on the "Deliberative Information" exception, and, therefore, did not violate the Policy.

“Public Interest” case

8. 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).

9. The AIC considered the public interest reasons presented by the applicant concerning the Report, a deliberative document. While the applicant did not present significant information to enable the AIC to fully consider the appeal on public interest grounds, the AIC considered whether the benefit of disclosing the Report would outweigh the potential harm; this consideration took into account the overall statements made by the applicant. Based on these considerations, the AIC decided to exercise the Bank’s prerogative to disclose the restricted Report, pursuant to the AIC’s authority provided by paragraph 18 (c) of the Policy. Thus, please find the Report attached below as well as the link to access it on-line through the Bank’s *Documents and Reports* public database.

[Document attached in original decision sent to the requester.]

http://imagebank.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&menuPK=64154159&searchMenuPK=64154240&theSitePK=501889&eid=000333037_20110712001557&siteName=IMAGEBANK