

AIC decision on appeal #49

**CASE NUMBER AI4428
CERTAIN INFORMATION RELATED TO
THE MYANMAR AGRICULTURE DEVELOPMENT SUPPORT PROJECT
(Decision dated November 16, 2016)**

Summary of Decision

- The Access to Information Committee (“AIC”) found that the World Bank (“Bank”) properly and reasonably denied access to the annual work plan for 2016/17 for the Myanmar Agriculture Development Support Project (the “Annual Work Plan”) because, at the time of the denial, the information was in draft form and, thus, was restricted by the *Deliberative Information* exception under the Bank Policy: Access to Information, July 1, 2015, Catalogue No. EXC4.01-POL.01 (“AI Policy”). However, the AIC found that the Bank erroneously denied access to the draft version of the Annual Work Plan based on the AI Policy’s *Information Provided by Member Countries or Third Parties in Confidence* exception. The AIC noted that, since the filing of this appeal, the Annual Work Plan, 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 August 1, 2016, the requester submitted a public access request (“Request”) for certain information related to the Myanmar Agriculture Development Support Project (“Project”), namely the following:

[...]

1/Copy of annual work plan as mentioned in ISR22534

2/Detailed package wise procurement plan as mentioned in ISR22534.

3/ Contact details and organogram of Project management unit as mentioned in ISR 22534

2. On September 27, 2016, the World Bank (“Bank”) replied to the Request, by: (a) denying access to the information identified as responsive to the portion of the request for “annual work plan as mentioned in ISR22534” (the “Annual Work Plan”) on the basis of 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”); and (b) providing access to the remaining information identified as responsive to specific portions to the Request.

3. On October 1, 2016, the secretariat to the Access to Information Committee (“AIC”) received an application (“Application”) appealing the Bank’s decision to deny access to the Annual Work Plan. The

Application challenges the Bank’s decision on “violation of policy” and “public interest” grounds. The Application states, in relevant part, the following:

[...]

1) I am an emerging social entrepreneur and started working for Rural and agriculture development for Livelihood of poor people mainly women.

2) I approached many poor women and farmers in villages and discovered that their suffering is increasing every day though world bank is funding various projects for the purpose.

3) In order to form a long term plan to serve the poor villagers and farmers I need to know the long term plan and its possible impact so I asked for annual work plan of the year 2016-17.

4) My request was denied on the ground that annual work plan comes under restricted AI policy exception. I here by apply that annual work plan be provided to me to serve the poor women and villagers in increasing crop yield and crop intensity.

[...]

In view of the above i appeal to please provide information which is denied in this case at the moment..

I request for a positive and prompt response.

Findings and Related Decision

4. In reviewing the Application in accordance with the AI Policy, the AIC considered:
 - (a) the Request;
 - (b) the Bank’s denial of access;
 - (c) the Application;
 - (d) the nature of the Annual Work Plan;
 - (e) the *Information Provided by Member Countries or Third Parties in Confidence* exception under the AI Policy that justified the Bank’s decision to deny public access to the requested information, and the *Deliberative Information* exception under the AI Policy; and
 - (f) the information provided by the relevant business unit.

“Violation of the AI 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 Section III.B.1). 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 Section III.B.8 (a) i).

6. 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 (i) of Section III.B.3 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, its deliberations with member countries or other entities with which the Bank cooperates.

7. The AIC noted that annual work plans under Bank-financed projects are documents prepared by the entity responsible for the project, and shared with the Bank in the course of Project implementation. These plans are usually shared with the Bank in draft form prior to their finalization. In this case, the AIC found that the Annual Work Plan: (a) was prepared by Myanmar’s Ministry of Agriculture, Livestock, and Irrigation; and (b) was – at the time of Request and the Bank’s decision to deny access – still in draft form and in the process of being finalized, which included additional consultations among local authorities. Since the time of the Bank’s denial of the Request and the requester’s filing of the Application, the Annual Work Plan was finalized and made publicly available. Based on the above findings, the AIC concluded that the Bank properly and reasonably denied access to the draft version of the Annual Work Plan that was available at the time of the Request. However, the AIC found that the Bank erroneously denied access to draft version of the Annual Work Plan based on the AI Policy’s *Information Provided by Member Countries or Third Parties in Confidence* exception. 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 version of the Annual Work Plan, the AIC recognizes that the final version Annual Work Plan, which is the document of interest to the requester as asserted in the Application, has been made publicly available. The final Annual Work Plan is attached below.

[Information attached in decision sent to the requester.]

“Public Interest” case

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