



Australian Government

The Treasury

Australian National Contact Point
for the OECD Guidelines for Multinational Enterprises

Follow Up Statement

Regarding complaint submitted by Equitable Cambodia and
Inclusive Development International on behalf of Cambodian
families

Published 27 February 2020

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Manager, Media Unit
The Treasury
Langton Crescent
Parkes ACT 2600
Email: medialiaison@treasury.gov.au

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EXECUTIVE SUMMARY

1. On 27 June 2018, the Australian National Contact Point (AusNCP) issued a Final Statement regarding a Specific Instance complaint from Equitable Cambodia (EC) and Inclusive Development International (IDI) on behalf of Cambodian families against Australian and New Zealand Banking Group Limited (ANZ Group) and ANZ Royal Bank (Cambodia) Limited (together, ANZ).
2. Since the 2018 Final Statement, the parties have had ongoing contact, and requested the AusNCP facilitate a dialogue between the parties through its 'good offices' process under the *OECD Guidelines for Multinational Enterprises (OECD Guidelines)*.
3. On 7 February 2020, the Independent Examiner of the AusNCP facilitated a meeting involving representatives of ANZ, EC, IDI and the Cambodian families. The parties jointly set the agenda and the terms for their dialogue. During the discussions, the parties engaged constructively and reached an agreed outcome.
4. Consistent with the *OECD Guidelines*¹ and the AusNCP's Procedures², the exact terms of the parties' agreement remains confidential to them. A public statement agreed by the parties is attached to this Follow Up statement.
5. The AusNCP notes, with reference to the parties' statement (and the views and recommendations contained in the AusNCP's 2018 Final Statement):
 - ANZ has acknowledged that its initial due diligence, before making this loan, was inadequate;
 - ANZ had encouraged its customer to remedy adverse human rights impacts from the project, but ANZ's efforts were unsuccessful and the customer's business relationship with ANZ finished in 2014;
 - ANZ recognises the continuing hardships faced by the affected communities, and has agreed to pay the profit it earned from the loan, to the affected communities;
 - ANZ has also committed to review and strengthen its human rights policies and grievance mechanisms; and
 - IDI and EC welcome ANZ's contribution to the communities and its commitment to strengthen its human rights standards.

¹ 'Information on the content of the agreement will only be included [in the final statement] insofar as the parties involved agree thereto': section I, C.3(b), *OECD Guidelines for Multinational Enterprises*, 2011 Edition

² www.ausncp.gov.au/complaints/ausncp-procedures

6. The AusNCP, as part of its monitoring role, concludes that all parties participated in the process in a responsible and professional manner. The parties agreed to, and had, a constructive dialogue and were able to reach resolution through the process. The AusNCP appreciates the commitment of all parties to enter into dialogue under the *OECD Guidelines* framework.
7. The AusNCP notes the *OECD Guidelines* expect companies to comply with the *UN Guiding Principles on Business and Human Rights*. This includes conducting due diligence informed by guidances issued by the OECD Secretariat subsequent to initial AusNCP consideration of this case including (for financial institutions): the *Due Diligence for Responsible Corporate Lending and Securities Underwriting* (2019), *Due Diligence Guidance for Responsible Business Conduct* (2018), and *Responsible Business Conduct for Institutional Investors* (2017).
8. Where a company's due-diligence identifies impacts which it has caused or contributed to, or to which it is linked through a business relationship, the company has responsibilities regarding remedy for those impacts. Where a company has gained revenue in a manner inconsistent with the *OECD Guidelines*, and that has resulted in parties being impacted, the payment of the revenues to those parties may be one way a company can comply with the requirements of the *OECD Guidelines*.
9. This statement is available on the AusNCP website at www.AusNCP.gov.au.

Kate Lynch
Australian National Contact Point
OECD Guidelines for Multinational Enterprises
C/ - Australian Treasury
Email: Secretariat@AusNCP.gov.au

STATEMENT OF THE PARTIES

ANZ, Inclusive Development International and Equitable Cambodia have reached an agreement on how to assist Cambodian communities that were adversely affected by an economic land use concession granted for a sugarcane project.

The agreement resolves the complaint made against the bank about a loan in Cambodia. The agreement was made with the assistance of the Australian National Contact Point (AusNCP).

ANZ acknowledges its due diligence on the project funded by its loan was inadequate and recognizes the hardships faced by the affected communities.

Following dialogue with Inclusive Development International and Equitable Cambodia in 2014, ANZ encouraged its customer to address the adverse human rights impacts caused by the land concession granted for the project. ANZ's efforts were unsuccessful.

The agreement includes:

- A contribution by ANZ of the gross profit it earned from the loan to help alleviate the hardships faced by the affected communities and support their efforts toward rehabilitation.
- A commitment by ANZ to review and strengthen its human rights policies, including its customer social and environmental screening processes, and specific grievance mechanism accessible to affected communities.

ANZ noted that it is not legally liable for the adverse impacts arising from the land use concession and sugarcane project.

Inclusive Development International and Equitable Cambodia welcome ANZ's contribution of the gross profit from the loan to help the communities get back on their feet, as well as its commitment to review and strengthen its human rights standards. Both organisations look forward to working with ANZ to continue to align its human rights approach with the OECD Guidelines on Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.