

AFRICAN DEVELOPMENT BANK GROUP



BANK GROUP POLICY ON DISCLOSURE AND ACCESS TO INFORMATION

COMMENTS AND RESPONSES

OPERATIONAL POLICIES DEPARTMENT

COMMENTS	RESPONSES
1. General Approach	
1.1. Aligning the Bank Group's Policy with other Bank and IFIs' Policies	
The Bank Group is commended on the quality of the draft policy on disclosure and access to information. The policy provides an opportunity for the Bank not only to align itself with other IFI's and international institutions, but indeed to set a higher standard and be an example to other IFI's.	Noted.
Ensure harmonization with time periods in the Safeguard Policy.	Agreed. Disclosure timelines will be in line with the disclosure terms and provisions of the Bank Group Integrated Safeguards System.
The policy should be aligned with the whistle-blower protection policy.	Agreed. This Policy is aligned with the Bank Group's policy on whistle blower protection.
Similar to other IFI policies and right to information laws, the standard is whether the larger public interest is served by disclosure or secrecy.	The policy is premised on the principle of maximum disclosure. The Bank Group recognizes that how effectively it discloses information and engages with key stakeholders is crucial to the attainment of its development mandate in RMCs. To this end, to maximize the benefits of transparency, exceptions to disclosure are minimized in the Policy.
The draft revised policy should be in harmony with the one of the WB. Several features of the draft revised policy are weaker than those recently adopted in the World Bank's policy.	The formulation of a revised Information Disclosure Policy, amongst others, seeks to meet the standards of other partner institutions. This is evident in, for example, the overall approach of the policy with emphasis on the limited negative list; maximum disclosure and access; provision for appeal, strengthened implementation modalities etc.

1.2. The Consultative Process

Appreciating the Bank's efforts in soliciting the views of stakeholders in the development of the policy, it is crucial to continue to hear the views of partners, in particular of civil society organizations.

Agreed. Widespread consultations with stakeholders have indeed been carried out. This dialogue will continue through implementation of the Policy.

The revised draft should be publicly available for comment for a period of 30 days concurrently with the matrix that shows the comments so far provided with the response of the Bank.

The draft Policy will be posted simultaneously with its distribution to the Board, on the Bank Group web-site for 30 days for stakeholders to see how their comments have been addressed.

Elaborate on steps taken towards the consultation process.

The consultation process was conducted in five ways: (i) internal consultations within the Bank Group through a cross-complex technical working group; (ii) consultation workshops with civil society groups in Lisbon and Tunis in June and October 2011, respectively; (iii) regional consultation workshops with all the stakeholders including the civil society in Khartoum in July 2011 and Dakar in August 2011; (iv) consultation seminar in the context of the Pan African Conference on Access to Information (PACAI) in Cape-town in September 2011; and (v) the 60-day online posting on the Bank's Group website for public comments and other stakeholders' comments on the draft policy.

1.3. Access to Information is a Fundamental Human Right

Need to recognize access to information as a fundamental human right.

The proposed reforms represent a substantive shift in the approach to access to information as fundamental and by example set the stage for greater transparency and improved governance. It is tailored to permit the Bank Group to reach these goals and frames the policy as appropriate for an institution such as the Bank Group. The broader issue of access to information as a fundamental human

right goes beyond the specific focus of the Policy.

On the basis of the prohibition on delegation of any decision that constrains a fundamental right, the Policy should itself also make provision for exemption from or reduction of, prices, where inability to pay is established. The Handbook should include costs of hard copies, including any exemptions for those unable to afford payment or thresholds below which charges will not be levied. Prices should at all times be publicly available, including in the form of certified official notices in all Bank offices/premises.

In line with the Bank's communication strategy for dissemination of documents, the hard and soft copies of the handbook will be made available to the public. Pricing issues will be dealt with during implementation of the Policy.

1.4. Fine tune the guiding principles and harmonise them with other Bank Group policies

The draft policy states that the Bank reserves the right to “refrain from disclosure” when doing so will lead to “material, financial or reputational harm”. Who is to undertake this judgment of harm, and will any potential harm trigger the non-disclosure, or only a significant level (how big?) of harm?

The effective functioning of the Bank Group necessarily requires some derogation from complete openness to protect the relationship between the Bank Group and its shareholders and partners. This notwithstanding, the Bank Group has the right to disclose certain corporate administrative information, deliberative information, and financial information that is on the negative list, if the Bank determines that the overall benefits of such disclosure outweigh the potential harm. This prerogative will be exercised by: the Board, with respect to Board papers or records; the written consent of the member country or the third party for information provided by a member country or a third party in confidence; and the Information Disclosure Committee with regard to other restricted information.

In cases where a request for information is denied, the harmful effect will at all times be explained.

<p>Suggestion was provided , “... will be limited and based on the general principle...” is replaced by “... are stipulated in a limited list of exceptions” so that the section in its entirety reads, “As a general rule, restrictions on disclosure to the public of categories of Bank Group information are stipulated in a limited list of exceptions”.</p>	<p>Accepted and rephrased so that it also continues to read as a principle.</p>
<p>Safeguarding the deliberative process should not be a “guiding principle”.</p>	<p>This is important to ensure frank and open exchange of views. It represents an essential element of the Policy.</p>
<p>Need to expand the list of reasons why transparency is important.</p>	<p>Done in the chapter on Background and Rationale.</p>
<p><i>1.5. The policy is a step in the right direction- but it needs to broaden the space for greater involvement of all stakeholders in the decision making process</i></p>	
<p>The IDP should call for a greater participation of CSOs in decision making processes related to development matters. The policy only advances the Bank interest to deepening the awareness and knowledge of stakeholders on the Bank’s role and actions in reducing poverty without addressing the CSOs concern related to access barriers to information.</p>	<p>One of the main underlying principles of this policy is that the Bank Group will actively engage with its stakeholders, including the civil society, and make information disclosure to stakeholders an obligation.</p> <p>The objective of the Policy is, amongst others, to facilitate access to and share information on the Bank Group’s operations with a broad range of stakeholders, including the civil society. This policy will operate in tandem with the Bank Group’s communication strategy to ensure two-way communication between the Bank and its stakeholders.</p>
<p>The IDP is seen as a necessary tool for deepening the relationship between the Bank and its stakeholders while also positively affecting the issues of governance in RMCs.</p>	<p>Agreed and this is one of the key objectives of this policy.</p>

2. The List of Exceptions	
2.1. The list of exceptions are too broad	
<p>The proposed list of exceptions is based on excessively broad categories of exceptions. With a requirement of the Bank's explicit decision to identify individual exceptions to these categories of exception amounts to an approach entirely at odds with a true presumption of disclosure with limited exceptions.</p>	<p>The nature of the Bank Group's business, as an IFI, requires derogation from complete openness. The negative list, which is similar to those of other IFIs, is aligned with this requirement. Lessons from implementation of this policy, will provide insights on further narrowing the list. Moreover, there is provision for policy review on the basis of lessons learnt.</p>
<p>The regime of exceptions should be substantially revised so that all exceptions are subject to a specific harm test.</p>	<p>This Policy represents a major paradigm shift for reform. Given the range of information open to potential access, this requires an evolutionary approach as implications become clearer for the institution and its member states. Thus, as with the other IFI's, the Bank Group sees this as a first and very substantive step but one that will require further adjustments that will increasingly narrow and clarify the list of exceptions.</p>
<p>The draft Policy lists seven categories of exceptions which are extremely widely and vaguely phrased, and which are not accurately representative of the envisaged interests. Adequate implementation of the harm test requires that the anticipated harm must relate to specified interests that are widely accepted as requiring protection, rather than to broad categories of activity or information. Further, to be withheld, the harm to this interest must outweigh the public interest in disclosure.</p>	<p>As mentioned above, the Bank Group sees this policy shift as a first and very substantive step but one that will require further adjustments that will increasingly narrow and clarify the list of exceptions.</p> <p>Clarification has also been provided to provide reasons for list/categories of exceptions. The policy has also been revised to include an annex with documents that will be disclosed.</p>

The policy should provide for the partial release of documents where only part of the information they contain falls within the scope of the list of exceptions.

The policy does allow for the redaction of sensitive information, in an effort to maximize disclosure of documents, e.g. to Board documents and documents that are not routinely produced by the Bank Group.

2.2. The rational and benefits of the change in the approach towards negative list should be elaborated

The proposed discretion to depart from the commitment to create transparency through a presumption in favor of disclosure and a negative list of exceptions is unconstrained and threatens to undermine an otherwise positive change in perspective.

To address this threat, a sample of information that will automatically/proactively be disclosed by the Bank Group is included in Annex I of the policy document.

2.3. Communications by the President, Executive Directors and Regional Member Countries (RMCs)

There is a need to have more specificity (either in the main text or in an annex) about which documents are “documents pertaining to Board deliberations.”

Consider disclosure of Board transcripts and Executive Director statements or at least advance notice of the agenda for those meetings and the bank should consider open Board meetings to the public.

The revised draft policy has added greater clarification on Board documents, including Highlights of Board discussions/Minutes of the Board, and Final Reports of the Board Committees in which subsequent Board discussion is not expected are eligible for disclosure. The Bank Group will disclose reports to the Board from its Committees, with deliberative information removed.

Board meetings and attendance are governed by the Rules of Procedure of the Boards of Directors of the Bank and the Fund (the “Board of Directors”).

The provision to disallow communications involving the Bank Group’s President and Executive as detailed out in the policy should be deleted. Disallowing disclosure on the sole criteria that it has been sent or received by a particular category of persons would leave excessive room for arbitrariness or discretion and run counter to the spirit of the

Information at these levels needs to be protected and the persons involved need space to consider and debate, away from public scrutiny. However, communications exchanged between the Bank’s president and Executive Directors can be disclosed upon the authorization of the interested parties. This provision does not

<p>revised policy.</p>	<p>exclude from disclosure documents that would otherwise be disclosed (for example documents sent to the Board For Information, etc.).</p>
<p>RMCs should not be allowed to veto disclosure of a CSP or loan appraisal. We could allow redaction of specific market-sensitive information in the document, provided the Board is informed in advance and a justification is included. Otherwise, there is no reason Management should be proposing to use shareholder/donor resources in a manner that the recipient government is unwilling to inform its own citizens or other shareholders about. The Bank should not be complicit in non-transparency or other poor governance practices.</p>	<p>The policy will be implemented in line with the Bank's founding Agreement and as other IFIs, the Bank attempts to strike a balance between the interests of the shareholder's, the specific-market and the public. Disclosure of approved documents is meant to serve the ends of transparency in a credible way.</p> <p>Note should also be taken that, Section 4.11 dealing with disclosure of information relating to third parties highlights how the policy would apply to different types of documents containing country information, including documents prepared by the Bank jointly with RMCs and development partners (including CSPs, PRSPs etc), documents provided to the Bank, and special documents not routinely disclosed.</p> <p>The section further highlights that; Drafts of such documents will however exclude confidential information as agreed with the government.</p>
<p>The Policy must take into consideration special cases in which RMCs do not have information disclosure legislations or access to information might not be a priority. It should be clear in which cases the Bank's policy will take precedence over e.g. freedom of information laws at the level of RMCs. Alternatively, the policy should consider creation of an independent body to decide on information from third parties/RMCs.</p>	<p>The Bank will continue to encourage member countries to move towards greater transparency. The aim of this policy amongst others is to set a positive example to the RMCs. The revised version provides disclosure requirements in the case of RMCs and development partners.</p>

2.4 Legal, Disciplinary or investigative matters	
How does management see that the need for access to information as part of criminal or other legal investigations could be satisfied?	This relates to privileged information such as legal advice and matters in dispute or under negotiation including, disciplinary and investigatory information generated in or for the Bank for its decision making and not intended for public disclosure.
2.5 Accessing draft information at key milestones	
The Policy should provide access to draft information at key milestones, including standard notice and comment period for key processes and should be disseminated so that those affected can access it in practice.	<p>The policy provides for disclosure of final outcomes and results of deliberations at key process milestones.</p> <p>The request for setting notice and comment periods will be covered in the Information Disclosure Handbook and in other policies such as the Integrated Safeguards System.</p>
<p>The Bank's website should state that some documents are not available or/and the basis of / for reason of certain provisions the Policy and/or third party Veto.</p> <p>Declassification periods should be stated on website.</p>	<p>While the policy provides the negative list, it also has an annex for a sample of documents that will be regularly disclosed. The website will be the engine for ensuring the wide disclosure of information. Where information requested is denied, reasons will be provided.</p> <p>Declassification arrangements will be available on the website upon the coming into effect of the Policy.</p>
2.6. Why are corporate administrative matters in the list of exceptions?	
The Bank should provide adequate justification as to why disclosing information on corporate expenses and real estate would be definitively harmful. We observe that other MDBs have a similar clause in their negative lists, but they include a caveat that information appearing in the annual budget and budget execution reports on these	The Bank proactively discloses all corporate procurement activities related to corporate expenses and real estate. It also discloses expenses on these items in the Budget Document. Further details could jeopardize the safety of Bank Group staff.

<p>issues should be disclosed. The term “corporate administrative matters” is too broad to be meaningful and needs to be clarified</p>	
<p>Audit reports should be disclosed if they do not contradict the audit rules. The same treatment should apply to Aide Memoirs. Guidance should be provided by OAGL on which documents should be disclosed pertaining to internal audit.</p>	<p>Audit reports prepared by the Office of the Auditor General, except statistics and general information will not be eligible for disclosure.</p>
<p>2.7 Personal information of Bank staff should not fall under the negative list</p>	
<p>Clarification is sought on what is and is not personal information. Bank Management and Staff are international civil servants, and the public should be able to know who works for the Bank and what their respective role in the organization.</p> <p>Information about salaries and compensations for the President and the bank’s management should be disclosed in the annual reports or on the webpage.</p>	<p>This information is not envisaged as being restricted. Disclosure of personal information in this regard, is pegged on the extent to which it will not harm the staff member. The Bank Group’s Principles of Staff Employment require the Bank to establish and maintain appropriate safeguards to respect the personal privacy of staff members, their internal deliberative information and protect the confidentiality of personal information about them. Accordingly, the Bank provides the access to this internal administrative information to the extent explicitly permitted by the Staff Rules.</p> <p>Disclosure of personal information including salaries will be consistent with the Bank Group’s corporate rules.</p>

2.8 Policy Effectiveness

Section 3.5.2 – Seems overly conservative. While disclosure of documents predating the policy may not be as proactive as new documents, should not rule out expedited access to some of that information. This issue will need more coverage in the handbook.

Documents which were not eligible for disclosure under the 2005 Bank Group Disclosure Policy will be made available upon request.

2.9 The Bank's prerogative to disclosure

Given the management heavy review committee, when it exercises discretion on disclosure or non-disclosure (to protect the institution), it should advise the Board in some shape or form.

The prerogative of the Information Disclosure Committee to withhold information that is not on the list of exceptions will be informed by advice from and consultations with: the Board, with respect to Board papers or records; the written consent of the member country or the third party for information provided by a member country or a third party; and the Information Disclosure Committee with regard to other information.

The Information Disclosure Committee will issue a statement whenever this prerogative is used. The Board will also receive regular reports on the implementation of the policy, including the use of the prerogative.

It is also problematic that the policy grants the Board the right to exempt information disclosure under "exceptional circumstances" without defining what such circumstances might be.

Sufficient justifications will be provided on a case-by-case basis during implementation.

2.10. Information Provided in confidence by member countries, private-sector entities or third parties

Policy should grant third parties the right to make representations as to why information they have provided falls within the scope of an exception before a decision is taken concerning its disclosure. But it should not grant them an automatic veto over release.

Third parties are welcome to make representations as to why information should be disclosed. This information will also be included in regular reports of the IDC.

Will private sector appraisal reports be disclosed? If so, when?

While adhering to the terms of the Bank's Non-Disclosure Agreement Commitments to sponsors, in the case of private sector operations, the following disclosure requirements will apply at entry for investment projects: posting of project summary note with key relevant information, at the same time as distribution of the Project Appraisal Report (PAR) to the Board (PAR is however restricted and not eligible for disclosure); and posting of environmental and social impact for category 1 and 2 projects - which shall be in accordance with the Board approved Integrated Safeguards System. For private sector projects under implementation: the Bank will update certain fields under the summary note (e.g. signature date, investment date etc.) to reflect changes in the implementation status.

2.11 Financial information

The Policy does not specifically address the question of transparency in the extractive industry, especially on payment and contracts.

This policy is premised on the benefits of increased transparency in operations.

As such, the Policy provides as follows: Extractive Industry Transparency Initiative (EITI) Agreement Requirements - As a matter of principle, when the Bank Group invests in extractive industry (EI) business activities (oil, gas, and mining), the Bank Group will promote

	<p>transparency in these operations and align with the disclosure requirements of the EITI Agreement, which the Bank Group has already endorsed.</p>
<p>The policy should provide for disclosure of Annual Audited Financial Reports of Projects.</p>	<p>Annual audited financial reports of Bank financed sovereign-guaranteed projects (under limited and exceptional circumstances, when the audit report is considered to have confidential, proprietary and/or commercially sensitive information by the Borrower or designated project entity - such information can be redacted and an abridged version of the report and in a form acceptable to the Bank Group, can be submitted to the Bank Group for disclosure. Abridgement of audited financial reports will be approved by the Director responsible for Procurement and Fiduciary Services).</p>
<p>Why are statistics e.g. about country creditworthiness, an exception from disclosure?</p>	<p>These are credit worthiness reports generated by staff to inform decision making. There is need to preserve the integrity of the deliberative process and to facilitate and safeguard the free and candid exchange of ideas between the Bank Group and its members.</p>
<p>3. Appeals Mechanism</p>	
<p>3.1 There should be a functional independent appeals mechanism</p>	
<p>The Bank should consider having a standing committee rather than an ad-hoc appeals panel for continuity and the appeals panel should be independent, resourced, and with authority. The appointment of the panel solely by the President of the Bank may not guarantee independence.</p>	<p>The Appeals Panel will comprise of three Members, with at least two being external from the Bank. Members of the Appeals Panel will be appointed by the President of the Bank Group, in consultation with the Board. The Panel will operate independently of the Information Disclosure Committee to guarantee its objectivity. The Appeals Panel will be a standing committee and the remuneration of external members of the Panel will be on the basis of the sitting of the Panel.</p>

<p>Ensure the independence of the Appeals Panel.</p>	<p>Members of the Appeals Panel will be appointed by the President of the Bank Group, in consultation with the Board; and also, the Panel will operate independently of the Information Disclosure Committee to guarantee its objectivity.</p>
<p>Membership of the Appeals Panel should be explicitly protected by a provision in the Policy that (a) the term of service will be a non-renewable period of, say, five years; and (b) may not be terminated except on the grounds of (i) incapacity; (ii) incompetence; or (iii) misconduct. Further, any decision concerning appointments and termination should be taken in accordance with a procedure similar to that entailed in the World Bank's Policy. There, the Appeals Board established 'comprise three outside experts on access to information matters. Panel members are nominated by the President of the World Bank and endorsed by the Bank's Board of Executive Directors.</p>	<p>Credible TOR for the Panel will be developed in consultation with other development partners who have adopted Access to Information Policies.</p>
<p>Clarify the meaning of a “legitimate appeal”.</p>	<p>The requester is able to make a case that the Bank has violated this Policy by improperly or unreasonably restricting access to information that it would normally disclose under the Policy; or to make a public interest case to override the Policy exceptions that restrict the information requested.</p>
<p>No exclusions from appeals panel jurisdiction.</p>	<p>Agreed. Appeal for disclosure of information on the negative list will be considered by the Information Disclosure Committee.</p>
<p><i>3.2 Details on the implementation of the appeals mechanisms should be included in the policy</i></p>	
<p>The addition of a prompt timeline for the consideration of and response to appeals will enforce the credibility of the policy.</p>	<p>Agreed and provided for in the policy document.</p>

<p>All decisions not to release documents should be appealable.</p>	<p>Agreed. However, information covered by the negative list will only be appealable to the IDC.</p>
<p>The IDC should have no role in deciding on any aspect of an appeal, as this would amount to a contravention of a cardinal principle of justice, i.e. one should not be a judge in one's own cause, on the grounds that it gives rise to conflict of interests. Furthermore, allowing the IDC, as an internal body within the Bank, to determine those criteria would effectively place those criteria beyond consultation or challenge. The criteria must be determined and specified in the Policy.</p>	<p>The Bank has a number of independent internal oversight instruments and mechanisms to ensure the transparency and accountability of its operations. Opportunity should be provided for the provision of this policy to be tested at least in its initial year of operation. The policy further provides for review.</p>
<p>The Board should be informed about decisions on Appeals.</p>	<p>The Secretary General will be responsible for:</p> <ul style="list-style-type: none"> - Reporting on the implementation of the Policy; and - Liaising with the Board Members on issues concerning the disclosure of Board documents. <p>(See section 4.2.3 of the draft Policy)</p>
<p>4. Implementation</p>	
<p>4.1 Further detail is needed on implementation arrangements</p>	
<p>There should be a deadline in the policy for full implementation.</p>	<p>Management intends to implement this Policy progressively to start putting in place administrative and measures necessary for its operationalization. This Policy will therefore come into effect, nine (9) months after approval by the Board of Directors and will be implemented in phases.</p>

<p>Lack of detailed implementation plan, with steps/phases/ budget, etc to realize the new vision of the policy's ambitious objectives is not provided.</p>	<p>The implementation plan will be addressed following completion and approval of the policy. Management will on a yearly basis have a budgetary provision for the implementation of this policy.</p>
<p>Is the period between approval and effectiveness long enough to produce the handbook and begin effective implementation? Other MDBs have had a lag longer than the six months proposed. It would be more harmful to create expectations about the effectiveness of the policy and then not be in a position to execute it.</p>	<p>Management intends to implement this Policy progressively, with this Policy coming into effect 9 months after its approval. .</p>
<p>The implementation of this policy will depend on the quality of the handbook, but the paper does not provide many details. Who specifically will be in charge of developing the handbook; what is the process for developing it; when will it be produced by; and how will staff be trained in its use?</p>	<p>Though the Bank Group has demonstrated willingness to disclose information, the challenge has been in implementation and ensuring adequate systems and capacity to deliver.</p> <ul style="list-style-type: none"> • The development of the Handbook has been identified in the policy document as a critical success factor. • The Office of the Secretary General will lead the development of the Handbook through a consultative approach, once the policy is approved. This Handbook as an implementation tool will indeed clarify roles and responsibilities. • Training will be organized through a number of workshops in readiness for the coming into effect of the Policy and thereafter periodic training to keep abreast with any new developments in information disclosure processes. • Disclosure of information will be every staff member's responsibility and it will be a mandatory obligation on all staff in their daily operations.

<p>The Policy should include a clear framework for the making, processing and responding to requests. At a minimum, there should be a commitment to develop clear rules.</p>	<p>This information concerning procedures for making, processing and responding to requests will be addressed in detail in the information disclosure handbook. The Policy provides the timelines for the processing of requests and appeals.</p>
<p>Disclosure timelines, where applicable, for various documents that existed in the previous policy should be maintained.</p>	<p>Disclosure timelines of documents will continue to be in alignment with the policies they relate to and this will be further provided for in the Information Disclosure Handbook, as it is a modality for disclosure.</p>
<p>The Policy should specify a quorum for the valid constitution of a meeting of the IDC</p>	<p>The TORs for the Information Disclosure Committee will be developed following approval of the policy.</p>
<p>The finality of rulings by the committee that a document falls within the list of restrictions underscores the need to be as specific as possible in defining which documents are restricted. The committee should not have to base its decisions on vague guidance that leaves its interpretations open to lots of questioning.</p>	<p>Documents will be classified at the point of origination and guidance will be provided in the Information Disclosure Handbook.</p>
<p>It should be explicit that, for example, prospective project information should be publicly available, e.g. 6 months in advance.</p>	<p>The Bank Group will report on results/milestones of deliberations all along the process to Board approval. Time-frames for disclosure of documents will be in accordance with the policies the documents relate to and guidance will be provided in the Information Disclosure Handbook. The Bank Group will make every effort to ensure timely disclosure for information relating to appraisal of projects.</p>
<p>Designate a special person to be the public face of the Bank Group's work on information openness.</p>	<p>Agreed. This provision has been added under the responsibilities of the Office of the Secretary General.</p>

Note is taken that the Bank will develop an Information Disclosure Handbook to guide Bank staff on the new policy. Such a handbook will be of great help in promoting speedy and effective implementation of the policy. We would suggest that the same type of document be developed for the general public summarizing the Bank's new policy and how one can make use of it. For ease of access, such a document could take the form of a brief leaflet with a name along the lines of, "The AfDB's Disclosure and Access to Information Policy – what it means and how to use it".

Agreed. This will be ensured at implementation stage in addition to publicly making available the Information Disclosure Handbook.

To avoid feelings of intimidation, it is important that institutional staff receiving information requests not inquire into the identity or intent of persons requesting information. Thus, we would suggest adding a provision, perhaps as a new paragraph 4.2.4, as follows; "Bank staff shall not inquire into the identity or intent of a person requesting access to a bank document, unless such an inquiry is necessary to allow the Bank to judge whether there is any obstacle as per the list of exceptions to release of the document."

Agreed and added in the section on "Responding to Information Requests".

4.2 Clear guidance should be provided in the policy on classification and declassification

All information should be disclosed at some point - after a maximum of 20 years, which must be especially motivated. The Policy should include clear criteria for declassification.

Agreed. Most information on the negative list will be disclosed after 20 years. However, certain types of information will not be declassified.

The Information Disclosure Handbook will provide guidance on declassification.

<p>Clarification is needed with regard to disclosure of all documents not eligible per the 2005 Policy in section 3.5.2, to show that all will now be made available to the public under the new policy. Expedited access to some of the predated information should be underlined in the policy. This is an important clarification and a far-reaching gesture underlining the Bank's increased openness.</p>	<p>Documents which were not eligible for disclosure under the 2005 Bank Group Disclosure Policy will be made available on request.</p>
<p>The revised Policy should include a mechanism to integrate new information into policy implementation, i.e. How soon after it is created should its existence be disclosed, its content disclosed, or a mechanism kicks in for inclusive consultation on how it should be classified.</p>	<p>With the aim to maximize disclosure, the revised policy provides that as soon as new information comes out, it be classified and disclosed if it is not falling within the negative list.</p>
<p>Paragraph 4.9.1.ii is somewhat confusing, and it is not clear what the policy is if a previous version of the policy/strategy has not been considered. What level of discussion is necessary for it to have been considered, formal Board or committee/informal? Does previous version just refer to an earlier draft of the policy under consideration or does it include previous policies/strategies related to the topic?</p>	<p>This section seeks to ensure that draft policies/strategies are shared with the Public for consultation after the Board Members (at least at an informal level or CODE) have had sight and opportunity to provide guidance. "Previous version" will refer to the document being considered.</p>

4.3 Classification and disclosure of electronic mails should be emphasized in the policy

The draft Policy appears to leave it up to management/staff to properly classify and to file their email records. If they do not do so properly or at all, it appears that there will be no means to access these records, and no consequences. This would effectively allow Bank employees to evade the disclosure policy by failing to file emails under the main management Systems. In view of the novelty of this provision of the Policy, staff members are likely to feel uncertain about both filing and classification of their email. Greater guidance is required.

Agreed that greater guidance is needed. The policy recognizes that amongst others staff training is vital to the success to the Policy.

Clarification of e-mails will be provided at implementation stage, though in practice this is still a struggle for archivists around the world. As this is the Bank Group's first attempt, Management will closely observe implementation of this in the initial stage.

4.4 Use of local languages in disclosing information

Dissemination in local languages should be considered particularly with the aim to ensure that the communities affected by Bank operations are well informed. The RMCs should have responsibility too in information dissemination and translation into local languages (i.e. there should be partnership between the Bank and RMCs).

For critical documents, the Bank will work with RMCs to translate these documents on the language that the affected communities understand.

The development of an Information Disclosure Handbook should take into account the African realities where the majority is illiterate. The Handbook shall therefore not only be translated in some African languages but also be available in an illustrated format.

It should be admitted that this will be an extremely costly venture. As detailed out in other polices for critical documents the Bank will work with RMCs to see how best to get information to all Bank Group stakeholders.

4.5 Innovative approaches are needed in information dissemination	
Developing the AfDB's tools on how to maximise access to documents is crucial if the revised policy is to have sufficient effect. Sections 4.1, 4.10 and 4.12, inter alia, address this need, but we would welcome additional thinking.	In order to further strengthen the dimension of maximum access, the Communications and Information Management department at the Bank is working toward revamping IT systems to facilitate the smooth implementation of the policy.
To further maximize disclosure of information and to facilitate access, it is central to use the bank's webpage and other existing information technology. The initiative taken recently by the World Bank on <i>geo mapping</i> ought to be looked into and the possibilities of joining forces in order to increasing the transparency of aid operation at country level.	Agreed. Facilitating increased access on the Bank Group's web-page has been addressed in the policy document. The initiative on geo-mapping has already been launched by the Bank's Quality Control and Results (ORQR) Department.
Another practical measure would be to publish all draft documents on the Bank's website at the same time as they are circulated for consultations to e.g. civil society; such an addition could suitably be made as a new point (iv) in the useful section 4.9.1 on simultaneous disclosure and should be easily implemented since the practice is largely being followed already.	Agreed and provided for in the policy. It is however an implementation modality for timely consultations and does not directly relate to simultaneous disclosure of Board documents under section 4.9.
The Bank should explore other forms of dissemination of information beyond the internet e.g. mass media, research institutions, CSOs networks, etc.	Agreed. The policy provides that the Bank Group make every effort to use available dissemination methods as stipulated in the policy.
The Bank's core business is not dissemination of information and it may be necessary to outsource this work to experts.	A phased approach to the implementation of the policy is considered at this stage. The Bank will determine the need and aspects of dissemination that can be outsourced on a case by case basis.

<p>The Bank should take advantage of the decentralized structure and give FOs a mandate to disseminate information.</p>	<p>Agreed and provided for in the policy and the training budget.</p>
<p>4.6 Monitoring the implementation of policy is critical for its success.</p>	
<p>There should be provision for review of the Policy.</p>	<p>Management will on an <i>annual basis</i> submit a report to the Boards of Directors of its observations/review on the implementation of the Bank Group's Policy on Disclosure and Access to Information.</p>
<p>Regular review should include consultation with CSOs and other stakeholders.</p>	<p>Agreed.</p>
<p>The policy must allow for a two-way communication i.e. provide for feedback on disclosed information.</p>	<p>This is provided for in the Bank Group's communication strategy.</p>
<p>Need to raise external awareness and implementing a tracking system.</p>	<p>Agreed and will treat during the implementation phase.</p>
<p>It is important that the core of the Information Disclosure Committee not be too top-heavy and that those working on it will be able to staff it. We are not convinced the Head of SECU needs to be a permanent member. We think more of a case could be made for the ORPC Director and/or a representative from ORQR (possibly the CSO Outreach Coordinator once in place). For any issue related to financial matters, a representative of FNVP should be automatically considered a core member.</p>	<p>The presence of the Security Unit is recommended to provide guidance on information security issues. For issues related to information security, the Head of the Security Unit will be represented by the Security Staff directly in charge of information security.</p> <p>Membership includes a representative of the COOs office in which ORQR and the CSO Coordinator belong.</p> <p>The Director ORPC as the author of policy normally does not become part of the implementation Team. Other Directors etc. Will be called upon as necessary.</p>

4.7 Bank Group compliance with international standards

At implementation stage, the close linkages between the International Aid Transparency Initiative (IATI) agreement that the Bank and other MDBs signed and committed to and information disclosure processes should be synchronized.

Agreed. As a signatory to the IATI the Bank Group will adhere to its commitment.

4.8 Expected Implementation target by the end of the year 2011 should be provided.

Before Bussan in Nov 2011 the Bank should strive for a target of 70% of information automatically disclosed.

As a matter of principle, the Bank Group will strive for more proactive disclosure of information.