



To: Gerard Brown
Group General Manager, Corporate Affairs
Australia and New Zealand Banking Group Limited
ANZ Centre, 833 Collins Street
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Australia
Via Email: gerard.brown@anz.com

Friday 1 May 2015

Dear Gerard,

One year on from the publication of our *Banking on Shaky Ground* report we write to formally update you on developments related to Oxfam's work on improper land acquisitions in the soft commodity sector and the exposure of the biggest Australian banks.

Firstly, we wish to thank your team, particularly Ben Walker and Tilly Weate, for their engagement with Oxfam on this issue. Secondly, we seek to highlight recent action taken by ANZ's competitors. Thirdly, we emphasize that ANZ's exposure to land grabs is systemic and that, as yet, it has not undertaken a systemic response.

As other banks take steps to address land grabs, ANZ risks being seen as a laggard

In November 2014, two of your competitors released new policies that outlined their land rights commitments relevant to the soft commodity sector. NAB's *Improper Land Acquisitions Policy Statement* articulated how its human rights responsibilities applied to land and stated the action that it would take to respect land rights in its lending and procurement across all sectors. Westpac's *Financing Agribusiness Position Statement* outlined that it would only work with agribusiness clients who respect all communities' right to Free, Prior and Informed Consent (FPIC). Thousands of bank customers have sent letters to congratulate them on these significant steps and encourage further action.

Within this shifting context, ANZ risks being viewed as a laggard on land rights. Through its super regional strategy ANZ's agriculture and timber investments are exposed to countries which face challenging land rights environments – including poor rule of law, a lack of independent judiciary and weak recognition of land tenure for everyday people. Our 2014 report *Banking on Shaky Ground* detailed current gaps in ANZ's approach to land-related risk and highlighted links to another 10 credible allegations of land grabs in the soft commodity sector (p.40-41).¹ For all of these cases, ANZ has refuted either its connection to the company or a company link to land grabs but has presented no details, publicly or privately, that would enable Oxfam to examine these concerns. This emphasis on unverifiable claims and a lack of systemic action place ANZ at risk of being viewed as out of step with evolving social risk standards while your competitors investigate and develop substantial policies to mitigate land risk through enhanced due diligence.²

The ANZ-Phnom Penh Sugar case has now become an emblematic example of reputational risk

In our formal letter of 29 July 2014 we commented on developments in the ANZ and Phnom Penh Sugar (PPS) case – the nature of which are detailed in our Report. In early July, ANZ and PPS ended their financial

¹ These were drawn from independent financial sector research, financial sector databases, public records, NGO reports and formal complaints processes.

² ANZ's 2014 Corporate Sustainability Review acknowledges Oxfam's work on 'land grabs'. However, with exception to mentioning the PPS case study, it does not address how the bank has investigated and responded to this issue at a systemic level.

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relationship. ANZ's public communications since July suggest that communities have been meaningfully compensated. In its written response to 60 Minutes ANZ noted that 'PPS has stated they have compensated or reached agreements on compensation with virtually all members of the impacted communities'. Oxfam would like to clarify that affected communities have not yet received adequate compensation and remain in precarious living conditions as a direct result of the PPS land grab.

Fair compensation involves a whole-of-community approach based on systematic valuation. This has not occurred in Kampong Speu. A complaint against ANZ under the OECD Guidelines for Multinational Enterprises extensively describes community damages and notes 'where compensation was given, losses were significantly understated and undervalued, and the process was characterized by threats and a lack of participation and transparency'.³ A systematic inventory of losses based on household analysis and community interviews conducted by local NGOs estimate community losses at USD 11 million. While ANZ notes that it is in contact with the EU and Cambodian government working group examining the impacts of preferential trading arrangements on the Cambodian sugar industry – these efforts are separate to the bank's own responsibility and role in redress. Further, they will not resolve the gaps in ANZ's internal guidance for approaching land risk in its international operations. Our Report lists specific recommendations on due diligence, disclosure and approaches to redress articulated as a Zero Tolerance for Land Grabs approach. Adopting these recommendations would greatly assist ANZ to manage land risk in its operations.

The broader context is that the ANZ-Phnom Penh Sugar case has now become an emblematic case study, it exemplifies that reputational risk for banks exposed to land grabs remains ongoing until a fair outcome is reached. Five months after ANZ and PPS ended their financial relationship, 5% of Australians saw the 60 Minutes 'Dirty Business' program which critiqued ANZ's role in, and response to, the case. The show questioned the bank's decision to keep profits from the deal, despite knowing that these activities were associated with human rights abuses. While Oxfam appreciates that ANZ has dedicated significant senior staffer time to responding to media and meeting with stakeholders, this has not yet resulted in meaningful redress for communities. Until ANZ commits to reaching a fair agreement with affected communities, it will remain exposed to ongoing reputational risk associated with this emblematic example. This case also draws attention to ANZ's lack of systematic action to address land risk and adopt a Zero Tolerance for Land Grabs approach.

Understanding the nature of land-risk in the soft commodity sector

In its 2014 Corporate Sustainability Review, ANZ notes that it 'financed part of the factory construction for Phnom Penh Sugar Company. We did not finance the acquisition of land nor did we finance plantation development'. This assertion is consistent with ANZ communications that appear to limit financial sector exposure to land grabs to direct financing of land acquisition or clearing. Intrinsic to the definition of commercially motivated land grabs is that land is accessed at little or no cost, which is below market value and below the price that would be obtained through FPIC. The bank asserting that it is not linked to land grabs because it did not directly fund land acquisitions is therefore logically problematic. This interpretation does not align with your competitors' understanding of land risk, which includes exposure to downstream activities associated with commodities sourced from improperly accessed land. Our Report highlighted that ANZ has links to several companies whose operations, as detailed in credible reports, appear to have sought to gain from commodities grown and processed on land accessed without due process, and through means which are linked to a host of human rights violations.

³ Accessible at: http://oecdwatch.org/cases/Case_343

Moving Forward

In 2015 Oxfam will continue to research additional cases of improper land acquisitions and to publish further on this issue. We will continue to work with the financial sector and your competitor banks to support efforts to recognize and respond to the risk of improper land acquisitions.

We sincerely hope that ANZ will commit to working with Oxfam to adopt a Zero Tolerance approach for Land Grabs, which we believe is coherent with ANZ CEO Mike Smith's emphasis on 'behaving appropriately and doing what is right by our customers, our shareholders, our people and the communities in which we operate...'⁴ While we welcome ANZ's recent invitation to provide input into its sensitive sector policies review, we reiterate our concern that ANZ does not yet have a sensitive sector policy for either land or agriculture. Until ANZ has clear, detailed commitments on how it respects land rights across its operations the bank continues to face the risk of exposure to improper land acquisitions.

Yours sincerely,

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⁴ ANZ 2014 Corporate Sustainability Review. p.3