

AIC decision on appeal #20

**CASE NUMBER AI2605
AUDIO RECORDING OF A MEETING**

(Decision dated May 29, 2013)

Summary of Decision

- The requester filed an appeal against the World Bank’s decision to deny public access to an audio recording of a meeting. The appeal asserts both “violation of policy” and “public interest”.
- Under the AI Policy, information whose disclosure is likely to endanger the life, health, or safety of any individual, or the environment is restricted by the “Security and Safety” exception. The World Bank also 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; such information is restricted by the “Information Provided by Member Countries or Third Parties in Confidence” exception under the AI Policy. Additionally, information prepared for, or exchanged during the course of, the World Bank’s deliberations with member countries or other entities with which the World Bank cooperates is restricted by the “Deliberative Information” exception under the AI Policy.
- The Access to Information Committee (“AIC”) found that:
 - (a) the entity that requested and organized the meeting for which the requested information was prepared represented local stakeholders, some of whom attended the meeting, on whose behalf the entity requested in writing that the meeting be treated as “strictly confidential”;
 - (b) disclosure of the requested information is likely to endanger the life, health or safety of local stakeholders attending the meeting and of other individuals;
 - (c) the requested information consists of an audio recording of portions of the meeting reflecting deliberations between the World Bank and other entities with which the World Bank cooperates and was made solely for the purpose of verifying translation; and
 - (d) the requester attended the meeting as participant.

- Based on the above, **with respect to the appeal asserting a “violation of policy”**, the AIC concluded that the audio recording is restricted from disclosure by three AI Policy exceptions, i.e., “Information Provided by Member Countries or Third Parties in Confidence”, “Security and Safety”, and “Deliberative Information”. Thus, the World Bank’s decision to deny public access on the basis of these three AI Policy exceptions did not violate the AI Policy. For this reason, the AIC upheld the World Bank’s decision to deny public access to the audio recording.
- **With respect to the appeal asserting “public interest”**, the AIC found that the AI Policy does not allow the restriction of information pursuant to the “Security and Safety” and/or “Information Provided by Member Countries or Third Parties in Confidence” exceptions (or “Deliberative Information” containing information restricted by such exceptions) to be appealed on public interest ground (*see* AI Policy at paragraph 36(b)). The Application is, therefore, not properly before the AIC. For this reason, and pursuant to paragraph 40 (c) of the AI Policy, this portion of the appeal is dismissed for appealing a matter that the AIC does not have authority to consider.

Decision

1. On April 10, 2013, the World Bank (“Bank”) denied a public access request to an audio recording of a meeting held with certain local stakeholders (“Request”). The Request was denied on the basis that the requested information is restricted by the “Security and Safety”, “Information Provided by Member Countries or Third Parties in Confidence”, and “Deliberative Information” exceptions under the Bank’s Access to Information Policy (“AI Policy”). On April 10, 2013, the secretariat to the Access to Information Committee (“AIC”) received the attached application (“Application”) appealing the Bank’s decision to deny public access to the requested information.

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

Considering I was one of the attendees in this meeting, it is very difficult to see how any of these exceptions can be justified. Allowing participants to the meeting access to the recording would enable us to have a more complete and accurate record of the meeting. (...). Each of us in the meeting would like a copy of the recording. We are not requesting that the recording be published or made generally available. We are asking that Bank staff share with us the recording (...)

Findings and Decisions of the Access to Information Committee

3. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Application and the grounds on which the requester appealed the Bank's denial of public access;
 - (c) the nature of the requested information, i.e., an audio recording ("Recording");
 - (d) the "Security and Safety", the "Information Provided by Member Countries or Third Parties in Confidence", and the "Deliberative Information" exceptions under the AI Policy that justified the Bank's initial decision to deny public access; and
 - (e) the information provided by the relevant business unit concerning the Recording.

4. The AI Policy endeavors to strike an appropriate balance between the need to grant the *public* maximum access to information in the Bank's possession, and the Bank's obligation to respect the confidentiality of its clients, shareholders, employees, and other parties (*see* AI Policy at paragraph 3). Pursuant to the AI Policy, information is considered for disclosure to the *public*, not for individual or private use. The AIC noted that this Application was also filed on the basis of "public interest" ground. For these reasons, the AIC considered that the Application is requesting the Recording to be made available to the public.

"Violation of the AI Policy"

5. Pursuant to the AI Policy, a requester who is denied public 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 AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy (*see* AI Policy at paragraph 36 (a)). The AI Policy states that the Bank "does not provide access to documents that contain or refer to information listed in paragraphs 8-17" of the AI Policy, which set out the AI Policy's list of exceptions. Paragraph 12 of the AI Policy states, under the "Security and Safety" exception, that the Bank does not provide access to information whose disclosure is likely to endanger the life, health, or safety of any individual, or the environment (*see* AI Policy at paragraph 12 (c)). Paragraph 14 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 (*see* AI Policy at paragraph 14). Paragraph 16 of the

AI 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, the Bank’s deliberations with member countries or other entities with which the Bank cooperates (*see* AI Policy at paragraph 16 (a)).

6. The AIC found that the entity that requested and organized the meeting represented local stakeholders, some of whom attended the meeting, and on whose behalf the entity requested in writing that the meeting be treated as “strictly confidential”. The AIC also found that the Recording contains information that, if disclosed, is likely to endanger the life, health or safety of local stakeholders attending the meeting and of other individuals. Additionally, the AIC found that the Recording consists of portions of the meeting and reflects deliberations between the Bank and other entities with which the Bank cooperates and was made solely for the purpose of verifying translation. Finally, the AIC found that the requester attended the meeting as participant.

7. Based on the above findings, the AIC concluded that the Bank had properly and reasonably denied public access to the requested information based on the “Information Provided by Member Countries or Third Parties in Confidence”, “Security and Safety” and “Deliberative Information” exceptions under the AI Policy and, therefore, did not violate the AI Policy. For this reason, the AIC decided to uphold the Bank’s decision to deny public access to the Recording.

8. Under the AI Policy, if the AIC upholds the initial decision to deny public access to information in appeals alleging “violation of policy”, the requester can appeal to the Access to Information Appeals Board (the “AI Appeals Board”) as the second and final stage of appeals (*see* AI Policy at paragraph 38). If you wish to file an appeal to the AI Appeals Board, click [here](#).

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

“Public Interest” case

9. Pursuant to the AI 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 AI 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* AI Policy at paragraph 36 (b)).

10. In this case, the Recording is restricted by three AI Policy exceptions, i.e., “Security and Safety”, “Information Provided by Member Countries or Third Parties in Confidence”, and “Deliberative Information”. As 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* AI Policy at paragraph 36 (b)), the AI Policy does not allow the restriction of information pursuant to the “Security and Safety” and/or “Information Provided by Member Countries or Third Parties in Confidence” exceptions (or “Deliberative Information” containing information restricted by such exceptions) to be appealed on public interest ground (*see* AI Policy at paragraph 36 (b)). The Application is, therefore, not properly before the AIC.

11. For the above reasons, and pursuant to paragraph 40 (c) of the AI Policy, this portion of the appeal is dismissed for appealing a matter that the AIC does not have authority to consider.

12. 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 paragraph 37).