

AIC decision on appeal # 14

CASE NUMBER AI1389
CORRIDOR PERFORMANCE MEASUREMENT DATA UNDER TTFPM
CENTRAL ASIA PROGRAM (DRAFT REPORT)

(Decision dated February 22, 2012)

Summary of Decision

- The requester filed an appeal against the World Bank's decision to deny access to "corridor performance measurement data collected under the TTFPM Central Asia program."
- The Access to Information Committee ("AIC") found that the requested information is contained in a draft World Bank report. Draft reports are explicitly restricted from public access pursuant to paragraph 16 of the Access to Information ("AI") Policy. For this reason, the World Bank's decision to deny access to the draft report did not violate the AI Policy.
- Notwithstanding this finding, the AIC, pursuant to its authority under the AI Policy, decided that the benefit of disclosing the draft report would likely outweigh the potential harm. On this basis, the AIC decided to exercise the World Bank's prerogative to disclose the restricted draft report.

Decision

1. On January 3, 2012, the World Bank ("Bank") denied a public access request to "all corridor performance measurement data collected under the TTFPM Central Asia program" ("Request") on the basis that the requested information is covered by the "Deliberative Information" exception under the Bank's Access to Information Policy ("AI Policy"). On January 8, 2012, the Secretariat to the Access to Information Committee received the attached application ("Application") appealing the Bank's decision to deny access to the requested information.

2. The Application challenges the decision to deny access on the basis that the denial is a violation of the AI Policy. The Application states the following:

My request is for statistics on trade in Central Asia gathered by the Bank, and therefore its disclosure does not impact on the Bank's deliberative processes, as defined in II.A.16 of Bank policy, "facilitating and safeguarding the free and candid exchange of ideas."

Neither was the data gathered "solely to inform the Bank's internal decision-making processes" as provided for in II.A.16(c), since it was used in a June 2006 draft report, Trade and Transport Facilitation in Central Asia: Transit Corridors Performance Measurement.

Findings and Decisions of the Access to Information Committee

3. The Access to Information Committee (“AIC”) considered the Application on the basis of whether the decision to deny access violated the AI Policy. In reviewing the Application in accordance with the AI Policy, the AIC considered:

- (a) the Request;
- (b) the Application; and
- (c) the nature of the document containing the requested information.

“Violation of the AI Policy”

4. Pursuant to the AI 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 AI Policy by improperly or unreasonably restricting access to information that it would normally disclose under the AI Policy (*see* paragraph 36 (a) of the AI Policy). 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 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 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; in both cases, such information includes “draft reports” (*see* paragraph 16 (a) and (b) of the AI Policy).

5. In this case, the AIC found that the requested information (i.e., corridor performance measurement data collected under the TTFPM Central Asia program) is contained in a May 2011 draft report titled “Performance of Transport Corridors in Central and South Asia” (“Draft Report”). The Draft Report, as indicated by its cover, is a draft. No final version of the Draft Report has been found to exist. As a draft report, the document is explicitly covered by the “Deliberative Information” exception and is, thus, restricted from public access under the AI Policy.

6. Based on the above finding, the AIC concluded that the Bank had properly and reasonably denied access to the information requested based on the “Deliberative Information” exception, and, therefore, did not violate the AI Policy.

7. Notwithstanding its conclusion that the Bank’s denial did not violate the AI Policy, the AIC, pursuant to its authority provided by paragraph 18(c) of the AI Policy, considered the benefit of disclosing the Draft Report, and whether such benefit would outweigh the potential harm to the interests protected by the “Deliberative Information” exception. The AIC concluded that the benefit of disclosure would likely outweigh the potential harm; on this basis and in accordance with its authority provided by the AI Policy, the AIC decided to exercise the Bank’s prerogative to disclose the restricted Draft Report. Based on this decision, please find the Draft Report attached below as well as the link to access it online through the Bank’s *Documents and Reports*.

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

Link in Documents and Reports: <http://go.worldbank.org/8ZA4APO5I0>