

## World Bank Transparency

# The World Bank's New Access to Information Policy

## Contents

Introduction	
Importance of Bank information	3
Policy principles and structure	4
Expanded routine disclosure	5
Access to draft information	7
Simultaneous disclosure	7
Access to Board information	8
Exceptions	9
Public interest override	12
Requests	12
Appeals	12
Classification	14
Declassification	14
Proactive dissemination	15
Translation	16
Implementation	16
What's missing?	17
Conclusion	17

## Conceptual leap with limits

by Bruce Jenkins

In December 2009 the World Bank released a revised policy on access to information. Civil society organizations have long sought expanded access to information in order to strengthen stakeholder engagement in development decision-making. In many respects, the Bank's new policy responds to these calls. By shifting the structure of its policy and opening up new categories of routinely disclosed information, the Bank significantly broadens its transparency horizon.

The new policy recognizes the centrality of transparency and accountability to the development process and includes principled commitments to strengthen public ownership and oversight of Bank-financed operations. Adoption of a presumption of disclosure, expanded routine release of information, and an independent appeals body buttress these objectives.

At the same time, a number of provisions compromise these objectives. The policy overextends protection of deliberative processes to the detriment of stakeholder engagement. The appeals and override mechanisms are constrained. Overly broad exceptions restrict critical categories of information. Importantly, as the Bank revamps its business model in the face of a more competitive development finance market, a range of transparency concerns arise.

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## AMPLIFYING LOCAL VOICES TO DEMOCRATIZE DEVELOPMENT

## Gains and Gaps in the new World Bank Access to Information Policy

Gains	Gaps/Limitations
Adopted a true presumption of disclosure and principle of maximum access, subject to a limited set of exceptions	Some exceptions not narrowly drawn, especially related to deliberative process, third-party information, and Executive Directors' communications
Expanded routine disclosure, importantly during project/program implementation	List of routine disclosures missing some current and new routine disclosures. Timeliness of many new disclosures unclear.
Created request system with process guarantees	Lack of clarity on form, languages, procedures, and fees for requests
Adopted two-stage appeals for denied requests, with precedent-setting independent process	Limited scope of independent appeals function, created hurdles to access appeals process
Established public interest override for disclosure of exempted information	Limited application of override to information restricted by only 3 of the 10 exceptions, applies override to withhold normally public information
Increased access to Board proceedings and papers, including to Board committees	Rejected open meetings and timely access to transcripts and Executive Director statements
Increased access to analytical work	Timeliness of access to analytical work unclear
Simultaneous disclosure of some policies, strategies, and country operational documents when sent to Board for consideration	All draft information considered deliberative and withheld, countries can veto simultaneous disclosure, no commitment to disclose draft Country Assistance Strategies
Instituted a time-bound declassification process	Lack of definitions and criteria for classification, adopted unreasonable declassification delays for Board information
Affirmed commitment to strengthen proactive dissemination	No commitment to require revenue or contract transparency in extractive industry operations
Adopted plan to increase translations	No mention of harmonizing aid reporting standards
Strong implementation plan	

## IMPORTANCE OF BANK INFORMATION

Public access to timely, relevant information is critical for development effectiveness. First, it respects democratic rights and norms that call for access to information held by public bodies.<sup>1</sup> Secondly, it strengthens development outcomes by enabling the informed participation of intended beneficiaries and the incorporation of local knowledge in both project design and implementation. Stakeholder participation in development decision-making strengthens local ownership, which in turn improves operation and maintenance – hence, sustainability – of interventions.<sup>2</sup> Moreover, timely, relevant, and accessible information allows stakeholders to assert their rights and interests, particularly for those who may be disproportionately affected by lending operations. Thirdly, it improves accountability by enabling third-party monitoring of development programs and budgets, helping to ensure that intended benefits are not captured by elites or corruptly siphoned off.

For civil society organizations in borrowing countries, access to timely information held by the World Bank may also serve to democratize economic policy-making. Through its lending, advisory services, and aid coordination roles, the Bank exercises significant influence, particularly among aid-dependent countries. The Bank – and IMF – have often enjoyed closed relationships with select senior officials, relationships that are often “cemented by each side’s privileged access to information” which may tip the domestic political balance in favor of those policymakers with full information about the positions of the Bank and Fund.<sup>3</sup> Expanding access to Bank information diminishes this special status and may deepen domestic political debate.

Furthermore, as the premier development finance institution with 186 member countries, the World Bank is intimately engaged in international policy matters. However, citizens have few, if any, means by which to monitor the positions of their representatives at the Bank. Timely access to Board information would help balance the “democratic deficit” of this global institution.<sup>4</sup>

Over the past two decades, with significant prodding from civil society organizations, the Bank has expanded

disclosure of information at numerous levels: from projects to country strategies, from institutional policies to – haltingly – the Bank’s Board of Executive Directors.<sup>5</sup>

Nevertheless, the Bank’s disclosure framework has continued to fall short of international standards on the right to access information from public bodies, as well as the access to information regimes of some of its largest borrowers, including India and Mexico.<sup>6</sup> Implementation has lagged, evidenced by the high number of Inspection Panel claims that cite information access problems.<sup>7</sup> Increasingly, civil society organizations have called on international financial institutions (IFIs) to embrace standards and procedures that would respect the right of access. To this end, the Global Transparency Initiative (GTI) developed a *Transparency Charter for International Financial Institutions* and a *Model World Bank Policy on Disclosure of Information*.<sup>8</sup> The Carter Center’s Atlanta Declaration for the Advancement of the Right to Access Information concludes that “[t]he right to access information applies to all intergovernmental organizations, including the United Nations, international financial institutions, regional development banks, and bilateral and multilateral bodies. These public institutions should lead by example, and support others efforts to build a culture of transparency.”<sup>9</sup>

## THE BANK’S NEW POLICY

On November 17, 2009, the Bank’s Board of Executive Directors approved a new “access to information” policy, signifying both a symbolic and substantive shift from its previous “disclosure” policy.<sup>10</sup> The new policy represents a conceptual leap for a leading international institution that could signal – and catalyze – changes in the Bank’s organizational culture toward greater openness. The policy’s principles and structure move the Bank closer to recognizing a right to information from public bodies, however, without acknowledging an obligation to do so. At the same time, the policy contains a number of significant limitations.

While the Bank’s Board approved the core elements of the new policy, formal policy language and operational details are still being crafted. The new policy becomes effective July 1, 2010. In order to implement the new

policy, the Bank needs to retool its internal information management systems and procedures, its public websites, and critically its public dissemination and outreach strategies. It has put together an implementation plan and working groups to meet the July deadline.

## PRINCIPLES AND STRUCTURE

The policy's preamble opens with exemplary statements on the fundamental importance of transparency to the Bank's poverty alleviation mission, as well as to its commitment to foster ownership, build dialogue, and strengthen public oversight of development initiatives.

The policy rests on five key principles: maximizing access, clear exceptions, safeguarding the deliberative process, clear disclosure procedures, and the right to appeal (see sidebar). While not comprehensive, these principles are commonly found in national freedom of information systems, and correspond to some principles articulated in GTI's *Transparency Charter*.<sup>11</sup>

Previously, the Bank maintained a limited "positive list," disclosing only a predefined set of documents. The new approach is centered on a presumption of disclosure for all Bank-held information, subject only to a limited set of exceptions. In addition to expanded routine disclosure of operational information, particularly during project implementation, the new policy establishes a system for making requests backed by processing timelines and a two-stage appeals process.

A limited public interest override is provided for disclosing a narrow range of normally restricted information. The policy also expands access to the Bank's analytical and advisory work, broadens access to Board proceedings and papers, provides for the potential release of some final draft documents, and introduces a time-bound declassification process.

Many of these features reflect stakeholder input provided during the Bank's consultation process, conducted in 33 countries over a 3-month period.<sup>12</sup>

The new policy however also bears significant limitations, including: an excessively broad deliberative process exception, third-party vetoes, restrictions on the override and independent appeals processes, closed Board meetings and withholding of transcripts and Board member statements for 10 years.

The policy calls for expanded proactive outreach and dissemination, but does not address barriers faced by marginalized communities or gender differences in accessing information and participation.

Importantly, the effect of the policy on improving the transparency of the Bank's burgeoning non-project lending is unclear. These issues are addressed in greater detail below.

## 5 Principles

**1. Maximizing Access:** Disclose any information in the Bank's possession that is not covered by a list of exceptions. Most restricted information to be declassified over time.

**2. Clear Exceptions:** Deny access to information whose disclosure may harm "well-defined interests" that are identified in a set of exceptions.

**3. Safeguarding Deliberative Process:** While being "fully open" about decisions, results, and agreements, deliberations that lead to these outcomes are considered confidential.

**4. Clear Disclosure Procedures:** Routinely post as much information "as practical" to the Bank's external website. Clearly defined procedures for requesting information and processing requests, including timelines.

**5. Right to Appeal:** Provide a two-stage appeals process for denied requests – an internal mechanism and a second, external body.

## KEY FEATURES OF THE NEW POLICY

### EXPANDED ROUTINE DISCLOSURE

The Bank will expand the categories routinely disclosed information. Annex B of the policy lists routine disclosures; however it does not include some currently available documents (such as *draft* resettlement plans) or many new disclosures (i.e., Board documents). Timeliness remains a key issue: significant delays could undermine stakeholder engagement, particularly if disclosure misses the decision-making window. The final formal policy statement and forthcoming staff handbook should ensure that routine disclosures occur “as soon as possible.”

#### Identification/Preparation Phase

Outcomes of the Bank’s first ‘green light’ meeting for projects – Project Concept Review Meetings – are now to be recorded in Project Information Documents (PID). While this expands information about early project decisions, it will not necessarily lead to earlier disclosure given that PIDs are already disclosed. It is unclear why the Project Concept Note along with review meeting minutes would not be disclosed, particularly given that they occasionally appear on the Bank’s website (see sidebar).

#### Implementation Phase

For the first time, the Bank will systematically release information on projects under implementation, a significant but long-overdue measure that will assist stakeholder monitoring. Disclosure of implementation information may also help to address a perennial problem that undermines development outcomes: the “lack of candor” in reporting risks as projects/programs are underway. The Bank’s Quality Assurance Group even applies a “realism index” to measure the extent to which task teams accurately identify risks during supervision. In 2008, IDA projects were given a “realism” rating of only 40% (i.e., in only 40% of the sample did supervisors fully report risks, with underreporting in critical areas such as safeguards, financial management, monitoring & evaluation, and project management).<sup>13</sup>

*Implementation Status and Results Report (ISR)*: The Bank will disclose part of its primary implementation reporting tool, the ISR. Rather than releasing the entire report, however, staff comments and detailed risk ratings will be withheld, while the section containing “objective information” about implementation status and overall ratings will be released. Withholding the entire comments section is excessive as it will block access to important contextual information (see examples in sidebar).

*Aide Memoires*: The policy states that “decisions at the end of supervision missions and project midterm reviews” and potentially “full mission Aide

### Example of Project Concept Note

[Iraq Multi-Sector Capacity Building \(2004\)](#)

[India Coal Generation Rehab. \(2006\)](#)

[India Coal Gen. Rehab. Minutes \(2006\)](#)

### Examples of ISRs

[Columbia Business/Financial DPL \(2006\)](#)

[Columbia Sustainable Development DPL \(2007\)](#)

## Examples of Aide Memoires

[Laos Nam Theun 2 project \(2001-2004\)](#)

[Southern Sudan Education Sector \(2003\)](#)

[Kazakhstan Public Sector Wages \(2005\)](#)

[Mozambique Portfolio Review \(2009\)](#)

## Examples of CPPRs

[Iraq \(2007\)](#)

[Tajikistan CPPR Action Plan \(2008\)](#)

[Mozambique 2009 CPPR presentation](#)

Memoires” would be disclosed, the latter, however, only if both the Bank and borrower so agree. Access to aide memoires (post-mission summaries of findings and recommendations) would provide stakeholders critical information regarding project/program implementation, as seen in the few which have been posted to the Bank’s website (see sidebar). For the high profile Nam Theun 2 hydroelectric dam project in Laos, the Bank posted project preparation aide memoires as well as special implementation updates to the Bank’s Board. This should be standard practice.

The provision that aide memoires are to be released only if both Bank and borrower agree is unwarranted and is an example of the Bank providing a third-party veto over Bank-generated information (see exceptions section).

*Audited annual financial statements:* The Bank has long required borrowers to submit audited financial statements for financing operations, but withheld them. Under the new policy, they will be disclosed. With the proliferation of citizen budget and social accountability initiatives, access to these statements may strengthen third-party monitoring of expenditures and service delivery. In the final version of the policy, however, the Bank added some wiggle room, stating that if audited statements contain “proprietary or commercially sensitive” information, borrowers may submit an abridged version. This appears to be aimed at public-private partnerships. Commercial secrets of course require protection. However, unless carefully monitored, this provision could become a loophole by which important financial information is withheld.

*Country Portfolio Performance Reviews (CPPR):* Under the new policy, the Bank will routinely disclose Country Portfolio Performance Reviews, a management report that assesses performance of Bank-financed operations in a country. At times it includes an action plan for strengthening poorly performing operations (see sidebar).

### **Analytical and Advisory Activities (AAA)**

AAA services are the main “knowledge” transmission belt for the Bank – a core Bank activity as it positions itself as a global “Knowledge Bank.”<sup>14</sup> AAA comprises six different Bank product lines: Economic and Sector Work (ESW), Technical Assistance (TA), Donor and Aid Coordination, Research Services, Impact Evaluation, and the World Development Report.

ESW and TA are the primary country-focused service lines.<sup>15</sup> While ESW encompasses a broad range of Bank-conducted analyses that seek to influence a client’s policies, Technical Assistance comprises stand-alone (not tied to lending) Bank activities primarily aimed at client implementation of reforms (click [here](#) for a typology of ESW and TA).<sup>16</sup>

Under the 2002 disclosure policy, all core diagnostic reports circulated to Executive Directors for information are available to the public. In addition, ESW reports other than those distributed to Executive Directors may be disclosed at the discretion of the relevant Country Director after consultation with the country concerned.<sup>17</sup> (Note: there are 7 core diagnostic and over 40 “other” ESW report types.)<sup>18</sup> The discretionary nature of disclosing much of the Bank’s analytical work has contributed to uneven dissemination across countries and complaints from civil society organizations regarding lack of access, including the unavailability of reports in main country languages.<sup>19</sup>

The new policy makes a vague commitment to disclose “most remaining AAA reports,” as well as Debt Sustainability Analyses (para. 14). As noted above, a critical issue will be whether reports are available in time for stakeholders to review the groundwork for decisions, or only after decisions are final.

Regarding documents prepared by the Bank for a fee (“fee-based services,” a product line the Bank seeks to expand for middle-income countries), these would be disclosed only after the client country concerned has provided written consent (Annex D).

## ACCESS TO DRAFT INFORMATION

Access to information in draft form, before decisions are final, is essential for informed stakeholder engagement. The policy, however, rejected this principle and declared all draft documents to be deliberative in nature and thus restricted. Not only does such an overly broad deliberative process exception stand in stark contrast to the more narrow formulations of numerous access to information laws, it also contradicts other Bank policies that call for the release of draft documents in order to garner public input, such as the Involuntary Resettlement Policy and the Indigenous Peoples Policy.<sup>20</sup>

Additionally, a limited number of documents will now be released shortly before final Board consideration. “Concept notes” (in essence, draft policies) will continue to be released for consultations on policy revisions.

## Simultaneous Disclosure

Civil society groups have long bristled that – after participating in Bank consultative processes – they rarely know how their feedback was considered until after decisions are finalized because final drafts are not disclosed. Under the new policy, the Bank will simultaneously disclose to the public certain documents upon distribution to the Board (generally at least two weeks before Board consideration). Documents subject to this provision include:

- Operational Policies and Sector Strategies prepared after public consultations **if** the Board had previously reviewed a draft version
- Country Assistance Strategies, **if** the concerned member country consents
- Project Appraisal Documents and Program Documents, again **if** the member country consents.

Release of final draft policy and operational documents is a significant step toward broadening decision-making at the Bank (noting however that disclosure of draft sector strategies was already required).<sup>21</sup> Access to draft Program Documents – which contain the Bank’s assessment, conditions, and triggers for development policy lending (DPLs), previously known as structural adjustment programs – would provide the first detailed look at these complex operations. The Program Information Document (PID) which is released earlier contains only broad outlines. However, two weeks is hardly enough time for civil society groups to digest the DPL information and then provide input to Executive Directors before they approve it. The provision by which clients may veto simultaneous disclosure would maintain closed, privileged access to key details before deals are final. Civil society groups will need to monitor which Bank members block simultaneous disclosure.

*No Draft CASs:* Curiously, the Bank rejected calls for routine disclosure of draft Country Assistance Strategies, the Bank’s 3-5 year business plan for client countries. Not only does this lack of early access undermine informed stakeholder participation in CAS consultations, but it also falls far short of standards at the Bank’s sister institutions. The Asian Development Bank,<sup>22</sup> African



Development Bank,<sup>23</sup> and European Bank for Reconstruction and Development<sup>24</sup> all require disclosure of draft country strategies.

## ACCESS TO BOARD INFORMATION

The Bank's Board rejected calls to open its proceedings to the public, even though allowing observers to attend meetings of public executive bodies is an increasingly established practice (see sidebar), including at the Bank itself. For example, civil society observers now attend executive body meetings of the Bank's multi-billion dollar Clean Technology Fund, Strategic Climate Fund, Forest Investment Program, Forest Carbon Partnership Facility and Pilot Program on Climate Resilience. It has also been longstanding practice at the Global Environment Facility.

### Public Meetings

While the Bank's Board rejected calls to open its proceedings to the public, other major intergovernmental and national decision-making bodies already provide for open meetings.

For example, the rules of procedure for the UN Security Council state: "Unless it decides otherwise, the Security Council shall meet in public" (Rule 48).<sup>25</sup> Many other UN bodies provide webcasts of certain meetings and deliberations, including the UN General Assembly, International Labor Organization, UNESCO and the UN Human Rights Council.

At the U.S. Federal Reserve, the "public is welcome to attend all meetings except those that the Board [of Governors] determines should be closed under legal exemptions" of U.S. law.<sup>26</sup> Furthermore, a large number of national parliaments televise deliberations and meetings.

Instead, a number of incremental measures were adopted that nevertheless increase access to Board information. These include:

*Summaries of Discussion.* The Bank began to release skeletal Board minutes in 2005, but it withheld *unattributed* narrative summaries. These will now be disclosed. Hopefully the Bank will not sanitize these already well-edited documents.<sup>27</sup> (Click [here](#) for examples of summaries.)

*Board Committee documents.* To date Board Committees released little information.<sup>28</sup> Going forward, minutes, annual reports, and "Green Sheets" (reports not requiring full Board discussion) will be disclosed.<sup>29</sup>

*Transcripts.* For the first time, transcripts of Board and Board Committee meetings will be disclosed, however, only after 10 years. Such a long withholding period is unjustified given that deliberative process concerns fall away shortly after decisions are reached. Furthermore, it places the Bank behind the IMF, which has just reduced the withholding period of its Board "minutes" from 10 to 5 years.<sup>30</sup> While not verbatim transcripts, IMF Board minutes are attributed, contain individual Executive Directors' statements, and record Directors' positions. A single meeting's minutes can run 100 pages; Bank Board minutes are often one page.

*Statements of Executive Directors.* Member country Board representatives often present formal statements. Civil society groups have long sought access to these statements so citizens may ascertain the positions of their representatives at this influential institution. As with transcripts, statements will finally be disclosed, but only after 10 years.

*Board Papers.* Numerous papers go before the Board, some of which are disclosed afterwards. The new policy expands access to Board papers, either upon distribution to the Board (informational documents and those subject to simultaneous disclosure) or at the conclusion of deliberations (decision documents). However, papers deemed confidential or strictly confidential will be withheld.



## EXCEPTIONS

The heart of the Bank's new policy resides in the exceptions to the presumption of disclosure. Exceptions should be drawn narrowly so as to protect legitimate, well-defined interests from potential harm. While the Bank acknowledges this principle (para. 17), several of the 10 listed exceptions are so broadly drafted that they may lead to the withholding of large volumes of uncontroversial information (see sidebar).

### Exceptions

1. Personal Information
2. Communications of Executive Directors' Offices (including with own country authorities)
3. Ethics Committee Proceedings
4. Attorney-Client Privilege (with restriction on all communications of legal staff)
5. Security and Safety Information
6. Information restricted under rules of other Bank entities (Independent Evaluation Group, Inspection Panel, Integrity Vice Presidency, and the Bank's sanctions process)
7. "Confidential" Member Country and Third-Party Information
8. Corporate Administrative Matters (corporate expenses, real estate, procurement, other activities)
9. Deliberative Information
10. Financial Information (estimates of future IBRD borrowing, individual IDA donor information, financial forecasts)

### Deliberative Process exception

The policy elevates "safeguarding the deliberative process" to the level of a principle and restricts the release of "information about deliberations between the Bank and its clients or third parties, as well as information pertaining to the Bank's own internal deliberative process," unless subject to future declassification (para. 17(i)). Further detail on the scope of this exception is provided in Annex C (para. 9):

- Information prepared for, or exchanged during the course of the Bank's deliberations with member countries or other entities, including financial sector stress tests, aide memories following Financial Sector Assessment Programs, the report following assessments of government debt management capacity, and other requested technical advisory reports from the World Bank Treasury.
- Information prepared for, or exchanged during the course of its own internal deliberations, including records pertaining to Board deliberations.<sup>31</sup>
- Statistics prepared, or analyses carried out, solely to inform the Bank's internal decision-making process (such as analyses of country creditworthiness, credit ratings, risk, and Country Policy and Institutional Assessment (CPIA) ratings for IBRD borrowers).
- Audit reports prepared by the Internal Audit Department, except Annual and Quarterly Reports.

The Bank asserts that two main interests are to be protected by this exception: the Bank's relationship of trust with member states and free and candid exchange of ideas and debate among Bank staff and with member countries and other partners (ft. nt. 32).

However, the protection of these interests does not require an exception that basically restricts all information that is not a decision. Clearly not all

information exchanged during deliberations would cause harm if disclosed.

National access to information systems treat the deliberative process as a normal exception and specify the specific interests to be protected without such a blanket restriction. Examples of narrowly drawn deliberative process exceptions were submitted to the Bank for consideration, unfortunately with little impact.<sup>32</sup>

Given that the Bank is continuously deliberating with member states (and itself), the breadth of this exception creates a fluid and murky situation: are deliberations ongoing? When do they stop? How does the external stakeholder know? Do all deliberations lead to disclosable decisions?

#### Country/Third-party Veto

The policy allows member countries and third parties to veto the disclosure of information provided to the Bank, as well as some Bank-generated information. Exception 7 (Annex C) states that “the Bank would not disclose information provided to the Bank in confidence by a member country or a third party, without the express permission of the member country or the third party concerned.” The member country or third party would self-classify information as confidential, and the policy contains no balancing language regarding the appropriateness of confidentiality claims.

Member countries and third parties may block access to:

- any information provided on a confidential basis
- simultaneous disclosure of CASs, PADs, and PDs
- full Bank mission aide memoires
- “other documents” prepared by member countries, for example pertaining to country macroeconomic context, governance issues, sector or institution-specific analyses (Annex D)
- Documents prepared by the Bank for a fee and related legal documents (Annex D)
- “Other country specific-information” (including information provided by third parties) that is classified as official use, confidential, or strictly confidential, or equivalent. (Annex D)

The exception provides extensive latitude to third parties to cordon off information in the Bank’s possession that may pose no risk of harm if disclosed. What some governments might consider confidential rightly deserves to be in the hands of citizens and stakeholders from the country concerned. This provision also may place the Bank in the quandary of withholding information that would be available domestically according to that country’s legal framework. It is estimated that over 80 countries now have some form of access to information legislation.

#### Executive Director Communications

The new policy asserts a controversial claim that all communications between member government representatives at the Bank – that is, Executive Director offices – and their respective national capitals are deliberative in nature and should never be disclosed.

This provision could be read as a claim to override member country access to information laws: the Bank states that Executive Directors’ communications are confidential, that members have an obligation to respect Bank classifications, thus members cannot disclose what may be accessible under their own legislation.

Paragraphs 44 and 45 state:

“In particular, all communications within and between individual Executive Directors’ offices, between individual Executive Directors’ offices and the member country (or countries) that they represent, and between individual Executive Directors offices and third parties, will be restricted from disclosure by the Bank under the exception set out in Annex C, paragraph 2, and such communications will not be eligible for declassification by the Bank. It is also important to underscore that the Bank’s archival immunity applies to these records.”

“As members of the Bank, recipient governments have an obligation to respect [Bank claims of] confidentiality. This issue has become increasingly important in recent years as many member countries adopted freedom of information legislation. All communications between Executive Directors’ offices and capitals would be regarded as deliberative in nature and not subject to disclosure.”

## Access to Executive Director Communications

In 2006, Singapore hosted the Annual Meetings of the World Bank and IMF (held outside of Washington every 3 years). Singapore blacklisted and denied entry to a number of civil society representatives.<sup>33</sup> The Bank Information Center filed a freedom of information request for information regarding US government actions to uphold the freedom of expression of attendees to the Bank/Fund meetings. The request returned email exchanges between US Treasury, US State, and the US Executive Directors' office which indicated that the US had objected to Singapore's actions and had sought to lift the restrictions.<sup>34</sup>

It is a breathtaking claim. For example, this provision contradicts the US Freedom of Information Act, which covers communications between US Treasury and the US Executive Director's office (see sidebar).

The Bank's assertion of control over member country information under this exception is at odds to the wide deference it grants member countries in providing confidential information under exception 7. As Toby Mendel of the GTI pointed out: "the contrast between the ... policy's absolute respect for country ownership when the country wishes to assert confidentiality, and the almost complete negation of such ownership when the Bank wishes to assert confidentiality, is striking."<sup>35</sup>

Not only is this exception exceptionally broad (not all communications are sensitive, such as inquiring about or exchanging background information), but it is unnecessary: member country access to information systems already create high barriers for disclosing truly sensitive information.

That the Bank cites the global spread of freedom of information legislation as a problem for Bank claims of secrecy is discomfiting.

### Attorney-Client Privilege

This is a widely recognized exception to disclosure. However, the Bank's exception includes all "communications provided and/or received by the General Counsel, in-house Bank counsel, and other legal advisors.") Is the Bank exempting all communications of the Bank's legal department, or only those subject to attorney-client privilege?

### Corporate Administrative Matters

This exception claims secrecy of information related to the "Bank's corporate administrative matters including, but not limited to, corporate expenses, procurement, real estate, and other activities." Not only does it contain vague catch-all phrases ("not limited to," "other activities"), it also does not identify the harms to be avoided (such as unfair commercial advantage). Also, could this exception block legitimate queries into, for example, how much the publicly underwritten Bank spends on real estate?

### Financial Information

Clearly, the Bank handles and produces sensitive financial information that requires protection. The exception, however, contains curious clauses, such as withholding "information on contributions by individual donors to IDA" (secret IDA donations?), "financial forecasts" (which ones, as it releases many such forecasts?), background documents to produce financial reports, "information regarding amounts overdue from borrowers" (should a country's missed obligations be secret?).

### Information Restricted Under Separate Regimes

Appropriately, management’s policy does not extend to independent Bank entities such as the Inspection Panel, Independent Evaluation Group, and Integrity Vice Presidency, deferring instead to the authorizing resolutions of those entities. However, the policy establishes new transparency norms that are not reflected in those resolutions. The policy should be integrated into the work of all the Bank’s entities.

## PUBLIC INTEREST OVERRIDE

For the first time, the Bank has formally introduced an override by which management may decide to disclose restricted information “if it determines that the overall benefits of such disclosure outweigh the potential harm to” protected interests (para. 7(2)). However, the policy immediately limits the override’s scope:

- used only under “exceptional circumstances” (undefined)
- applies to information that falls under only three of the exceptions: corporate administrative information, “certain” (undefined) deliberative information, “certain” (undefined) restricted financial information (ft. nt .11).

Furthermore, the policy blocks the independent appeals body (see below) from considering overrides. Bank management reserves that authority.

In addition, the policy extends the override in the other direction, that is, to withholding (under “exceptional circumstances”) normally disclosed information if the Bank determines more harm than benefit would result from disclosure.

In effect, the Bank’s new override mechanism is hobbled from the start.

## REQUESTS

The policy creates a request system backed by guarantees to acknowledge, decide, and notify requesters according to specific timelines. A systematic request process is a new feature and will assist stakeholders to access far more information than in the past.

At the same time, the policy leaves many gaps that will need to be filled in before the request system goes into effect (see Annex F). These include the form and language of requests, locations for submission, types of assistance the Bank would provide to requesters, and a fee schedule (project information on a requester’s own country would be provided free of charge (ft. nt. 37)).

*Tracking of Requests.* Receipt of requests and Bank responses will be logged into a database. Disclosure and declassification decisions would be disclosed, as is the practice at the Asian Development Bank.<sup>36</sup>

### Disclosure Committee

The policy establishes a Disclosure Committee to (a) advise management on policy application, (b) decide on application of the public interest override, (c) receive and rule on first-stage appeals, (d) establish service fees, and (e) issue staff guidelines on policy implementation, including service standards. The committee will be comprised of 5 members from key Bank divisions: External Affairs, Operations Policy and Country Services, the Corporate Secretariat, the Archives Unit, and the Legal Vice Presidency. It will be supported by a Secretariat, which will be overseen by the legal department’s new Access to Information Unit once the policy goes into effect.

## APPEALS

The policy lays out a two-stage appeals procedure for requesters who feel that the Bank has unreasonably denied access to information. The inclusion of a second-stage independent appeals process represents a significant advance among IFIs. Unfortunately, the policy throws up hurdles to access the appeals process, restricts the grounds for appeal, and limits remedies.

*Administrative appeals.* The Bank’s Disclosure Committee will serve as the first appeals stage and will “have the authority to interpret the Disclosure Policy according to the principles set out in the policy, and to uphold or reverse prior decisions to deny access” (para. 28(a)).

## Request Process (as outlined in Annex F)

Requests – Future Stock (created after July 2010)	Requests – Existing Stock (all info. prior to July 2010)
Requests submitted (unclear to whom: all Bank staff, specific address?), forwarded to PIC/Infoshop	Requests submitted (unclear to whom: all Bank staff, specific address?), forwarded to Archives Unit
Acknowledged within 5 working days	Acknowledged within 5 working days
<p>Within 15 days, PIC/Infoshop:</p> <ul style="list-style-type: none"> <li>▪ makes available if not covered by exceptions</li> <li>▪ informs requester not available if covered by exceptions 1-7</li> <li>▪ if covered by exceptions 8-10, request forwarded to Bank Director concerned                             <ul style="list-style-type: none"> <li>▪ if Director feels disclosure unwarranted, requester informed in writing within 5 working days</li> <li>▪ if Director believes disclosure warranted under override provision, forwards to Disclosure Committee</li> <li>▪ Disclosure Committee decides within additional 15 working days</li> </ul> </li> </ul>	<p>Within 15 days, Archives Unit:</p> <ul style="list-style-type: none"> <li>▪ makes available if does not fall under exceptions and meets declassification timelines</li> <li>▪ if covered by exceptions 1-7, informs requester in writing not available</li> <li>▪ if falls under Corporate Administrative Matters (exception 8), forwards to Disclosure Committee</li> <li>▪ if falls under exceptions 9 and 10, and if not eligible for immediate declassification according to timelines, forwards request to Disclosure Committee</li> <li>▪ if Disclosure Committee determines disclosure warranted under override provision:                             <ul style="list-style-type: none"> <li>▪ if pertains to restricted Board information, recommends that Board authorize disclosure</li> <li>▪ for other types of restricted information, Disclosure Committee authorizes disclosure or seeks further advice (from General Counsel).</li> <li>▪ for disclosure of classified country-owned or third-party information Disclosure Committee ensures consent granted.</li> </ul> </li> </ul>

### Appeals and Inspection Panel

While the policy provides appeals mechanisms for denied information requests, requesters may also turn to the Bank's Inspection Panel if they believe that the Bank has violated the policy and that their interests were thereby harmed. Filing appeals does not preclude claims to the panel. See [www.inspectionpanel.org](http://www.inspectionpanel.org).

*Independent appeals.* If a requester disagrees with the decision of the Disclosure Committee, she may file a second appeal with a three-member body comprised of external experts that will be vested with the power to uphold or reverse some but not all decisions of the Disclosure Committee. Judgments of the independent panel would be final. External experts would be nominated by the Bank's President and approved by the Board.

However, the policy establishes significant hurdles for stakeholders to access the appeals process. Firstly, requesters must establish "a *prima facie* case that the Bank has violated the terms of the policy by improperly or unreasonably restricting access to information that it would normally disclose under the policy (para. 27)." This is an onerous requirement for many requesters: what is *prima facie*? What constitutes a violation? How does a requester determine improper or unreasonable action? Must the requester first know the intricacies of the policy? Experience with the World Bank's Inspection Panel and other independent accountability mechanisms shows that such criterion may exclude claims simply due to lack of familiarity or technical knowledge about Bank policies and functions.

Secondly, the policy limits the independent appeals function only to cases in which “the Bank has violated the terms of the policy by improperly or unreasonably restricting access to information *that it would normally disclose*” (emphasis added, para. 28(b)). The independent appeals body cannot review cases related to information that falls under the exceptions. If a requester asserts a public interest in accessing restricted information, only management’s internal appeals body would have jurisdiction, raising conflict of interest issues.

Thirdly, the policy appears to exclude other considerations (i.e., missed timelines, excessive fees) as grounds for appeal. Also, remedies are limited only to the release of requested information, not, for example, to the waving of fees or other solutions.

## Never Disclosed

1. Personal Information
2. Communications of Executive Directors’ Offices (including with own country authorities)
3. Ethics Committee Proceedings
4. Attorney-Client Privilege (with restriction on all communications of legal staff)
5. Security and Safety Information
6. Information restricted under rules of other Bank entities (Independent Evaluation Group, Inspection Panel, Integrity Vice Presidency, and the Bank’s sanctions process)
7. “Confidential” Member Country and Third-Party Information (unless consent granted)

## CLASSIFICATION

The Bank’s new disclosure framework will be predicated on “a rigorous classification system.” The Bank will scale-up its current, somewhat ad-hoc approach and ensure that any document retained in its files be classified either as “Strictly Confidential,” “Confidential,” “Official Use Only,” and “Public.” An additional “Draft” category will be added to ensure that deliberative documents are withheld.

However, the policy provides no definitions or criteria for these designations.<sup>37</sup> What, for example, distinguishes Confidential from Strictly Confidential information, and what are the implications for future declassification? The Bank should publish its classification criteria, as the IMF recently agreed to do.<sup>38</sup>

The Bank’s Office of Information Security is revising the Bank’s existing, not-public Information Security Classification and Records framework and a working group on classification has been established (see implementation section below).

## DECLASSIFICATION

Thankfully, the policy establishes a single declassification regime for restricted records that, over time, would bring all Bank records under the new policy rather than tied to the disclosure policies in existence when they were created (See Annex E).

Information that falls under exceptions 1-6 would be withheld in perpetuity. “Confidential” member country/third-party information (exception 7) would only be released with express permission. Corporate administrative information (8), deliberative information (9), and financial information (10) would only be disclosed if subject to declassification or



## Declassification

### After 5 years

Board minutes before April 1, 2005

Board committee minutes before July 2010

Board Chairman Concluding Remarks/  
Summings-up before January 1, 2002

Board Summaries of Discussion before  
July 2010

Board Committee Annual Reports before  
July 2010

Board Papers classified Official Use Only  
before July 2010

All Routine Disclosures (Annex B)  
classified Official Use Only before July  
2010

### After 10 years

Verbatim Board transcripts

Individual Executive Director Board  
Statements

Green Sheets before July 2010

Miscellaneous memos, informal notes  
distributed to Board

### After 20 years

Minutes of Board Executive/Restricted  
Sessions before July 2010

Executive Director offices  
communications relating to Board  
proceedings

Presidents Memoranda that accompany  
Board Papers

All routine disclosures (Annex B) classified  
Confidential or Strictly Confidential and  
prepared before July 2010

All Board papers classified Confidential or  
Strictly Confidential and prepared before  
July 2010

All other documents in Archives, except  
information covered by exceptions 1-8.

the override provision of the policy. Deliberative information related to exceptions 1-8 would never be disclosed.

The policy establishes a three-tiered timeline for releasing different categories of restricted information: 5, 10, 20 years (see sidebar). The five-year tier is designed to bring previously restricted Board records into line with the new policy. For example, to date Board Summaries of Discussion were withheld. When the new policy goes into effect in July 2010, summaries from July 2005 and earlier would be disclosable. By 2015, all summaries will be available.

After 10 years, verbatim Board transcripts and Executive Directors' statements would be accessible. Once the policy goes into effect, Board transcripts and Directors' statements from June 2000 and earlier should be available.

After 20 years, minutes of Board executive sessions, Executive Director communications related to Board proceedings, restricted financial information, and all documents that would be routinely disclosed under the new policy but previously withheld would be subject to disclosure. In addition, all Confidential or Strictly Confidential Board papers prepared before July 2010 and all other documents in the Bank Archives Unit, except information covered by exceptions 1-8, would be disclosed.

## PROACTIVE DISSEMINATION

As the Bank notes in paragraph 30:

[T]he Bank recognizes that availability of more information *per se* is not enough. There is a need to build closer links between the Bank's Disclosure Policy and increased participation (especially by beneficiaries), partnerships, and knowledge dissemination – cornerstones of development effectiveness. This would necessitate proactive measures to ensure greater dissemination of operational information (for example, through information kiosks), particularly to those who are affected by Bank operations. The Bank would need to collaborate more closely not only with borrowers but also with other stakeholders to improve local outreach as an essential component of communication strategies for Bank-supported operations. This would be done particularly at the individual project level through specific components, with a special focus on those who are affected by the project (para. 30).

This is a welcome acknowledgment that posting materials to the website and waiting for requests will not serve the objectives of deeper stakeholder engagement and ownership of development initiatives. The Bank has a vast public information infrastructure to support this effort.



## MENA 2009 Action Plan

- Ensure timely disclosure of Project/Program Information Documents (PIDs), Project Appraisal Documents (PADs), and Program Documents (PDs)
- Translate all of the above documents into Arabic
- Revamp the Bank's Arabic websites
- Develop a directory of civil society organizations for each of the MENA country offices
- Strengthen outreach to relevant stakeholders
- Raise awareness and disseminate good practices among MENA staff across the region on consultations

## PUBLIC INFORMATION CENTERS

In the early 1990s, the Bank began to establish Public Information Centers (PICs) in member countries. By 2008 it had created over 100 PICs and over 200 additional information access points.<sup>39</sup> The policy notes that the service standards among PICs varies considerably, and some will require strengthening. The Bank should ensure that PICs meet a set of minimum standards that provide stakeholders open access and would enable PICs to locally process inquiries and requests for information.

## TRANSLATION

The Bank noted the importance of making information available other than in English, and committed itself to reviewing the adequacy of its existing Translation Framework “to ensure more equitable access by all interested parties to the disclosed documents” (para. 35).<sup>40</sup> Bank management will present its review to the Board prior to July 1, and will specifically address the feasibility of ensuring, at a minimum, the translation of all documents subject to simultaneous disclosure at the time of their disclosure: (1) publicly-consulted Operational Policies and Sector Strategies, and (2) Country Assistance Strategies (CASs), Project Appraisal Documents (PADs) and Program Documents (PDs), if the concerned member country consents. A translation working group has been established (see below).

In response to a 2009 Inspection Panel claim filed by the Yemen Observatory for Human Rights that cited the Bank's failure to provide translated documents of a significant policy reform operation, the Bank's Middle East and North Africa (MENA) department committed to the unprecedented step of systematically translating key project/program documents into Arabic (see sidebar).<sup>41</sup>

## IMPLEMENTATION

The Bank has established an Access to Information Working Group (AIWG) to oversee the transition to the new policy. Seven subgroups are focusing on different aspects of implementation: Communications, Training, Information Technology, Classification, Translation, Policy and Handbook, and Public Information.

Bank management is drafting the formal policy statement as well as an Access to Information Handbook that will provide detailed guidance to staff. The Bank is developing training modules, a revised classification schema, a request tracking system, and communication strategies and outreach materials. It is also assessing current translation needs and practices, as noted above. The Bank estimates additional capital expenses of US\$4.5 million and recurrent annual costs also of US\$4.5 million to implement the policy.

## Required Safeguard Disclosures

### Environmental Assessment

Relevant material in timely manner prior to consultation in understandable form and language

Project summary and potential impacts for initial consultations (Cat. A)

Summary of EA report conclusions once draft EA report completed (Cat. A)

Draft EA report (Cat. A)

EA reports for Cat. A subprojects

EA reports for Category B IDA projects

Public availability of reports prerequisite for Bank processing

Final reports available through InfoShop

### Involuntary Resettlement

Displaced persons and communities provided timely and relevant information

Potentially displaced persons informed at an early stage about resettlement and their views taken into account in project design

Draft resettlement plan publicly accessible in understandable form, manner, and language

Final resettlement plan available in same manner as draft plan

### Indigenous Peoples

Free, prior informed consultation required

All relevant information provided in culturally appropriate manner at each stage of project preparation and implementation

Social assessment report and draft indigenous peoples plan available in an appropriate form, manner, and language

Final plan available in same manner as draft plan

The scale and intensity of the implementation plan reflects the Bank's seriousness to give life to the new policy. It has indicated that implementation will be closely monitored, with a first progress report planned for the end of 2011. A commitment to review the policy after three years would be welcome, given the extensive changes underway.

## WHAT'S MISSING?

As an intergovernmental organization, and a specialized agency of the UN, the Bank could have reflected on the right to access information from public bodies that is enshrined in various international and regional agreements. The Bank unfortunately often withholds its views regarding commitments or obligations under international law.

While the new policy applies to all information held by the Bank, it does not take note of specific disclosure requirements contained in other Bank policies, in particular, the Bank's safeguard policies (see sidebar). Annex B lists some safeguard documents, but does not address specific requirements regarding release of drafts, timing of disclosure, or form, language, or accessibility issues. In addition, judgments of the Bank's Administrative Tribunal are currently posted, and the Bank's whistleblower policy provides for internal and external reporting of suspected misconduct. The disclosure provisions of all of the Bank's policies should be reflected in the new access to information policy.

In recognizing the centrality of transparency to the development process, the Bank could have integrated its broader transparency commitments into the policy. For example, the Bank is signatory to international transparency initiatives, such as the Extractive Industries Transparency Initiative (EITI) and the International Aid Transparency Initiative (IATI).<sup>42</sup> Beyond a vague statement to "look into ways to agree on common standards and principles" (para. 31), these initiatives are not noted. The policy would be an appropriate vehicle to demonstrate concretely how the Bank supports revenue and contract transparency in natural resource sectors (as the IFC has done, though in a far too limited fashion), or which measures it is instituting to improve accessibility and uniformity of development finance information. Similarly, the policy does not indicate Bank transparency actions to promote "open budgets" among its member countries.<sup>43</sup>

Inclusion of a number of relatively simple measures would improve accessibility and stakeholder participation. All information regarding Bank-financed operations should be accessible in one location. Taking the Bank's website as an example, project portals should also include links to borrower project websites or available information, including local language documents. Related evaluations and forthcoming supervision reports should be linked in. Clear posting of contact details of responsible Bank staff would facilitate engagement.

## CONCLUSION

Clearly, the new policy fundamentally alters the transparency equation at the Bank, providing the institution a clearer, logically coherent access to information system that reflects leading international principles and norms. However, limitations in the new policy – broad exceptions, diluted public interest override and appeals processes, and excessive declassification timelines – lead civil society observers to restrain judgment until practices change.

When viewed together with other recent Bank initiatives – such as the promotion of social accountability, stronger anti-corruption measures, and more open governance of large climate funds – the new policy signals a willingness among managers and (some) shareholder governments to prod the Bank’s organizational culture toward greater openness.<sup>44</sup>

At the same time, competing interests and countervailing pressures simultaneously pull the Bank in other, more opaque, directions. In the face of greater competition in providing finance to traditional Bank borrowers – for example, from the growing external investments by China and Brazil, fluctuating foreign direct investment, as well as the proliferation of public and private aid channels – the Bank is revamping its “product lines” in order to lower costs and to accelerate processing timelines.

Aspects of this agenda could exercise downward pressure on Bank policies that seek to ensure early disclosure and inclusion of stakeholders in decision-making. These include:

- *Quick-dispersing programmatic lending.* The Bank has ramped up use of quick-dispersing development policy loans (DPLs) to support borrower policy reforms. In 2009, these types of loans comprised over 40% of Bank lending, in part in response to the global economic crisis.<sup>45</sup> Borrowers and many Bank shareholders are promoting wider use of budgetary support operations. DPLs are not subject to the Bank’s safeguard policies with their mandatory *early* disclosure requirements regarding social and environmental risks. Details of DPL operations are often not publicly known until after they have been approved, that is, once the Program Document is released. While the new policy provides for potential simultaneous disclosure of these documents upon submission to the Board (if borrower consents), this occurs too late for considered review by external stakeholders. The Bank should require earlier routine disclosure of DPL specifics (such as in an expanded Program Information Document) in order to broaden understanding and public engagement.
- *Investment lending reform.* The Bank is revising its other primary financing instrument, investment lending. It is adopting a new integrated risk framework and will institute a set of streamlined

procedures and simplified documentation. How the new risk framework will impact the specific information sharing and stakeholder engagement requirements of the safeguards is unclear.<sup>46</sup>

- *Country systems.* As part of the policy simplification agenda, the Bank has launched a pilot initiative to set aside its own safeguard policies and to rely instead on the borrower's "country systems" for due diligence and implementation of projects. The pilot initiative has found consistent gaps regarding disclosure and participation requirements.<sup>47</sup>

The Bank's "simplification and modernization" agenda to accelerate lending will further reinforce the Bank's internal incentives to move large financing deals as quickly as possible, which can undermine achievement of longer-term development objectives. The Bank's "culture of approval" – as dubbed in a prominent 1992 internal report – generates pressure on staff to view early disclosure and labor-intensive stakeholder engagement as potential impediments.<sup>48</sup>

Encouragingly, the new access to information policy is structured to encompass the Bank's evolving business model. It applies to all information "held" by the Bank, no matter the product line. Even the 1000-plus Bank-administered trust funds are covered.<sup>49</sup> However, as the Bank shifts lending away from traditional project-based investment lending and revises its investment lending framework, a large operational transparency gap opens, particularly in regards to early routine disclosure and stakeholder engagement.

Despite these limitations, the Bank's new access to information policy places the Bank at the leading edge of transparency among international financial institutions. Full implementation in the face of countervailing pressures will be shaped by internal tussles over resources, turf, and the political muscle of powerful shareholders. External scrutiny, testing, and pressure from civil society organizations is required to bolster forces within the Bank that support participatory development decision-making.

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## Notes

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<sup>1</sup> See Mendel, Toby, *Freedom of Information: A Comparative Legal Survey* (New Delhi: UNESCO, 2003), on how the right to information has been recognized by international, regional, and national bodies, at [http://portal.unesco.org/ci/en/ev.php-URL\\_ID=26159&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/ci/en/ev.php-URL_ID=26159&URL_DO=DO_TOPIC&URL_SECTION=201.html).

<sup>2</sup> World Bank, *World Development Report 2000/2001: Attacking Poverty* (New York: Oxford University Press, 2001), pp. 90-110.

<sup>3</sup> See Woods, Ngaire, *The Globalizers: The IMF, the World Bank and their Borrowers* (Ithaca and London: Cornell University Press, 2006), p. 5 and pp. 70-72.

<sup>4</sup> See Nye, Joseph, "Globalization's Democratic Deficit," *Foreign Affairs*, vol. 80, no. 4, July/August 2001.

<sup>5</sup> For details on the Bank's adoption of social, environmental, and disclosure policies in response to civil society pressure, see Wade, Robert, "Greening the Bank: The Struggle over the Environment, 1970-1995," in Kapur, Devesh, John P. Lewis, Richard Webb (eds.), *The World Bank: Its First Half Century*, vol. 2 (Washington: Brookings Institution, 1997), pp. 611-734.

<sup>6</sup> On features and implementation of India's Right to Information Act, see the Interim Findings of the Peoples' RTI Assessment (October 2008) at <http://rti-assessment.org/> and the assessment report contracted by the Indian government at <http://rti.gov.in/rticorner/studybypwc/index-study.htm>. For perspectives on Mexico's reforms, see Fox, Jonathan, Libby Haight, Helena Hofbauer and Tania Sánchez (eds.), *Mexico's Right-to-Know Reforms: Civil Society Perspectives* (Mexico City: FUNDAR/Woodrow Wilson International Center for Scholars, 2007) at [http://www.fundar.org.mx/boletines2007/indice\\_derecho\\_a\\_saber\\_english.htm](http://www.fundar.org.mx/boletines2007/indice_derecho_a_saber_english.htm).

<sup>7</sup> See the complaints lodged with the World Bank's Inspection Panel at [www.inspectionpanel.org](http://www.inspectionpanel.org), and cases outlined in Clark, Dana, Jonathan Fox, Kay Treakle (eds.), *Demanding Accountability: Civil Society Claims and the World Bank Inspection Panel* (Maryland: Rowan & Littlefield, 2003).

<sup>8</sup> The GTI Charter, Model Policy, Comments on the Bank's draft policy, and other resources are available at [www.ifitransparency.org](http://www.ifitransparency.org).

<sup>9</sup> "The Atlanta Declaration and Plan of Action for the Advancement of Right to Access Information," The Carter Center, February 27-29, 2008. See also "Americas Regional Findings and Plan of Action for the Advancement of the Right of Access to Information," The Carter Center, April 28-30, 2009. Both available at <http://www.cartercenter.org/peace/americas/information.html>.

<sup>10</sup> See the Bank's press release at <http://go.worldbank.org/IS6TYEZ910> and the new policy "Toward Greater Transparency Through access to Information: The World Bank's Disclosure Policy (December 14, 2009) at <http://go.worldbank.org/TRCDVYJ440>. In this article "Bank" refers to the public lending arms of the World Bank Group: the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA). The private sector arms – the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA) – operate under separate disclosure rules.

<sup>11</sup> For principles commonly found in national FOI laws, see Mendel, Toby, *Freedom of Information: A Comparative Legal Survey* (ft. nt. 1).

<sup>12</sup> While extensive, the quality of consultations varied given the wide range of prior notification and outreach. For a summary of comments and individual consultations, see the Bank's disclosure policy consultation site at <http://go.worldbank.org/PA431ZKD60>.

<sup>13</sup> See World Bank Quality Assurance Group, "Annual Report on Portfolio Performance FY2008" (April 22, 2009), pp. 38-39, at <http://siteresources.worldbank.org/QAG/Resources/FY08ARPPREPORT.pdf>.

<sup>14</sup> See Kapur, Devesh, "The Knowledge Bank," in Birdsall, Nancy (ed.), "Rescuing the World Bank (Washington, DC: Center for Global Development, 2006) at <http://www.cgdev.org/content/publications/detail/9957>, and Bretton Woods Project, "Knowledge Bank-rupted: Evaluation says key World Bank research 'not remotely reliable,'" January 2007, at <http://www.brettonwoodsproject.org/art.shtml?x=549070>.

<sup>15</sup> See World Bank International Development Association and Operations Policy and Country Services, "Economic and Sector Work (ESW) Progress Report," IDA 14, October 2006, p. 15, ft. nt. 52, at <http://siteresources.worldbank.org/IDA/Resources/Seminar%20PDFs/73449-1164920192653/ESW.pdf>.

<sup>16</sup> For a typology of ESW and TA report types, see Appendix A of the World Bank's Independent Evaluation Group's (IEG) *Using Knowledge to Improve Development Effectiveness* (Washington: World Bank, 2008), an evaluation of the Bank's ESW and TA activities, at <http://go.worldbank.org/4RYL7GVAJ0>.

<sup>17</sup> World Bank, *The World Bank Policy on Disclosure of Information*, (Washington: World Bank, 2002), p. 4, at <http://go.worldbank.org/32ZO2P03Z0>.

<sup>18</sup> ESW core diagnostic reports are Poverty Assessment (PA), Country Economic Memorandum (CEM), Development Policy Review (DPR), Public Expenditure Review (PER), Country Procurement Assessment Report (CPAR), Country Financial Accountability Assessment (CFAA), Integrative Fiduciary Assessment (IFA).

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- <sup>19</sup> See World Bank IEG, *Using Knowledge to Improve Development Effectiveness*, pp. 58-62 (ft. nt. 16).
- <sup>20</sup> The Bank's "safeguard policies" contain many disclosure requirements, as noted on p. 19 of this report. To review the policies, see the Bank's safeguards website at <http://go.worldbank.org/WTAIODE7T0>.
- <sup>21</sup> See para. 13 of the 2002 World Bank Disclosure Policy (ft. nt. 17).
- <sup>22</sup> ADB: "ADB shall make draft strategies and programs available to in-country stakeholders for comment before consultations. They shall be made available (i) after the initiating paper is completed; and (ii) after the strategy and program is drafted but before its management review meeting (*ADB Public Communications Policy*, 2005, para. 64).
- <sup>23</sup> AfDB: "The draft CSP will be released to in-country target audiences, as part of the consultation process, to enhance information for CSP consultation." "Draft CSPs will be released via the Bank Group website at least 50 days prior to formal Board discussion...Such drafts will however exclude confidential information as agreed with the government" (*AfDB Disclosure of Information Policy*, October 2005, Sec. 4.3).
- <sup>24</sup> EBRD: "The draft country strategy will be publicly released and posted on the Bank's web site, following a process which includes consultation with the country concerned. The draft country strategy will be posted for a period of 45 calendar days, during which time the public is invited to send comments to the Bank." Drafts are posted on the webpage "Invitation to Comment," which can be found on the country strategy pages" (*EBRD Public Information Policy*, Sep. 2008, sec. 2.1.1).
- <sup>25</sup> See <http://www.un.org/Docs/sc/scrules.htm>. However, there has been a trend in recent years at the UNSC to meet in closed session.
- <sup>26</sup> See <http://www.federalreserve.gov/boarddocs/meetings/sunshine.htm>.
- <sup>27</sup> See [http://freedominfo.org/McIntosh, Toby, "Summaries of World Bank Meetings Illuminate Proceedings," May 26, 2009, at http://freedominfo.org/ifti/20090526.htm](http://freedominfo.org/McIntosh, Toby, 'Summaries of World Bank Meetings Illuminate Proceedings,' May 26, 2009, at http://freedominfo.org/ifti/20090526.htm).
- <sup>28</sup> The World Bank's Board of Executive Directors has five standing committees: Audit Committee (AC), Budget Committee (BC), Committee on Development Effectiveness (CODE), Committee on Governance and Executive Directors' Administrative Matters (COGAM); and Human Resources Committee (HRC).
- <sup>29</sup> Committee members are not readily identified, unlike at some other international bodies, inhibiting engagement by civil society groups. Organizations such as the Bank Information Center try to track the ever-rotating committee [membership](#). The Global Fund to Fight Aids, Tuberculosis and Malaria clearly posts its Board [committee membership and contact details](#).
- <sup>30</sup> IMF, "IMF to Increase Amount and Timeliness of Information," (January 8, 2010) (para. 19 of decision) at <http://www.imf.org/external/pubs/ft/survey/so/2010/POL010810A.htm>.
- <sup>31</sup> This includes transcripts, President's memorandum, Executive Director Statements, Green Sheets if to be discussed by Board, Executive Director communications and memorandum, and miscellaneous memoranda or informal notes circulated to Board.
- <sup>32</sup> See GTI's "Comments" on the Bank's October 2009 draft policy, pp. 20-22, at [http://www.ifitransparency.org/?AA\\_SL\\_Session=5e6b17c46cb1d36d8375f22b056e3536&x=67904](http://www.ifitransparency.org/?AA_SL_Session=5e6b17c46cb1d36d8375f22b056e3536&x=67904).
- <sup>33</sup> See Bank Information Center, "Update: Civil Society Groups Announce Boycott of WB-IMF Annual Meetings in Singapore," (September 15, 2006) at <http://www.bicusa.org/en/Article.2948.aspx> for news articles and CSO boycott statements.
- <sup>34</sup> Authors files, responses to FOIA Requests No. 09-04-094 (Treasury) and No. 06-11-026 (State).
- <sup>35</sup> *Ibid*, p. 24.
- <sup>36</sup> ADB, "Requests received," at <http://www.adb.org/Disclosure/requests.asp> and "Denied Requests" at <http://www.adb.org/Disclosure/requests.asp?yr=2009&d=Denied+Requests>.
- <sup>37</sup> Definitions and criteria are outlined in the Banks Administrative Manual Statement, which is not public. However, the IMF posted definitions at least in regards to joint Bank-Fund Financial Sector Assessments which specify varying degrees of access and handling of classified documents. See IMF, "Confidentiality Protocol-Protection Of Sensitive Information In The Financial Sector Assessment Program," at <http://www.imf.org/external/pubs/ft/sd/index.asp?decision=00/54>.
- <sup>38</sup> IMF, "IMF to Increase Amount and Timeliness of Information," (January 8, 2010) (para. 22 of decision) at <http://www.imf.org/external/pubs/ft/survey/so/2010/POL010810A.htm>.

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- <sup>39</sup> See the Bank's 2003 strategy for strengthening PICs at <http://siteresources.worldbank.org/INFODISCLOSURE/Resources/StrengtheningPICs.pdf> as well as the PIC website at <http://go.worldbank.org/U39STT8DZ0>.
- <sup>40</sup> See the Bank's 2003 Translation Framework, September 2006 implementation supplemental note, and the December 2008 implementation report at <http://go.worldbank.org/IW15YBLHP0>.
- <sup>41</sup> See Daar, Nadia, "Inspection Panel Case Plants Seeds of Cultural Change at World Bank," January 14, 2010, at <http://freedominfo.org/ifti/20100114.htm>; BIC's article with the posted action plan at <http://www.bicusa.org/en/Article.aspx?id=11488>; and YOHR's Inspection Panel claim at <http://web.worldbank.org/WBSITE/EXTERNAL/EXTINSPECTIONPANEL/0,,contentMDK:22148903~menuPK:64129250~pagePK:64129751~piPK:64128378~theSitePK:380794~isCURL:Y,0,0.html>.
- <sup>42</sup> Regarding extractive industries transparency, see the EITI website at <http://eitransparency.org> as well as the Publish What you Pay (PWYP) coalition site at <http://www.publishwhatyoupay.org>. Regarding aid transparency, see IATI's site at <http://aidtransparency.net> and the Publish What You Fund (PWYF) site at <http://www.publishwhatyoufund.org>.
- <sup>43</sup> On budget transparency, see the International Budget Partnership's website, including its "Open Budget Index" at <http://www.internationalbudget.org>.
- <sup>44</sup> On social accountability, see the Bank's Demand for Good Governance website at <http://go.worldbank.org/YRXCYM8RW0>. Also see the Bank's anti-corruption pages at <http://go.worldbank.org/ZFUWCFJQ80>.
- <sup>45</sup> See World Bank, "2009 Development Policy Lending Retrospective," October 27, 2009, at <http://go.worldbank.org/0QM8M8S6P0>.
- <sup>46</sup> See the Bank's investment lending reform website at <http://go.worldbank.org/QE64AT0D50>.
- <sup>47</sup> See the Bank's "country systems" website at <http://go.worldbank.org/RHRJVXDW60> (accessed November 13, 2009).
- <sup>48</sup> An internal Bank study in 1992 (The Wapenhans Report) found that a "culture of approval" was deeply embedded in senior Bank management and the pressure to move money overwhelmed other considerations, contributing to a significant decline in the quality of Bank operations. Cited in Rich, Bruce, "The World Bank under James Wolfensohn," in Pincus, Jonathan R., and Jeffrey A. Winters, *Reinventing the World Bank* (New York: Cornell University Press, 2002), pp. 24-25.
- <sup>49</sup> In 2008 the Bank adopted a new Operational Policy on Trust Funds (OP 14.40) that states "[a]ll types of trust funds are subject to 'The World Bank Policy on Disclosure of Information'" (para. 6), at <http://go.worldbank.org/9T8PH2NB40>.