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Public Information Policy



European Bank
for Reconstruction and Development



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Executive summary

The *Public Information Policy* underscores the Bank's commitment to enhance the transparency of its activities and promote good governance. In 2001 the Bank held the First Review of Implementation, as a result of which the Board requested a full Public Information Policy Review. This was carried out during 2002 and early 2003.

The parameters for the Review had been established by the Board of Directors which, while affirming the validity of the *Public Information Policy*, believed that the Bank should explore possible areas where the Bank could enhance transparency and open communication with stakeholders.

The outcome of this Review will increase the scope of information made available to the public, through the publication of certain project evaluation documents and the posting on the Web site of a schedule of forthcoming Board discussions. The process of consultation will also be strengthened by posting an invitation (with an accompanying management note) for the public to provide input to the preparation of each new Country Strategy, and by the Bank's commitment to translate (on a pilot basis) future approved Country Strategies into local languages. In addition, the Bank will translate, on a progressive basis, the three documents which constitute the framework for its interaction with the public: the *Public Information Policy*, the *Independent Recourse Mechanism*, and the *Environmental Policy*.

Public Information Policy

Basic principles

The Bank's *Public Information Policy* is founded on the following basic principles:

- a) **Transparency.** The Bank continues to be guided by the underlying presumption that, whenever possible, information concerning the Bank's operational activities will be made available to the public in the absence of a compelling reason for confidentiality. Openness helps to promote the Bank's impact on the transition in the region of operations. Furthermore, by providing information to economic decision-makers the Bank also helps to improve the stability and efficiency of markets, and promotes adherence with internationally-agreed standards.
- b) **Compliance with the mandate.** As an international financial institution (IFI) entrusted with public monies to promote transition, the views of the Bank's members must remain at the heart of policy design and strategic decision-making so as to ensure compliance with the mandate and accountability to shareholders.
- c) **Willing to listen and receptive to comment.** Through its commitment to open communication, the Bank demonstrates its willingness to listen to third parties, with the purpose of benefiting from their contributions to its work in fulfilling its mandate. This does not diminish the Bank's ultimate responsibility to decide its own strategies and to choose its own operational activities.

- d) **Safeguarding the business approach to implementing the mandate.** A business-sensitive partnership with sponsors is necessary to allay concerns about client confidentiality that could affect willingness to work with the Bank. This will take into account the recommendations of the G-22 Working Group on Transparency and Accountability, that IFIs establish, publicly announce and periodically revisit explicit and well-articulated definitions of the areas in which confidentiality should apply and the criteria for applying it. It will also take into account the Aarhus Convention, the general spirit, purpose and ultimate goals of which are subscribed to by the Bank in the implementation of its *Environmental Policy*, along with other relevant international conventions.

Therefore, the Bank has established clear lines of demarcation to distinguish information that it will put in the public domain from certain information related to its business dealings and clients, particularly in regard to operations in the private sector. The principles establishing these lines of demarcation aim to ensure an appropriate balance that will satisfy the Bank's stakeholders, comply with its mandate, and protect the interests of its business partners:

- First, the Bank must ensure that an atmosphere of mutual trust is maintained in all its business transactions. For this purpose the Bank must continue to honour its commitment to protect the confidentiality of commercially sensitive information;

- Second, at the same time, the Bank must reassure other stakeholders that such protection of valuable business information will co-exist with the presumption of disclosure and will not lessen accountability.

The Bank's *Public Information Policy* (summarised in Box 1) recognises two distinct information categories:

- Information on policies and strategies;
- Project-specific information.

Information on policies and strategies

(i) **(Draft) Sectoral Policies.** In the spirit of its willingness to listen and be receptive to comment, the Bank will release (draft) Sectoral Policies before final approval by the Board of Directors. These drafts will be made public once they have been endorsed by the Bank's Executive Committee and following a preliminary issues-oriented discussion at the Financial and Operations Policies Committee (FOPC) of the Board of Directors. Other Board Committees may be involved, on occasion.

Such (draft) Sectoral Policies will be posted on the Bank's Web site for a period of 45 calendar days, during which time the public will be invited to send comments to the Bank. In this regard, management will proactively stimulate stakeholders' interest in, and contributions to, the drafting process of these policies. A summary of such comments will be made available to the Board of Directors for Committee discussion before final approval of policies. After the policy's approval the summary will be posted on the Web site. While taking into account comments made during this exercise, the Bank will not be expected to respond individually to comments or communications. In this respect, the Bank's policy is consistent with the approach followed by other IFIs.

A schedule for preparing future revisions to the Bank's sectoral policies will be posted on the Bank's Web site. This schedule could be subject to change.

The above consultation procedure does not cover any aspects of the Bank's financial policies.

(ii) **(Final) Sectoral Policies**, namely policies approved by the Board of Directors following the consultation procedure mentioned under (i) of this section. Since its inception, the Bank has made certain policies available for public information, after Board approval. In order to allow the public to learn about, and comment on, the Bank's work, all its sectoral policies will now be made available to the public. The following sectoral policies currently provide the guidelines for the Bank's operations:

- Telecommunication, Informatics and Media;
- Natural Resources;
- Transport;
- Property Operations;
- Environmental;
- Municipal and Environmental Infrastructure;
- Energy Operations;
- Shipping Operations;
- Financial Sector Operations;
- Agribusiness Operations;
- SME Strategy.

When additional Sectoral Policies are developed the same conditions will apply for their release to the public.

Following Board approval of a Sectoral Policy, a summary of management's responses to the main issues raised during the consultation period and of the comments of NGOs and other interested parties, as presented to the Board at the time of approval, will be placed on the Bank's Web site. Furthermore, the public will be notified of impending policy reviews in order to give concerned observers adequate advance warning of the comment period. To this end, efforts will be made by the Bank to draw up and update a mailing list for this notification process for the benefit of stakeholders without access to a Web site.

(iii) **Inviting public input to the preparation of Country Strategies.** Comments are invited from the public as input to the preparation of each new Country Strategy. Such comment would be on the basis of the existing Country Strategy, already available on the Web site, and an accompanying management note outlining the main areas to be focused upon in the Review. Comment would have to be provided by a specified date, 8 weeks after the announcement of the invitation on the Web site. This would allow sufficient time for the Bank to take account of such input.

An Addendum summarising the public comments received and the team's responses to such comments, would be provided to the Executive Committee as well as to Directors ahead of consideration at the relevant Country Strategy Workshop, but would not be subject to Board approval, nor form part of the Country Strategy as such. The Addendum would be posted on the Web site following Board approval of the Country Strategy.

While it is imperative that the Bank maintains ownership of Country Strategies, it will consider constructive public comment on specific issues as part of the review process of individual documents. To facilitate the comment process

outlined, the Bank will post a schedule of impending Strategy Reviews on the Bank's Web site to allow NGOs and other specialists to register comments on the new Country Strategy, and will continue to enhance the quality of the country assessment by encouraging and seeking a wide range of comments.

(iv) **(Final) Country Strategies.** The Board-approved Country Strategy will be posted on the Bank's Web site, following consultation with the country concerned, if such consultation is requested by the national authorities. The released document will not contain confidential information as defined in Box 2 (see page 10) of the Policy. Any excluded material will be flagged to the Board of Directors.

As Country Strategies form an integral part of the Bank's policy dialogue process with its countries of operations and these documents are a blueprint for the Bank, the integrity and intrinsic value of the Strategies will be respected. This position is intended to avoid endangering the existing frank and open dialogue with the authorities of member countries.

(v) **Translation of approved Country Strategies into local languages.** The Bank (on a pilot basis from June 2003) will translate each approved Country Strategy into the relevant official national language as prescribed in the relevant laws. In those countries where there is more than one official national language, and where one of those languages is a designated working language of the Bank, the translation will only be provided in such working language. The responsibility for translation other than in Russian will rest with the local Resident Office, which will select competent translators. Translated Country Strategies will not be considered official Bank documents as they are prepared only for the convenience of local communities and other interested parties.

Box 1: The Bank's Public Information Policy

Sectoral Policies

- All (draft) Sectoral Policies, after pre-Board discussion by Directors, will be posted on the Bank's Web site for a period of 45 calendar days, during which time the public will be invited to send comments on the policy. Management will proactively stimulate stakeholders' interest in, and contributions to, the drafting of these policies. The comments will be summarised and distributed to Directors before approval of the relevant policy;
- (Final) Sectoral Policies, after approval by the Board of Directors, will also be posted on the Bank's Web site to enable the public to comment and be informed.

Country Strategies

- Board-approved Country Strategies will be posted on the Bank's Web site after consultation with the country concerned, if such consultation is requested by the national authorities. Such documents will exclude any information which falls within the definition of confidentiality as set out in Box 2 (see page 10).
- Comments will be invited from the public as input to the preparation of each new (draft) Country Strategy. Such comment would be on the basis of the existing Country Strategy, already available on the Web site, and an accompanying management note outlining the main areas to be focused upon in the Review.
- The Bank (on a one year pilot basis from June 2003) will translate each approved Country Strategy into the relevant official national language as set out in the relevant laws.

Translation of the Public Information Policy, the Independent Recourse Mechanism and the Environmental Policy into local languages

The Bank – on a progressive basis – will translate into the relevant official national language the *Public Information Policy*, the *Independent Review Mechanism*, and the *Environmental Policy*.

Medium and long-term Strategies

The Bank's medium and long-term strategies, such as the *Strategic Portfolio Review*, the annual *Medium Term Strategy Update*, as well as the *Budget* will be released in a summary form.

Project Summary Documents

A Project Summary Document (PSD) is prepared for each project. PSDs for private sector projects will be released at least 30 days prior to consideration of the project by the Board of Directors. PSDs for public sector projects will be released at least 60 days before Board consideration, after passing Initial Review by the Bank's management. PSDs will be updated if material changes are made to the project.

Project Evaluation Documents

The Bank will release and post on the Bank's Web site – subject to clearance in respect of commercial confidentiality – the following reports prepared by the Project Evaluation Department: summaries of *Operational Performance Evaluation Reviews (OPERs)*; *Evaluation Special Studies*, on themes such as sectors and programmes; OPER reports on TC operations; the *Work Programme of PED*; and the *Annual Evaluation Overview Report (AEOR)*.

Posting on the Web site of a schedule of forthcoming Board discussions

The Bank will collate in a dedicated Web site location the programme for Board discussions of forthcoming Country Strategies and Sector Policies, with a link to the Web site location of Project Summary Documents which specify the envisaged Board date for project approval. The schedule will be updated on a monthly basis. While intended to indicate the programme of Board activities it must be noted that the precise scheduling of individual items can change.

Environmental information disclosure

The Bank's commitments concerning the release of environmental information on projects are contained in the *Environmental Policy*.

Public Sector Projects

The Board Report on a public sector project will be made available to the public on request excluding any information therein which falls within the definition of confidentiality set out in Box 2 (see page 10).

The Bank cannot guarantee the accuracy and authenticity of any such translation, which will carry a disclaimer. Translations of the approved Country Strategies should be undertaken within a reasonable amount of time and be made available on the Bank's Web site.

The translation of the Country Strategies into the relevant national language is not intended, and should not be seen, to in any way modify, alter or impact upon the Bank's practice of working in the four treaty languages (English, French, German and Russian). These four languages shall remain the only designated working languages of the Bank.

Publications

Through the Annual Report and its publications programme, the Bank will continue to make available a considerable amount of information about its organisation, its operational strategy and its assessment of the economic climate in its countries of operations.

Press releases, President's speeches and senior management statements

The Bank will continue to inform the public and business community at large about its operational activities through press releases. The public release of many of the President's speeches and statements by senior management contributes to the free flow of information on the Bank's policies and operations. These speeches will continue to be posted on the Bank's Web site.

(vi) **Translation of the Public Information Policy, the Independent Recourse Mechanism and the Environmental Policy.** The Bank – on a progressive basis – will translate into the relevant official national language the three documents which prescribe the framework for its interaction with the public: the *Public Information Policy*, the *Independent Recourse Mechanism*, and the *Environmental Policy*.

(vii) **Medium and long-term Strategies.** Another fundamental element of the Bank's transparency concerns the public awareness of the major policy documents regarding the Bank's future operations. This relates to the

Bank's longer term strategies that are neither sectoral, nor country specific. The Bank's operations are guided by such strategies as the *Strategic Portfolio Review*, the annual *Medium Term Strategy Update* and the annual *Budget* document. Summaries of these documents will be made available on the Bank's Web site after Board approval of the main document.

Project-specific information

As noted previously, business clients entrust confidential information to the Bank, which the Bank in turn, as a financial institution promoting the development of private sector enterprises, has a duty to respect. It is, however, important for the Bank to inform the public of ongoing project development.

(i) **Project Summary Documents.** A Project Summary Document (PSD) will be prepared for each private and public sector project. Release of PSDs for private sector projects will occur at least 30 days prior to consideration of the Board of Directors, unless the Bank's client or co-financing institution provides sound reasons for confidentiality. For public sector projects the PSD will be released as soon as possible after the project has passed its Initial Review by the Bank's management (typically 4-5 months' before Board consideration), and at least 60 days before Board discussion. PSDs will be updated if material changes are made to the project following the release of the original PSD.

In framing the *Public Information Policy* the Bank has established confidentiality as being foremost a matter of commercial concern. For example, as with other IFIs (e.g. the IFC), release of information in relation to listed companies may be price sensitive and must comply with stock exchange regulations. In all cases, confidential information supplied to the

Bank by its clients will not be released without the client's prior consent. PSDs will be posted on the Bank's Web site and made available from the Bank's Publications Desk.

As part of the *Public Information Policy*, emphasis will be placed on the need for implementation of the policy on PSD release, especially regarding timeliness of document release and compliance issues over derogations.

(ii) **Environmental information disclosure.** The Bank's commitments concerning the release of environmental information on projects are contained in the *Environmental Policy*.

(iii) **Public Sector Project Board Reports.** The Board Report on a public sector project will be made available to the public on request once the project has been approved by the Board of Directors. Any information that falls within the definition of confidentiality set out in Box 2 (see page 10) will be removed from the released documents.

(iv) **Project Evaluation Documents.** The Bank will release and post on the Bank's Web site – subject to clearance in respect of commercial confidentiality – certain evaluation reports prepared by the Project Evaluation Department (PED). The following documents will be disclosed: summaries of *Operational Performance Evaluation Review (OPER)*; *Evaluation Special Studies*, on themes such as sectors and programmes; OPER reports on TC operations; the *Work Programme of PED*; and the *Annual Evaluation Overview Report (AEOR)*.

(v) **Posting on the Web site of a schedule of forthcoming Board discussions.** The Bank will collate in a dedicated Web site location the programme for Board discussions of forthcoming Country Strategies and Sector Policies, with a link to the Web site location of Project Summary Documents which specify the envis-

aged Board date for project approval. The schedule will be posted bi-annually. While intended to indicate the programme of Board activities it must be noted that the precise scheduling of individual items can change.

Implementation, accountability and monitoring of the Policy

The ultimate success of the *Public Information Policy* will be in its proper implementation. To this end, an essential element of the Policy is to ensure compliance, through internal accountability and an ongoing monitoring process.

This will be achieved in the following ways:

1. Management will report to the Board on implementation of the Policy on an annual (calendar year) basis and the findings therein will be made public on the Bank's Web site. The Secretary General, assisted as necessary by the General Counsel and other Members of the Executive Committee, will oversee and verify compliance with the Policy.
2. The Policy will be subject to review on a three year cycle, especially in regard to such matters as the definition of confidentiality. Such reviews will be posted on the Bank's Web site.
3. In regard to such matters as the release of PSDs in the case of private sector projects, especially in regard to sponsor confidentiality and business sensitivity, derogations will be authorised by management. The Board of Directors will be notified. The Bank believes that the more effective way of ensuring accountability in regard to the Policy is to make each relevant department responsible for implementation.

4. The Bank's Outreach and NGO Relations Manager will communicate with NGOs and other stakeholders, thereby establishing a dedicated contact point for such a purpose. The Bank endeavours to respond as appropriate to reasonable requests for information on any other aspects of the Bank's work consistent with the principles of confidentiality set out in Box 2 (see page 10) and after consultations with other relevant parties. Contact information and details will be provided on the Bank's Web site.

5. The establishment of an *Independent Recourse Mechanism (IRM)* has been approved. The IRM will receive complaints from groups who are, or are likely to be, directly and adversely affected by a Bank-financed project to determine whether there has been material non-compliance by the Bank with specified policy requirements. The IRM's focus is to examine project-related issues. If appropriate, a group filing a complaint with the IRM may indicate that, in their opinion, the Bank has failed to comply with a project-specific requirement of the *Public Information Policy*. In this context, the *Independent Recourse Mechanism* may consider issues relating to possible non-compliance with the project-specific requirements, as set out on page 8.

As part of the monitoring process, the Bank will maintain close contact with other IFIs, benefiting from feedback on their experiences in the application of public information policies, learning from this exercise, and adapting its approach where appropriate, taking into account its particular mandate and business profile. At the same time, other IFIs would benefit from the Bank's experience in implementing its *Public Information Policy*.

Box 2: Confidential information

- Documents intended for internal purposes only, or classified under the Bank's internal classification regime;
- Board documents, unless Board approval for release is given;
- Privileged information such as legal advice and correspondence with external legal advisers;
- Information which, if disclosed, in the Bank's view would seriously undermine the policy dialogue with the country of operations concerned;
- Information that, if disclosed, could violate the law, or prove a threat to the national security of a member country;
- Information in the Bank's possession which was not created by the Bank and is identified by its originator as being sensitive and confidential, or when the originator has requested that its release be restricted;
- Information related to procurement processes, including pre-qualification information submitted by prospective bidders, tenders, proposals or price quotations, or records of deliberative processes;
- Project evaluation reports which are produced for internal use only;
- Financial, business or proprietary information of private entities received by the Bank in the analysis or negotiation of loans, unless permission is given by those private entities to release this information.

Information considered confidential

The *Public Information Policy* is based on the presumption that information concerning the Bank's operational activities will be made available to the public in the absence of a compelling reason for confidentiality. For the stated reasons, certain categories of documents are not released. These are listed in Box 2 (left).

The Bank maintains high standards of conduct with respect to such confidential information. Failure to continue to observe those standards would not only affect the credibility of the Bank with its existing clients but could act as a deterrent to future business partners. In general, and not only in regard to the Bank, confidential materials cannot be released without the agreement of their originators.

Background to the Public Information Policy

Information, accountability and transition

The Bank places particular emphasis on public accountability, and its inextricable link with the institution's role as a promoter of transition. The presumption of information disclosure is put forward as a way to enhance the Bank's role in an increasingly challenging business environment. Thus, the passive concepts of "access and disclosure" have been transformed into the more proactive notions of "information and accountability".

As an organisation mandated to promote economically, financially and environmentally sustainable transition, with emphasis on the private sector, the Bank strives to integrate sound business practices into all its operations. To this end, the Bank continues to capitalise on advice from the market-place and public opinion, in addition to guidance from shareholders and its policy dialogue with the countries of operations.

The Bank cannot realise its ambitious mandate alone. For this purpose the *Public Information Policy* seeks to broaden and deepen the Bank's relationship with all stakeholders, taking into account the different nature and significance of individual interests and pursuits.

At the heart of the Bank is its shareholders, which provide guidance and expect full implementation of the Bank's mandate. The partnership which the Bank has established with business sponsors and co-investors is another core element of the Bank's operations.

The interaction with other stakeholders, given their divergent interests, their large number and their global spread, must be looser and incorporated, for practical reasons, into the notion of the Bank's willingness to listen. This will be the basis, when required, for consultations with NGOs and the wider public.

There are significant merits in framing the *Public Information Policy* keeping in mind the benefits outlined in Box 3:

- Information exchanged with stakeholders reflects a proactive attitude, appropriate to keeping the Bank at the forefront of the efforts to build democratic governance and market economies in the region.

Box 3: The benefits of public information

Enhanced public information brings widely recognised benefits, for the Bank as an institution, for its shareholders and clients and for those charged with executing its unique mandate. These benefits include:

- greater transparency for purposes of governance;
- reaching out to stakeholders;
- learning from outside comments;
- informing the public about the Bank's mission;
- fostering a positive image of the Bank;
- promoting the efficiency and stability of markets.

Box 4: Reasons for confidentiality of project information

The Bank's duty to protect the business interests of its project sponsors and clients covers a range of issues that are crucial in the highly competitive marketplace. The key issues that must be taken into account when assessing the "confidentiality" of information regarding private sector projects are:

- The mere fact that a client is intending to invest in a given country may be confidential until preparations are quite advanced. Otherwise the client may lose its first-mover advantage in relation to its competitors.
- Many details of the clients' projects may be commercially sensitive. These could include the market entry strategy, product positioning, detailed costings, expected pricing strategy and overall profitability.
- A decision by the Bank not to finance a particular project could damage the reputation of both project and client in the country concerned. The Bank's decision may be related to its own strategy in the country, not to questions regarding the viability or commercial worth of the project. Yet the sponsor's prospect for obtaining finance from elsewhere might nonetheless be damaged.
- The above confidentiality concerns may be further reinforced where the client is a listed company. The Bank's potential or actual involvement might then be price-sensitive information whose handling needs to respect the local stock exchange requirements.

- In its continuous efforts to innovate, learn and search for new ideas, the Bank is willing to listen to the views of external stakeholders.
- The Bank continues to emphasise its role as a partner in the transition of the countries of operations – in association with all those able and willing to contribute to the process.

A bank focused on the private sector

As a financial institution with the bulk of its business in the private sector, the Bank must also maintain a pragmatic, realistic approach in dealing with its business sponsors, clients and co-financiers. Their concern, shared by the Bank, is preservation of the confidentiality and security necessary to develop business initiatives when considerable private resources are at stake.

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