

# AI Interpretations

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Under the AI Policy, the AI Committee is responsible for interpreting the AI Policy in line with the Policy's guiding principles. Provided here are the interpretations of the AI Policy issued since its effectiveness on July 1, 2010.

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## 14. Redaction - Supplemental Interpretation (June 24, 2014)

The Bank's determination as to whether to redact restricted information from a document in order to make it publicly available is a discretionary decision to be taken by Bank. As the Access to Information Committee (AIC) indicated in the Access to Information (AI) Policy interpretation dated July 14, 2010, "[u]nder the AI Policy, the Bank considers disclosure of documents in their original form. If a requested document includes restricted information, the AI Policy does not mandate the Bank to redact (black out) restricted information in order to make the document acceptable for public access. While the Bank does not have a redaction policy to black out restricted information in response to public access requests (meaning, documents that include restricted information are not publicly available), the Bank is not prevented from redacting restricted information on a case-by-case basis if it chooses to do so." The AIC confirms that (a) neither the AI Policy nor the AI Policy interpretation of July 14, 2010, imposes an obligation or duty on the Bank to either consider redaction (or modification) of a document that includes information restricted by one or more AI Policy exceptions, or to redact (or in any way modify) a document that includes such restricted information,

and (b) under the AI Policy, the Bank considers disclosure of documents in their original form and thus documents that include information restricted by one or more AI Policy exceptions are, on their face, restricted from disclosure under the AI Policy, unless the Bank, in its sole discretion, chooses to redact or modify the document as the Bank may deem appropriate to make it eligible for disclosure in accordance with the AI Policy.

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### **13. Application of the Access to Information Policy to the Records of the Board of Governors**

(February 27, 2014)

The AIC considered the application of the Access to Information Policy (“Policy”) to nonpublic records of the Bank’s Board of Governors (“BoG”). In considering this matter, the AIC took into account the governance structure of the Bank, the Policy and its legislative history.

Under the Bank’s Articles of Agreement, the BoG is vested with all the powers of the Bank and delegates to the Board of Executive Directors (“Board”) certain powers to conduct the Bank’s general operations. In looking at the Policy, which was approved by the Board, the AIC found no evidence in the Policy’s legislative history to indicate that the BoG was asked to consider the application of the Policy to its records, or that the BoG had approved a policy for declassifying its nonpublic records. Moreover, as indicated above, while the Board has certain delegated authority to decide on matters on behalf of the BoG, the AIC found no evidence that the Board considered the application of the Policy to BoG records or made any decision on behalf of the BoG in this respect. In terms of the actual language of the Policy, the AIC found that, while the Policy is explicitly detailed in terms of its application to Board records, including the declassification of restricted Board records, the Policy is wholly silent on its application to BoG records. For these reasons, notwithstanding the Policy’s statement that it applies to any information in the Bank’s possession, the Policy’s legislative history and its terms support the conclusion that it has not been approved for BoG records.

Pending a decision on matters concerning BoG records, the declassification and disclosure process set out in the Policy cannot be applied to the nonpublic records of the BoG.

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### **12. The Process for Implementing the AI Policy Provision on Declassifying Certain Documents At Least 20 Years Old**

(May 30, 2012)

In furtherance of the first guiding principle of the Bank’s Policy on Access to Information (“AI Policy”) to maximize access to information, the AI Policy provides that the Bank declassifies and discloses certain types of restricted information as their sensitivity diminishes over time. The AI Policy indicates that specific categories of documents are declassified and made publicly available 20 years after the date of the document, provided that the document does not contain or refer to information that is not eligible for declassification, namely information covered by one or more of the AI Policy exceptions other than the Deliberative Information and the *Financial Information exceptions*.<sup>1</sup>

The AI Policy also recognizes that, notwithstanding its broad intent to allow access to any information in the Bank’s possession that is not on the list of exceptions, the Bank reserves the right, under exceptional circumstances, to restrict access to information that it normally discloses.<sup>2</sup> The AI Policy provides that the Bank may exercise the prerogative to restrict access, if it determines that the disclosure is likely to cause harm that outweighs the benefits of disclosure. This prerogative may be exercised by: (a) the Board, with respect to Board records; (b) the Vice President concerned, with respect to Board papers; and (c) the Director concerned, with respect to other documents.<sup>3</sup> In implementing this AI Policy provision for the declassification of documents other than Board records, the Archives Unit has routinely notified the vice president or director concerned of intended declassifications to give them the opportunity to consider whether to exercise the prerogative to restrict access before a document is declassified and disclosed.

The Archives Unit has found that the process for notifying and consulting authorized parties has created delays in declassifying and disclosing older documents. The Archives Unit has asserted to the AIC that, in its experience: (a) the reviews conducted by the archivists have been successful in identifying material that is not eligible for declassification under the AI Policy; and (b) the sensitivity in operational materials is generally lower after 20 years. For this reason, the Archives Unit has proposed to the AIC that, in the interest of timely disclosure of information and reducing unnecessary requests to vice presidents and directors, when declassifying documents (other than Board records) after 20 years, the Archives Unit will carry out the reviews and discontinue routine notification and

consultation of the authorized parties concerned unless, in the opinion of the Chief Archivist, there is specific cause to seek the views of the vice presidents or directors concerned.

The AIC considered the Archives Unit's proposal. The AIC recognized that, in its "AIC Note on Clarifications Concerning Communications of Executive Directors' Offices," the AIC had indicated to the Executive Directors that deliberative communications between Executive Directors' offices and staff – covered by the AI Policy's Deliberative Information exception – will be declassified only after consultation with the current Executive Directors concerned. The AIC decided that an adoption of the Archives Unit's proposal to modify the process for declassifying documents (other than Board records) should not impact the current process for consulting Executive Directors and Bank staff concerned when the documents in question reflect communications between Bank staff and Executive Directors' offices.

In view of the above considerations, and in the interest of the AI Policy's guiding principle of maximizing access to information, the AIC decided that the process for declassifying documents at least 20 years old – *but not including Board records or communications between Bank staff and Executive Directors' offices* – should be modified to allow the archivists in the Bank Group's Archives Unit to determine, under the supervision and authority of the Chief Archivist, the following:

1. Whether the documents concerned are eligible for declassification pursuant to the AI Policy, and
2. If the documents concerned are eligible for declassification, whether:
  - The content of the documents to be declassified raises issues that require notification of, as relevant, the vice president or director concerned, in order for the authorized party to consider exercising the Bank's prerogative to restrict access; or
  - To proceed with declassification and disclosure without such notification based on the responsible archivist's judgment that the content of the document raises no significant issue.

<sup>1</sup> See AI Policy at paras. 32-33; note that banking and billing information, though covered by the *Financial Information* exception, is also ineligible for declassification.

<sup>2</sup> See AI Policy at para. 6.

<sup>3</sup> See AI Policy at para. 19.

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## **11. AI Policy Interpretation on the Public Availability of President's Reports**

(May 30, 2012)

Before the introduction of the Program Document in 2002, the Bank used the "President's Report and Recommendation" ("President's Report") to set out the details for proposed operations financed by the Bank's former adjustment lending instruments, such as the structural adjustment loans and credits, sectoral adjustment loans and credits, rehabilitation loans, programmatic structural adjustment loans and credits, special structural adjustment loans, and subnational adjustment loans. President's Reports were not prepared for public disclosure and in some cases included restricted, confidential information.

In 2010, with the introduction of the Bank's Policy on Access to Information ("AI Policy"), which provided the possibility of declassifying restricted documents after a passage of time, most President's Reports were declassified – on the basis that they were at least 20 years old and eligible for declassification under the AI Policy – as part of the Bank's batch declassification exercise carried out in May 2010.

Currently, the Bank's records management system still retains more than 300 President's Reports – classified as Official Use Only and restricted from public disclosure pursuant to the AI Policy's Deliberative Information exception – that are considered not yet eligible for declassification due to the age of the documents. In recognizing that the President's Report is the predecessor of the Program Document, which normally becomes public following the Board's approval of the respective operation (or before Board discussion if the borrower agrees), the AIC determined that, as a general principle, the President's Reports for adjustment lending operations should also be considered publicly available, and thus, should not have to wait 20 years for declassification. However, the AIC also recognized that, unlike Program Documents, President's Reports were not originally intended for public disclosure, and thus, some were drafted to include restricted information that cannot be disclosed. Based on these considerations, the AIC concluded the following:

All President's Reports should be declassified and made public, unless the document is restricted from disclosure because:

- Information contained within the President's Report is restricted from disclosure pursuant to an AI Policy exception other than the *Deliberative Information* exception (in the case of information restricted only by the Financial Information exception, other than banking and billing information, the restriction only applies if the document is less than 20 years old); or
- The Vice President concerned has decided to exercise the Bank's prerogative to restrict the President's Report, based on his/her determination that the potential harm of disclosure would outweigh the benefits.

In view of this AI Policy interpretation, the Archive's Unit will notify all relevant Vice Presidents ("VPs") of the intended declassification of President's Reports, giving the VPs concerned a reasonable period of time for review. Following which, absent a determination that an AI Policy exception other than the *Deliberative Information* exception applies (as explained above), or absent a decision by a VP concerned to exercise the prerogative to restrict access to a particular document, the President's Reports will be declassified and made public.

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## **10. AI Policy Interpretation on the Public Availability of Operational Guidance for Staff**

(May 02, 2012)

Under the World Bank's Policy on Disclosure of Information, which preceded the current Access to Information (AI) Policy, operational policy and guidance documents were covered under the category titled "Administration." The Access to Information Committee (AIC) recognized in 2011 that the Bank's operational policies and procedures (OPs/BPs) and operational memoranda (OpMemos) could be interpreted as corporate-administrative in nature (i.e., in the context of supporting the Bank's management of its staff on operational matters), and thus, falling within the Corporate Administrative Matters exception of the AI Policy; however, because these operational documents were previously approved by the Board for public disclosure, they should continue to be treated as publicly available under the AI Policy.

In February 2012, the AIC further considered the application of the AI Policy to operational guidance documents, specifically, guidance materials that the Bank prepares for staff use in support of their work on operational matters. The AIC recognized the public impact of the Bank's operational work, and the public's interest in understanding how the Bank carries out such work. In this light, the AIC determined that guidance materials prepared for staff in relation to the carrying out of Bank operational work is not purely corporate-administrative in nature, and therefore such guidance should not normally be treated as covered by the Corporate Administrative Matters exception under the AI Policy. So long as the information contained within is not covered by any other AI Policy exception, such operational guidance materials may be made publicly available after they have been issued to staff.

The AIC offers the following points of consideration to help the issuing business units determine whether operational guidance materials may be made public. Generally, guidance materials may be made public if the issuing business units determine that:

- The guidance materials have been prepared for staff in relation to the carrying out of Bank operational work, and would be of relevance to the public, and thus, the materials are not purely corporate-administrative in nature (and therefore would not be treated as covered by the Corporate Administrative Matters exception under the AI Policy);
- The guidance materials have been issued to staff, and thus, are not in draft form (and therefore would not be covered by the *Deliberative Information* exception under the AI Policy); and
- The information contained in the guidance materials is not covered by any other AI Policy exception.

Operational guidance materials that will be made publicly available should include language on the cover, clearly indicating that the document: (i) is not World Bank policy; and (ii) is only intended to provide general guidance to (or to set out work flow arrangements for) World Bank staff in respect to the subject matter. As applicable, business units may also include language to explain that the World Bank may revise the document from time to time, and where the most current version of the document can be found (e.g., World Bank website).

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## **9. “Interpretation of the AI Policy’s Financial Information exception”**

(August 10, 2011)

Interpretation of the AI Policy’s Financial Information exception as it applies to certain aggregated financial information relating to:

- a. Grants made from IBRD administrative budget and IBRD net income (governed by OP/BP 8.45), and
- b. Grants and loans made from recipient-executed trust funds (governed by OP/BP 14.40).

The AI Policy’s Financial Information exception states, in relevant part, that the Bank does not provide access to certain financial information including “details of individual transactions under loans and trust funds, information regarding amounts overdue from borrowers, or actions taken before any loans are placed in nonaccrual status” (AI Policy at section II.A, subparagraph 17 (c)). Footnote 16 of that provision recognizes that, notwithstanding the restrictions of the Financial Information exception, the Bank routinely discloses monthly statements of loans and credits (which consist of aggregated financial information for IBRD loans and IDA credits and grants). That footnote of the AI Policy is silent on whether the Bank may also disclose comparable aggregated financial information for grants made from IBRD administrative budget and net income, and grants and loans made from recipient-executed trust funds. The AIC clarified in this AI Policy interpretation that, in the case of (a) grants made from IBRD administrative budget and IBRD net income (governed by OP/BP 8.45), and (b) grants and loans made from recipient-executed trust funds (governed by OP/BP 14.40), the Financial Information exception of the AI Policy does not restrict the World Bank from disclosing aggregated financial information (i.e., original principal; amounts undisbursed; amounts disbursed; and, in the case of loans made from recipient-executed trust funds, amounts repaid and amounts due), for each such grant or loan, as deemed appropriate by the business unit concerned. This AI Policy interpretation does not propose the collation or creation of such aggregated financial information if the information does not already exist, unless there is a specific business need as determined by the relevant Bank business unit.

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## **8. Whether the Bank’s exercise of the prerogative to restrict access is subject to appeal**

(June 28, 2011)

The AI Policy is silent on the application of the appeals process to the Bank’s decision to exercise the prerogative to restrict access. However, the AI Policy’s treatment of appeals filed on public interest grounds is instructive on the issue. Under the AI Policy, requesters may file an appeal to override certain AI Policy exceptions on public interest grounds (“public interest appeals”). The AI Policy authorizes the AIC to consider and make final decisions in cases of public interest appeals. As explained in the Board paper that proposed the AI Policy, the “override [of AI Policy exceptions] is only to be exercised at the discretion of the Bank”; as such, the AIC, as an internal administrative body, may consider and decide on such cases of discretion authorized by the AI Policy.<sup>†</sup> Thus, the AI Policy’s legislative history establishes that in those instances where the AI Policy authorizes the Bank to exercise discretionary judgment, such judgment may be reviewed and decided upon by the AIC, whose decisions would be final. Analogous to public interest appeals, the prerogative to restrict access is an exercise of Bank discretion authorized by the AI Policy; as such, the discretionary judgments may be scrutinized by the AIC. Therefore, the decisions of vice presidents and directors to exercise the Bank’s prerogative to restrict access to documents that are normally disclosed under the AI Policy may be subject to appeal; such appeals would be considered by the AIC, whose decisions in the cases would be final. In line with the AI Policy, the decisions of the Bank’s Board of Executive Directors (“Board”) to exercise the prerogative to restrict access, however, would not be subject to review as the decisions of the Board are not subject to appeal.<sup>†</sup>

<sup>†</sup> Toward Greater Transparency Through Access to Information – The World Bank’s Disclosure Policy, December 14, 2009, at para. 27.

<sup>†</sup> See AI Policy, at footnote 28.

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## **7. Public availability of documents that were previously approved by the Board for disclosure, but that could be interpreted as falling within the “Financial Information” and “Corporate Administrative Matters” exceptions of the AI Policy**

(April 20, 2011)

Specific categories of documents, which are of a financial or corporate administrative nature, that were previously approved by the Board for public disclosure continue to be publicly available under the current AI Policy (unless the documents are also covered by another AI Policy exception or is subject to the Bank's exercise of the prerogative to restrict access). See the [Table](#) for the list of documents previously approved by the Board for public disclosure.

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## **6. Disclosure of draft CASs and Economic Sector Work (ESW) Reports for Public Consultation**

(March 16, 2011)

At the Bank's discretion, staff may publicly share draft CASs and draft ESW reports during the documents' preparation.

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## **5. Interpretation of the term "Deliberative Information"**

(March 16, 2011)

The term "Deliberative Information" under the AI Policy is applied broadly to include any internal communications and communications with external parties.

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## **4. Procedure for Referring Requests to the AIC**

(September 22, 2010)

The AI Board Paper suggested procedures for referring requests to the AIC so that it may consider whether to exercise the Bank's prerogative to disclose restricted information. Under the proposed procedures, information created before July 1, 2010, that (i) are covered by the Corporate Administrative Matters, Deliberative Information and/or Financial Information (other than banking and billing) exceptions, and (ii) are not eligible for declassification, would be referred to the AIC for consideration. In the interest of providing more timely responses to requesters, the AIC a modified when such requests should be referred to the AIC. The Archives Unit and InfoShop/PICs will only refer requests for such restricted information to the AIC if the information is at least five years old and/or involves a closed operation and has not been restricted by the exercise of the Bank's prerogative to restrict access. For such requests, the Archives Unit and InfoShop/PICs will deny the request based on, as relevant, the exception that applies to the document, or the Bank's exercise of its prerogative to restrict access. To monitor this procedural modification, the Archives Unit and InfoShop, as relevant, will inform the AIC of the number of requests that the Archives Unit and InfoShop/PICs have denied on this basis.

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## **3. Redaction**

(July 14, 2010)

Under the AI Policy, the Bank considers disclosure of documents in their original form. If a requested document includes restricted information, the AI Policy does not mandate the Bank to redact (black out) restricted information in order to make the document acceptable for public access. While the Bank does not have a redaction policy to black out restricted information in response to public access requests (meaning, documents that include restricted information are not publicly available), the Bank is not prevented from redacting restricted information on a case-by-case basis if it chooses to do so.

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## **2. The Bank's Prerogative to Restrict Access -- who would be the "director" concerned with the authority to restrict public access?**

(July 14, 2010)

The AI Policy provides that the "director" concerned is authorized to exercise the Bank's prerogative to restrict access to information (other than Board records and papers) that is normally disclosed under the AI Policy. When information concerns a country, the director concerned is the relevant country director, who may consult with others (e.g., sector director) as needed. In other cases, the relevant director may be the sector director, network director, etc., depending on the nature of the information. Individual units may take the decision to have more stringent approval mechanisms (e.g., approval by the VP concerned to restrict access to information normally disclosed) but such would not impact the authorization framework set out in the AI Policy.

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## **1. Procurement Information resulting from Bank Executed Trust Funds is covered by the "Corporate Administrative Matter" exception under the AI Policy**

(July 14, 2010)

Procurement information resulting from Bank-executed Trust Fund (BETF), which are funds that support the Bank's work program, is covered by the Corporate Administrative Matter exception of the AI Policy and, therefore, restricted from disclosure.

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