

**AIC decision on appeal #34**

**CASE NUMBER AI3157**

**COUNTRY PORTFOLIO PERFORMANCE REVIEW FOR CAMBODIA**

**(Decision dated July 2, 2014)**

**Summary of Decision**

- The Access to Information Committee (“AIC”) found that the World Bank properly and reasonably denied access to the “most recent” Country Portfolio Performance Review for Cambodia because, at the time of the denial, the information was in draft form and, thus, was restricted by the AI Policy’s *Deliberative Information* exception. The AIC noted that, since the filing of this appeal, the requested document, in its final form, has been made public. For this reason, consideration of the portion of the appeal asserting “public interest” was not required.

**The Decision**

***Facts***

1. On January 23, 2014, the requester submitted a request seeking to access the “most recent Country Portfolio Performance Review for Cambodia” (“Request”). On February 21, 2014, the World Bank (“Bank”) issued a response indicating that the requested document is restricted by the AI Policy’s *Deliberative Information* exception.

3. On March 14, 2014, the secretariat to the Access to Information Committee received an application of appeal (“Application”). The Application indicates two grounds for the appeal, namely a *violation of the AI Policy and public interest*. The Application states, in relevant part, the following:

1) It is a violation of the World Bank’s Access to Information Policy:

The reason given for the denial of my request is that the CPPR is covered by the *Deliberative Information* exception under the Policy (paragraph 16). The list of examples of *Deliberative Information* in Paragraph 16 include “emails, notes, memoranda, draft reports, statistical analyses that inform the Bank’s internal decision-making processes and individual audit reports (from AIP FAQ: <http://go.worldbank.org/H2AFO7RUB0>).” The CPPR and other portfolio reviews are not listed as exempted documents under Paragraph 16 (except possibly in draft form), so this part of the policy does not explicitly prohibit the disclosure of the CPPR I requested.

[\* \* \*]

Since this is a document that is drafted by the Bank and routinely discussed with the borrower, it falls under Paragraph 20a of the AIP, which requires the Bank to routinely disclose said documents after finalization. The Bank may make adjustments to the document prior to finalization if the client identifies information that may be confidential or damaging to the relationship between Bank and borrower, but that does not preclude disclosure of the document once those edits have been approved. This is exactly what is described on page 26 in the World Bank’s AIP Handbook, Annex A (<http://siteresources.worldbank.org/INFODISCLOSURE/Resources/5033530->

1276544813353/AttachmentA-RoutinelyDisclosedInformation\_1-9-2012.pdf), which lists the CPPR as a document that is routinely disclosed under the provisions described above.

My requested CPPR on Cambodia is the final document, the document that is routinely available after distribution to the Board.

[Underscoring added.]

### ***Findings and Related Decisions***

4. In reviewing the Application in accordance with the AI Policy, the Access to Information Committee (“AIC”) considered:

- (a) the Request;
- (b) the Bank’s denial of the Request;
- (c) the Application and basis for the appeal;
- (d) the nature of the most recent Country Portfolio Performance Review (“CPPR”) for Cambodia that was available at the time when the Bank denied the Request, and the related information provided by the business unit concerned; and
- (e) the public availability of the final CPPR.

### ***“Violation of Policy”***

5. Pursuant to the AI Policy, the Bank allows access to any information in its possession that is not on a list of exceptions (*see* AI Policy at paragraph 6). 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* AI Policy at paragraph 36 (a)).

6. 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, under the *Deliberative Information* exception, recognizes that, to facilitate and safeguard the free and candid exchange of ideas for the purpose of preserving the integrity of the deliberative processes, the Bank does not provide access to information (including draft reports or other documents) prepared for, or exchanged during the course of, (a) its deliberations with member countries or other entities with which the Bank cooperates, and (b) its own internal deliberations (*see* AI Policy at paragraph 16 (a) and (b)).

7. The AIC found that, when the Request was made and at the time of the Bank’s decision to deny the Request, the CPPR was still in draft form and in the process of being finalized, which included conducting required consultations with relevant parties. Since the time of the Bank’s denial of the Request and the requester’s filing of the Application, the Bank has finalized the CPPR and publicly

released the document. Based on the above findings, the AIC concluded that the Bank properly and reasonably denied access to the “most recent” CPPR that was available at the time of the Request, based on the AI Policy’s *Deliberative Information* exception because the document was still in draft form. For this reason, the Bank’s decision to deny access did not violate the AI Policy.

8. While the AIC upholds the Bank’s decision to deny public access to the draft CPPR, the AIC recognizes that the final CPPR, which is the document of interest to the requester as asserted in the Application, has been made publicly available. In view of the requester’s interest in the final CPPR, the AIC also recognizes that it may have been helpful in this case for the Bank’s communication to the requester to have indicated that the final version of the document was expected to be disclosed in due course. The final CPPR is publicly accessible through the following link:

<http://documents.worldbank.org/curated/en/2013/05/19668786/>

***“Public Interest” case***

9. For the above reasons, consideration of the portion of the appeal asserting “public interest” was not required.