

Attachment C: Guidance for Communicating the Bank’s Access to Information Policy to Clients and Partners¹

I. General Guidance:

Explaining the AI Policy

Beginning July 1, 2010, the World Bank significantly expanded the scope of the information it makes publicly available, recognizing that transparency and accountability are fundamental to the quality of the development process. Moving from a list of publicly available information under the previous disclosure regime, the new Access to Information Policy allows the Bank to disclose any information in its possession that is not on a list of exceptions, including information created or received by the Bank before July 1, 2010. In particular, the new AI Policy provides for much greater access to information about projects under implementation to enable the public to track a project through the course of the project lifecycle. It also provides more information about the proceedings of the Board of Executive Directors.

Information Given in Confidence by Clients and Partners

One of the ten exceptions which classify information in the World Bank’s possession as restricted is “information provided by a member country or third party in confidence”. If information provided by a client, partner or third party in confidence is then contained in or referred to in a Bank document, the Bank must seek the party’s written agreement before the information is made public. Bank staff should ask the party concerned if the information being given to them is not for public disclosure; and if so, the party providing the information should properly mark the information as being provided in confidence. Staff should classify the information received using the Bank’s classification levels (i.e. Official Use Only, Confidential or Strictly Confidential). If the party giving the information has not indicated how the information should be treated, and staff do not have reason to believe the information was provided in confidence, they should treat the information as “deliberative” and therefore classify the information as restricted (i.e. “Official Use Only,” “Confidential,” or “Strictly Confidential” depending on the assessment of harm).

II. Clients

Investment Operations and Development Policy Operations

Before making the Project Appraisal Document (PAD) or Program Document (PD) publicly available, the Bank takes into account any comments made by the client concerned. Therefore, the invitation to negotiate should state that the borrower’s delegation should be authorized to indicate, during negotiations, (a) any text or data in the PAD or PD that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the borrower, and (b) whether the borrower agrees to make the document public before Board presentation (simultaneous disclosure discussed below). The delegation would be asked to clear changes to the wording of PAD or PD that may resolve any problems related to its release. The delegation will *not* be asked to approve the document’s disclosure after Board consideration.

Normally the Bank makes PADs and PDs publicly available after the project or program has been considered and approved. However, the Access to Information Policy provides that the Bank may publicly release a PAD or PD *before consideration by the Bank’s Board*, if the client *agrees in writing*. Therefore, the delegation to negotiations should also be authorized to determine whether such documents will be simultaneously disclosed. If the client agrees, it should be reflected in the Minutes of Negotiations.

¹ The Bank’s Policy on Access to Information governs disclosure of Bank information. The purpose of this Attachment is only to provide guidance to staff, outlining generally expected work flow processes in preparing and making information routinely available on the Bank’s external website. The Attachment is a living document and is subject to periodic change.

Suggested text for Invitation to Negotiate:

The World Bank's Board of Executive Directors has adopted the World Bank Policy on Access to Information, with effect on July 1, 2010. Pursuant to this Policy, after the Board approves a project or program for Bank financing, the Bank makes public the [Project Appraisal Document (PAD)/Program Document (PD)], the related legal agreements and other information related to the legal agreements, including any supplemental letters. The World Bank may also publicly release the [PAD/PD] upon distribution to the Bank's Board, if the borrower agrees. Before releasing the [PAD/PD], the Bank takes into account any comments made by the borrower concerned.

Therefore, your delegation for the forthcoming negotiations should be authorized to indicate any text or data in the [PAD/PD] that may be confidential or sensitive, or that may adversely affect the relations between the Bank and the government [and the borrower] and to clear changes to the wording of the [PAD/PD] that may resolve any problems related to its release.

[Your delegation should also be authorized to indicate whether the borrower agrees to disclose the [PAD/PD] upon distribution to the Bank's Board of Executive Directors. If the borrower so agrees, such agreement will be reflected in the Minutes of Negotiations. {ADD only if approval is by the Board}]

Suggested text for Minutes of Negotiation (last sentence to be added if client agrees to simultaneous disclosure)

Pursuant to the World Bank Policy on Access to Information, the Bank will disclose the [Project Appraisal Document] [Program Document], the related legal agreements and other information related to the legal agreements, including any supplemental letters. [The borrower's delegation confirms that the Bank may publicly release this [PAD/PD] before consideration of the operation by the Bank's Board of Executive Directors.]

Country Assistance Strategies

It is the Bank's policy to make the Country Assistance Strategies (including Country Partnership Strategies and Interim Strategy Notes) available to the public. Before releasing the CAS, the Bank takes into account any comments made by the client concerned. CASs are normally made public after consideration by the Bank's Board. However, the Access to Information Policy provides that the Bank may publicly release a CAS **before consideration by the Bank's Board**, if the client **agrees in writing**.

Suggested text for client agreement to simultaneous disclose a CAS:

Pursuant to the World Bank Policy on Access to Information, the Bank will disclose the [Country Assistance Strategy/Country Partnership Strategy/Interim Strategy Note] for [name of country]. The client confirms that the Bank may publicly release this [Country Assistance Strategy/Country Partnership Strategy/Interim Strategy Note] before its consideration by the Bank's Board of Executive Directors.

Simultaneous Disclosure:

When a client has agreed to release a PAD, PD or CAS **before consideration by the Bank's Board**, the front cover of the document will bear the following language:

"This document is being made publicly available prior to Board consideration. This does not imply a presumed outcome. This document may be updated following Board consideration and the updated document will be made publicly available in accordance with the Bank's Policy on Access to Information."

After consideration by the Board, SECPO will apply a stamp on the above text, indicating that it is the "Final Version" of the document.

Implementation Status and Results (ISR) Reports

Beginning July 1, 2010, the Bank will make publicly available a portion of the Implementation Status and Results (ISR) Report. In addition to data on the operation (e.g. commitment and disbursement amounts), the disclosable portion of the ISR will include general information on overall ratings and results and sections providing an overview of implementation status and key decisions regarding implementation from the aide-mémoire.

The disclosable version of the ISR will be generated automatically by the system. Upon approval of the ISR, notification will be sent to the CD and Sector Manager (or those designated to review) alerting them that within 10 days, the disclosable version of the ISR will be sent automatically disclosed and be posted on the Bank's external website, unless action is taken by either the CD or the SM. During those 10 days, if either the SM or CD (or their designated staff) decides that the ISR is not ready for disclosure, they can revoke the ISR. The CD or SM will have 10 days again to take action after the second approval. In cases when the SM fails to approve an ISR, the system normally archives the ISR after 20 days. In such cases, notification will be sent out when the 20 days elapse, giving the SM/CD (or their designated staff) 10 days to review and, if needed, revise the ISR.

Aide-Mémoire

Aide-mémoire are considered as deliberative information and as such are restricted. However, an aide-mémoire *may* be disclosed if both the Bank and client agree. The TTL should seek guidance from the Country Management Unit and/or the Region on the decision to disclose. If the Bank agrees, the task team would also need to obtain written confirmation from the client and any other signatories to the aide-mémoire. If the client also agrees, such agreement should be reflected in the body of the aide-mémoire. The ISR will include a section on the decisions from aide-memoire that will be disclosed (see above).

Suggested text for aide-mémoire:

The Bank and [the borrower/client/partner] confirm their understanding and agreement to publicly disclose this aide-mémoire.

Economic & Sector Work/Non-lending Technical Assistance

It is the World Bank's policy to make final economic and sector and non-lending technical assistance reports available to the public. Therefore, during the final review of the report, you should request the client to identify any text or data in the report that is confidential, or sensitive, or that may adversely affect relations between the Bank and the client. The Bank will take these comments into account in finalizing the report.

Note that for **fee-based services**, the Bank will not disclose the information, including the legal agreements, unless it has the written permission of the client to do so.

Environmental Assessment (EA) reports

EA Reports for Category A and B Projects are required to be disclosed by the client as part of doing business with the Bank.

Suggested text for Category A and B Projects:

This is to advise you that [name of project] has been classified as [EA category of project] for purposes of environmental assessment. In addition to other requirements specified in the Bank's OP/BP 4.01, Environmental Assessment, (a) the borrower is responsible for preparing a separate, freestanding EA report, even if it is a short report; (b) the borrower must make the draft EA report available in [name of country] at a public place accessible to project-affected groups and local NGOs, in a form and language understandable to the affected groups; (c) the borrower must officially submit the EA report to the Bank before the Bank begins project appraisal; and (d) once the EA report has been locally disclosed and officially received by the Bank, but before the Bank begins formal project appraisal, the Bank will also make the EA report available to the public.

Resettlement and Indigenous Peoples' Plans

Resettlement and Indigenous Peoples' Plans are required to be disclosed by the client as part of doing business with the Bank.

Suggested text:

This is to advise you that [name of project] requires the preparation of a [name of safeguards report]. In addition to other requirements specified in the Bank's [OP/BP number], (a) the borrower is responsible for preparing a separate, freestanding report, even if it is a short report; (b) the borrower must make a draft [name of safeguards report] that conforms to the relevant policies, as well as the final [name of safeguards report], available in the borrowing country at a place accessible to, and in a form, manner, and language understandable to, the affected people and local NGOs; (c) the borrower must transmit the draft [name of safeguards report] to the Bank before the Bank begins formal project appraisal; and (d) once the draft [name of safeguards report] has been locally disclosed and received by the Bank, the Bank will also make it available to the public before it begins formal project appraisal.

III. Partners

Jointly Produced Documents

Consistent with the AI Policy, the Bank makes publicly available final documents that it prepares jointly with partners. When the Bank initiates work jointly produced with a development partner, staff should explain that the guiding principle of the Bank's Access to Information Policy is that any information it creates will be made public, unless it contains information on the exception list. Staff should get the agreement of the partner in advance to disclose the joint product when it is finalized (i.e. when it is no longer deliberative).

IFC/MIGA

For activities prepared jointly with IFC or MIGA, the resulting information may be made publicly available if it is consistent with their disclosure policies (which are also approved by the Bank's Board). Staff should be aware that IFC and MIGA documents may contain information given to them by third parties and which is particularly sensitive or confidential in nature (e.g. client or commercial sensitive proprietary information, pricing information which may be harmful to markets if released, etc.). Staff should also be aware that such information may be subject to non-disclosure agreements with IFC's or MIGA's clients. Bank staff are advised to discuss potential areas of sensitive information with their IFC or MIGA counterparts at the outset of the joint activity. Bank staff should coordinate with IFC and MIGA colleagues to ensure that such sensitive or confidential information is classified appropriately and protected.

IMF

Bank staff prepare joint documents with the IMF (e.g. Joint Staff Assessment Notes for PRSPs, HIPC documents, Debt Sustainability Analyses). In these cases, the TTL works closely with their IMF counterpart on preparing the document and on ensuring that the Board processes and release of information are coordinated. Staff should also work closely with the Corporate Secretariat on scheduling the Bank Board date to reflect any special sequencing needs regarding the timing of the IMF Board. Staff should use the “Comments” field in the eSubmission form to indicate timing of such documents to the IMF Board.

IMF staff also share information with Bank staff. Such information should be treated as other information received by the Bank from third parties. If the information has been given in confidence, staff should ask IMF colleagues about the degree of sensitivity and with whom it may be shared. On this basis, staff should determine the classification level as "Official Use Only", "Confidential" or "Strictly Confidential".

Note also that for certain activities aide-mémoire may be jointly produced with the IMF and clients (e.g. for financial sector assessment missions). In such cases, IMF’s written agreement to disclose will also be required, along with the Bank and client.

Partnerships

The Bank engages in many partnerships, including some housed by the Bank. The Bank acknowledges that decisions to disclose partnership documents, whether signed, adopted or simply created, are within the purview of the partnership. When the Bank houses a partnership, it is incumbent on the Bank to seek the partners’ agreement to support the Bank’s Access to Information Policy. When the Bank participates in a partnership, Bank staff also have a responsibility to seek disclosure of partnership documents consistent with the Bank’s AI Policy.

While the extent of disclosure by individual partnerships may vary, there is an expectation that at least the principal partnership documents will be publicly available (including, as appropriate, documents establishing partnership, minutes of the main decision making bodies, operating manuals). The partnership should articulate clearly and transparently which documents are to be publicly available.

Suggested text for relevant documents to be adopted or signed by a partnership: *"This document shall /will be made publicly available."*