

ATTN. MR. SHAYNE ELLIOTT
CHIEF EXECUTIVE OFFICER
ANZ BANK LIMITED
BY EMAIL

SUBJECT: COMPENSATION FOR FAMILIES DISPLACED BY PHNOM PENH SUGAR

29 OCTOBER 2018

Dear Mr. Elliot,

We are writing to you following the recent conclusion of the complaint launched against ANZ at the Australian National Contact Point (NCP), regarding ANZ's role in the displacement of thousands of Cambodian families through its finance for Phnom Penh Sugar (PPS).

As you are aware, the case relates to ANZ's financial support to PPS, via its local subsidiary, for the construction of a sugar refinery that was built on, and sourced raw materials from, a plantation established on land which had been forcibly seized from Cambodian villagers. The impacts of the land seizure for these families has been devastating. Families were evicted with no compensation, or with sums as low as \$65 for land that once provided them with food and a livelihood. There have been food shortages as families have been resettled onto land which is unsuitable for growing crops. Complainants have also documented routine use of child labour and deaths of plantation workers due to dangerous working conditions. Your comments to an Australian Parliamentary Committee earlier this month acknowledging that "this is a dreadful situation" are correct.

The Australian NCP has made it clear that ANZ did not live up to its internal policies and procedures on human rights, nor to the expectations expressed in the OECD Guidelines for Multinational Enterprises, in this case, as "the potential risks associated with this [lending] decision would likely have been readily apparent." The NCP's [final recommendation](#) notes that:

"As the notifiers have pointed out, there was publicly available information at the time (in 2010) that suggested the existence of risks associated with ANZ's former client and its project – including the well-publicised dispute between PPS and the affected community at around the time that ANZ commenced financing the sugar refinery and factory."

Given that ANZ proceeded with financing this facility when it was in a position to know the likelihood of severe human rights impacts, we consider that ANZ clearly contributed to the human rights abuses documented in this case. ANZ's [2016 human rights policy](#) states that the bank "understand[s] our responsibility to provide for or cooperate in the remediation through legitimate processes of adverse human rights impacts which we identify we have caused or contributed to."

We now call on ANZ to follow through on this responsibility, and to divest itself of the profits that it earned from the PPS loan and provide them to the 681 families as reparations, as the complainants have called for.

We would also like to request details of how ANZ is planning to meet the NCP's recommendations that the bank:

- instigate methods to promote and demonstrate internal compliance with its own stated corporate standards with respect to human rights, to ensure they give effect to the OECD Guidelines' recommendations,
- further strengthen the application of its due diligence arrangements (including reviewing its screening and monitoring systems) to ensure they are adequate to manage the risks associated with its lending activities – especially in relation to its business with clients in some developing countries where legal and governance frameworks are less developed than in Australia, and
- establish a grievance resolution mechanism (and publish its outcomes) to both support the effective operation of its corporate standards in relation to human rights, and demonstrate that its actions are consistent with community expectations around the accountability of multinational enterprises in this area.

We note that the NCP has requested that ANZ report back on its actions in response to each of these recommendations, and we will be following ANZ's response closely.

Regarding the last of these recommendations, we would like to draw your attention to BankTrack and Oxfam Australia's June 2018 briefing paper, "[Developing effective grievance mechanisms in the banking sector](#)", which provides further clarity on banks' responsibilities under international standards and sets out how bank grievance mechanisms may operate in practice. We hope ANZ will consider the conclusions of this briefing paper carefully as it considers how to enact the NCP's recommendations.

This case has already had significant reputational impact for ANZ. We recognise and welcome the improvements in policy which have taken place since the case was first raised - including the bank's development of a policy of 'zero tolerance' for improper land acquisition. Yet these policy developments have not yet had any positive impact on the families forced from their land.

We urge ANZ to show that it takes its human rights responsibilities seriously and that it has learned from this case, by divesting its profits from this loan and providing them to the affected communities through a mechanism agreed to by the families and the civil society organisations working together with them, and by meeting the NCP's recommendations in full and as urgently as possible.

We look forward to hearing from you.

Yours sincerely,



Johan Frijns, Director, BankTrack



Joseph Wilde-Ramsing, Coordinator, OECD Watch