



Australian Government

The Treasury

Australian National Contact Point
for the OECD Guidelines for Multinational Enterprises

Final Statement

This Specific Instance was submitted by Equitable Cambodia and Inclusive Development International on behalf of 681 Cambodian families.

Case closed 27 June 2018

Disclaimer

The information contained within this document is intended to inform the reader of the general processes and undertakings arising from a specific instance complaint raised with the Australian National Contact Point for the OECD Guidelines for Multinational Enterprises. It is made available on the understanding that the Australian Treasury, as a result of providing this information, is not engaged in providing professional or legal advice, nor does it accept any responsibility for the accuracy or completeness of any material contained herein. Readers should exercise their own judgement with respect to interpretation. This material includes the views of third parties, which do not necessarily reflect the views of the Commonwealth, or indicate its commitment to a particular course of action. Links to other websites and listings of other people or organisations are included for convenience and do not constitute endorsement of those sites, products or services. The Commonwealth Government respects the privacy of personal and commercially sensitive information provided by parties, as per the requirements of the Privacy Act 1988 and the Freedom of Information Act 1982.

© Commonwealth of Australia 2018

This publication is available for your use under a [Creative Commons Attribution 3.0 Australia](https://creativecommons.org/licenses/by/3.0/au/legalcode) licence, with the exception of the Commonwealth Coat of Arms, the Treasury logo, photographs, images, signatures and where otherwise stated. The full licence terms are available from <http://creativecommons.org/licenses/by/3.0/au/legalcode>.



Use of Treasury material under a [Creative Commons Attribution 3.0 Australia](https://creativecommons.org/licenses/by/3.0/au/legalcode) licence requires you to attribute the work (but not in any way that suggests that the Treasury endorses you or your use of the work).

Treasury material used 'as supplied'.

Provided you have not modified or transformed Treasury material in any way including, for example, by changing the Treasury text; calculating percentage changes; graphing or charting data; or deriving new statistics from published Treasury statistics — then Treasury prefers the following attribution:

Source: The Australian Government the Treasury

Derivative material

If you have modified or transformed Treasury material, or derived new material from those of the Treasury in any way, then Treasury prefers the following attribution:

Based on The Australian Government the Treasury data

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the It's an Honour website (see www.itsanhonour.gov.au).

Other uses

Enquiries regarding this licence and any other use of this document are welcome at:

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

CONTENTS

- EXECUTIVE SUMMARY2
- SPECIFIC INSTANCE4
 - Parties..... 4
 - Other parties and National Contact Points..... 4
 - Complaint 4
 - Outcomes sought 5
 - ANZ response 5
- RELEVANT OECD GUIDELINES7
- INITIAL ASSESSMENT9
- GOOD OFFICES.....9
- CONCLUSION.....9
 - Process..... 9
 - AusNCP view..... 10
 - Recommendations 14
- SCHEDULE OF EVENTS15
- INSTITUTIONAL ARRANGEMENTS17
- GOVERNANCE18

EXECUTIVE SUMMARY

1. On 7 October 2014 the Australian National Contact Point (AusNCP) received a Specific Instance complaint from Equitable Cambodia (EC) and Inclusive Development International (IDI) on behalf of 681 families against Australian and New Zealand Banking Group Limited (ANZ Group) and its group entity ANZ Royal Bank (Cambodia) Limited (ANZ Royal) (together, ANZ).
2. The Specific Instance alleged non-observance by ANZ of certain parts of the General Policies Chapter and Human Rights Chapter of the OECD Guidelines for Multinational Enterprises (OECD Guidelines) in relation to ANZ's involvement with the developer of a sugar plantation and refinery project in Cambodia. The project is alleged to have forcibly displaced the families and dispossessed them of their land and productive resources. ANZ Royal is a joint venture of ANZ Group and the Royal Group of Companies (based in Cambodia), with ANZ Group holding a 55 per cent interest in ANZ Royal¹. ANZ is linked to the project as it provided partial financing in 2011 to the developer of the project, Phnom Penh Sugar (PPS) for the refinery construction.
3. In August 2015 after considering the original complaint and material provided in response by ANZ, the AusNCP accepted the matter and offered its good offices. In late 2015, mediation was conducted between the parties through a sequence of telephone meetings and email correspondence. Mediation was concluded in December 2015 as the parties were unable to reach an agreement and considered that continued discussion served no further purpose.
4. The AusNCP provided a draft Final Statement to the parties in May 2016. However, due to substantive comments from the notifier, the AusNCP decided to delay concluding the specific instance and reconsider the substance of the Final Statement. The AusNCP subsequently had further discussions with both parties and received additional information which it has taken into account.
5. The AusNCP considers that in this case it is difficult to reconcile ANZ's decision to take on PPS as a client with its own internal policies and procedures—which appear to accord with the OECD Guidelines—as the potential risks associated with this decision would likely have been readily apparent.
6. In concluding this case, the AusNCP recommends that ANZ:
 - instigates 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

¹ On 17 May 2018 ANZ Group announced it had reached an agreement to sell its 55 per cent stake in ANZ Royal within 12 months.

- further strengthens 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
- establishes a grievance resolution mechanism (including publication of outcomes) to support the effective operation of its corporate standards in relation to human rights – and as a way of demonstrating that its actions are consistent with community expectations around the accountability of multinational enterprises in this area.

The AusNCP requests that ANZ report back to the AusNCP on its actions in response to each of these recommendations in 12 months.

7. In concluding this process, the AusNCP acknowledges the significant impact on the families affected by the various aspects of PPS' development of a sugar plantation and refinery in Cambodia.
8. This statement is available on the AusNCP website at www.ausncp.gov.au.

Victoria Anderson
Australian National Contact Point
for the OECD Guidelines for Multinational Enterprises

c/- Australian Treasury
Email: ancp@treasury.gov.au

SPECIFIC INSTANCE

Parties

1. Equitable Cambodia (EC) (co-notifier) is a registered Cambodian national non-government organisation focused on the human rights of Cambodian people.
2. Inclusive Development International (IDI) (co-notifier) is a human rights organisation focused on land and human rights and building the capacity of local organisations.
3. Australia and New Zealand Banking Group Limited (ANZ Group), together with ANZ Royal Bank (Cambodia) Limited (ANZ Royal) are the respondent (ANZ). ANZ Group is an Australian listed bank with over 9 million customers across 34 countries including Australia, New Zealand, and within Asia and the Middle East. ANZ Group holds a 55 per cent interest in ANZ Royal, which operates in Cambodia.

Other parties and National Contact Points

4. The AusNCP contracted an external mediator to conduct mediation between the parties.
5. Through the course of their negotiations and other legal proceedings, both parties corresponded with relevant local government authorities.
6. No other National Contact Points were directly involved in this specific instance.

Complaint

7. The notifiers allege that ANZ Group and its wholly owned subsidiary ANZ Royal breached sections of the General Policies and Human Rights chapters of the OECD Guidelines in connection with the development of a sugar plantation and refinery in Cambodia by Phnom Penh Sugar Co. Ltd (PPS).
8. The notifiers represent affected families who were allegedly forcibly displaced and dispossessed of their land through this project. They also state that the development was associated with arbitrary arrests and intimidation of villagers, the use of child labour and dangerous working conditions which have resulted in death.
9. The notifiers contend that ANZ – as a financier to PPS, the developer of the sugar plantation and refinery project in Cambodia – breached a number of the OECD

Guidelines by contributing to a range of “abuses through their actions and omissions, and failing to take reasonable measures to prevent or remedy them”.²

10. The notifiers acknowledge that ANZ is only “partially responsible for the harms that they have experienced, and they further recognise that ANZ’s ability to contribute to a full and effective remedy by working with PPS is now limited due to the severance of its business relationship with the sugar company”.³

Outcomes sought

11. Through the Specific Instance process the notifiers were seeking the following:

- The AusNCP to offer its good offices to resolve the dispute.
- The AusNCP to assist in engaging the respondent in a dialogue together with representatives of the communities aimed at redressing the harms that the communities have suffered.
- The respondent to divest itself of the profits that it earned from the PPS loan and provide them to the 681 families as reparations.
- The respondent to develop a corporate-level human rights compliant policy on involuntary land acquisition and resettlement, including relevant due diligence procedures.
- The respondent to establish, in partnership with other OECD financial institutions and/or Equator Principles Financial Institutions, a grievance redress mechanism that meets the criteria of legitimacy, accessibility, predictability, equitability, compatibility with the Guidelines and transparency.

ANZ response

12. ANZ disputes the contention that its financing of PPS was for the purpose of securing land or establishing the sugar plantation and states it was to part-fund the subsequent construction of the sugar refinery. Notwithstanding this, ANZ states that it acted in a way to facilitate discussion of the issues.
13. ANZ is aware of the ongoing allegations against PPS and non-government organisation (NGO) criticisms of the nature of an environmental and social (E&S) assessment undertaken by International Environmental Management. In its correspondence with the AusNCP, ANZ indicated that it made a number of efforts to encourage PPS to comply with relevant Cambodian Government laws and regulations. It also stated that it had consistent engagement with PPS to discuss the issues that had been raised – this includes ‘numerous conference

² Specific Instance to the AusNCP – 7 October 2014

³ Ibid.

calls, at least five face-to-face meetings, and several rounds of correspondence with PPS immediately prior to the repayment to discuss the issues that had been raised'.⁴

14. ANZ considers that it undertook appropriate due diligence and that responsibility for the issues raised in the E&S assessment fell to PPS and not ANZ. In relation to possible leverage it could apply, ANZ claimed it had supported and encouraged PPS to develop a detailed action plan to mitigate the E&S risks.⁵
15. ANZ further considers that issues related to land and resettlement from land "are issues that can only be resolved by the company and through the EU and Cambodian Government led process that is examining the issues of land displacement".⁶ ANZ has acknowledged its regret at not being able to make more progress in influencing change.⁷
16. ANZ noted its continuing involvement with stakeholders post the decision of PPS to pay out its loan with ANZ in July 2014 and that PPS is no longer an ANZ customer.
17. ANZ has noted the following in relation to the outcomes originally sought by the notifier.
 - ANZ does not accept that it should divest itself of the profits it earned as a result of its commercial relationship with PPS as it does not consider that it breached any of the OECD Guidelines through its financing of PPS.
 - ANZ states it undertook a review of its human rights standards in 2016 and that as part of the review it made some upgrades in key areas.
 - ANZ has not developed a formal grievance/dispute mechanism although (as outlined above) it has committed to considering remediation processes if it identifies it has caused or contributed to adverse impacts, or are linked to adverse human rights impacts via its products and services.

⁴ Letter from ANZ to the AusNCP – 8 December 2014.

⁵ Ibid.

⁶ Letter from ANZ to the AusNCP – 2 August 2017.

⁷ Ibid.

RELEVANT OECD GUIDELINES

18. The Specific Instance submitted by the notifiers alleges that ANZ breached certain paragraphs of the OECD Guidelines, specifically the following.

Chapter II General Policy

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard:

A. Enterprises should:

- : 1. Contribute to economic, environmental and social progress with a view to achieving sustainable development.
- 2. Respect the internationally recognised human rights of those affected by their activities.
- : 10. Carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The nature and extent of due diligence depend on the circumstances of a particular situation.
- : 11. Avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.
- : 12. Seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.
- : 13. In addition to addressing adverse impacts in relation to matters covered by the Guidelines, encourage, where practicable, business partners, including suppliers and subcontractors, to apply principles of responsible business conduct compatible with the Guidelines.

Chapter IV Human Rights

States have the duty to protect human rights. Enterprises should, within the framework of internationally recognised human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations:

- 1. Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

2. Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur.
- 3: Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts.
- 5: Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.
- 6: Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.

INITIAL ASSESSMENT

19. The AusNCP forwarded the Specific Instance to ANZ on 11 November 2014 and invited it to provide information in response – including to a number of questions raised in relation to the Specific Instance. ANZ provided the AusNCP with a range of relevant information on 8 December 2014.
20. After considering the original complaint and material provided by the respondent, the AusNCP decided to accept the matter and offer its good offices by bringing all parties together with a mediator to attempt to work towards a resolution of this matter.

GOOD OFFICES

21. On 24 September 2015 the AusNCP engaged the services of an external mediator to conduct confidential mediation on behalf of the AusNCP with the agreement of all parties. The mediator conducted a number of telephone conferences and had email exchanges with the parties to the matter.
22. On 17 December 2015 the mediator conducted a teleconference during which the notifiers and ANZ agreed that the mediation process would not be able to reach an outcome that would be satisfactory to all parties.

CONCLUSION

Process

23. Following the conclusion of mediation the AusNCP invited the parties to provide any additional documentation for consideration in finalising the matter. Further information was provided by both parties, including a letter on 19 January 2016 from the notifiers that responded to ANZ's 8 December 2014 letter. The notifiers' letter raised a number of concerns including the applicability of certain chapters of the Guidelines, the adequacy of due diligence undertaken by ANZ in relation to the loan and the effectiveness of ANZ's corporate policies in preventing human rights related problems.
24. The AusNCP prepared a draft Final Statement and provided this to the parties in May 2016. However, substantive comments were received from the notifier, so the AusNCP decided to delay concluding the Specific Instance and reconsider the substance of the Final Statement. In particular the AusNCP has sought to refocus its efforts more broadly on the behaviour of the respondent to address

any shortcomings in procedures and their application in accordance with the OECD Guidelines.

25. Following the distribution of the first draft, a changeover occurred in the personnel in the AusNCP secretariat and the current AusNCP commenced in May 2017. After this time, the AusNCP had further discussions with both parties and they provided additional information which was taken into account when preparing this statement.
26. The AusNCP acknowledges that consideration of this Specific Instance took an unacceptably long time. This was partly due to the complexity and sensitivity of the matter. Shortcomings in the AusNCP's processes and practices and turnover in AusNCP staffing, however, also contributed to the delays. The AusNCP apologises to both parties for this and is actively taking steps to improve future performance.

AusNCP view

27. The Specific Instance process is a collaborative one and the AusNCP thanks EC, IDI and ANZ for their ongoing participation and engagement.
28. This complaint relates to whether ANZ breached sections of the General Policies and Human Rights chapters of the OECD Guidelines in connection with the development of the project.
29. This complaint raises questions about the kind of accountability that can be expected of enterprises and how the OECD Guidelines may apply in relation to finance sector firms. The AusNCP notes the ongoing work in the OECD on these issues, including the OECD's March 2017 paper *Responsible business conduct for institutional investors*.⁸ That paper, among other things, encourages investors to conduct due diligence in line with the OECD Guidelines as a way to avoid negative impacts of their investments and avoid financial and reputational risks.
30. On the basis of information provided by the notifiers, first hand statements by Cambodian farmers, and other media coverage of the issue, it appears that a number of people have been adversely affected by the actions of the Cambodian company PPS. What is less clear is the extent to which ANZ, as a provider of finance to PPS, can be held responsible for any harm.
31. In their complaint, the notifiers acknowledge that ANZ is only partially responsible for the harms experienced by the affected communities, but they request that ANZ divest itself fully of any profits earned from the loan to PPS.
32. ANZ has consistently rejected assertions that it breached any of the OECD Guidelines and highlighted the lengths it went to in encouraging PPS to address

⁸ <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>

the problems generated by, and associated with, its project. The notifiers have disputed that ANZ used its leverage with PPS appropriately.

33. This is a complicated matter involving multiple stakeholders and interests – including a diverse group of affected families/farmers and has attracted significant local and international attention.
34. The OECD Guidelines note that in such circumstances (especially where the issues arise in a non-adhering country) *'it might not always be practicable to obtain access to all pertinent information, or to bring all the parties involved together, the NCP may still be in a position to pursue enquiries and engage in other fact finding activities'*.⁹
35. To ensure it could make a meaningful contribution, the AusNCP decided to focus its efforts on examining the extent to which ANZ, in relation to its commercial relationship with PPS, acted in line with its own stated corporate standards with respect to human rights. ANZ's corporate standards are broadly in accordance with relevant aspects of the OECD Guidelines.
36. In correspondence with the AusNCP, ANZ went to great lengths to demonstrate how its internal policies and procedures are designed to mitigate or in some cases avoid association with problematic or risky clients. For instance, in its letter to the AusNCP of 8 December 2014, ANZ made a number of statements about how its internal processes supported human rights.
 - *Our standards articulate our commitment to monitor and manage our customers' performance in protecting and promoting human rights, and for us to consider human rights impacts when evaluating prospective clients.*
 - *Our human rights standards are embedded in our client screening tools, our "sensitive sector" lending policies and training initiatives that support and guide our business lending decisions.*
 - *Social and environmental risk training is mandatory for all relevant employees who have approval to make credit decisions.*
 - *ANZ's "sensitive sector" policies ensure social and environmental considerations are incorporated into our financing and lending decision. Through our sensitive sector policies, we support customers who:*
 - *Demonstrate a balanced approach to the social, environmental and developmental impacts of their businesses; and*

⁹ Implementation procedures of the OECD Guidelines for multinational enterprises. Paragraph 39, page 106 – <https://mneguidelines.oecd.org/oecd-report-15-years-national-contact-points.pdf>.

- *Adopt internationally accepted industry management practices to manage social, environmental and economic impacts (including effects on human rights, biodiversity, cultural heritage, indigenous rights, health and safety, and governance).*

37. However, there is some doubt in this case around the extent to which ANZ's actual business practices aligned with its stated approach to human rights (and therefore the purpose of the OECD Guidelines). 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.¹⁰ For instance, villagers were protesting against the project early in 2010 and civil society representatives had been drawn into the dispute. It is difficult to reconcile the above statements by ANZ about its own internal policies and procedures, with the decision it took in 2011 to take on and continue with PPS as a client.
38. When its human rights standards were applied to ANZ's commercial relationship with its former client PPS, it is arguable that most (if not all) of them would not be satisfactorily met. For instance, with the knowledge of the dispute being well underway, there arguably should have been substantial questions and concerns in the minds of the ANZ credit decision makers around the extent to which ANZ's prospective client adopted '*internationally accepted industry management practices to manage social, environmental and economic impacts (including effects on human rights, biodiversity, cultural heritage, indigenous rights, health and safety, and governance)*'.
39. It is apparent that some reputational damage to ANZ has resulted from its involvement with PPS, and ANZ has noted its regret that it was not able to make more progress in influencing the actions of PPS especially in the period following the allegations being made by a number of NGOs.¹¹ The notifiers have expressed scepticism that ANZ was genuine in its efforts to influence PPS following the publicisation of its involvement.
40. In its letter to the AusNCP of 2 August 2017, ANZ stated that it undertook a review of its human rights standards in 2016. This is in line with an outcome sought by the notifiers that ANZ develop a corporate-level human rights compliant policy on involuntary land acquisition and resettlement, including relevant due diligence procedures. As part of the review it made some upgrades in the following key areas.
- *Confirming our 'zero tolerance' for improper land acquisition (incorporated in a public 'ANZ land acquisition position statement')*

¹⁰ For instance, see <http://www.voacambodia.com/content/sugar-company-bringing-in-soldiers-protesters--92521524/1353236.html> and <http://www.licadho-cambodia.org/pressrelease.php?perm=220>

¹¹ Letter from ANZ to the AusNCP – 8 December 2014.

- *Committing to considering remediation processes if we identify we have caused or contributed to adverse impacts, or are linked to adverse human rights impacts via our products and services.*
- *Confirming our expectation that our customers resolve issues identified where they are associated with adverse human rights impacts (consistent with our 'sensitive sector' policies that were also upgraded in 2015).*
- *Supporting our business partners to align to these standards, eg clarifying our expectation that our business partners provide a fair and safe working environment, including following our approach to 'no tolerance' for child labour.*

41. ANZ has stated that it is already applying its upgraded standards to situations involving land acquisition and displacement, including in the following instance:

In one example, before providing financing, we sought and received appropriate assurances from the customer via an independent assessment that the customer's process for completing the land acquisition meets our standards. Here there was a clear and time-bound commitment to an appropriate process, including access to appropriate grievance mechanisms to help resolve matters raised by community members.¹²

42. However, IDI and other civil society groups have expressed scepticism about the extent to which the upgraded policies are implemented in actual practices given ANZ's handling of issues relating to the PPS loan.¹³

43. The AusNCP notes that ANZ is "working with the Global Compact Network Australia, as a member of its Human Rights Leadership Group, to consider engagement opportunities with civil society and other stakeholders to discuss the challenges when applying human rights due diligence to our customers, and the mismatch often existing between some stakeholder expectations around leverage and the reality in practice".¹⁴

¹² *Ibid.*

¹³ Letter from IDI to the AusNCP – 2 October 2017.

¹⁴ Letter from ANZ to the AusNCP – 2 August 2017.

Recommendations

44. The AusNCP appreciates the active engagement of both parties to this Specific Instance. Although resolution was not reached through mediation, the issues at the core of the case are complex and there is a range of contributory factors outside the remit of the NCP process. The following recommendations have been informed by the AusNCP's consideration of the actual application of ANZ's published standards (which broadly accord with relevant elements of the OECD Guidelines) in this instance and seek to support a key aim of the OECD Guidelines which is to strengthen the basis of mutual confidence between enterprises and the societies in which they operate.
45. The AusNCP notes the notifiers' requests related to redress for the people involved in this matter and the possible divestiture of profits ANZ earned from the PPS loan. The OECD Guidelines encourage enterprises to prevent, mitigate or address adverse impacts where their activities are linked or may have been a contributing factor. As a non-judicial mechanism and in the circumstances of this case, the AusNCP does not consider its role extends to making specific recommendations about financial redress.
46. The AusNCP recommends that ANZ instigates methods to promote internal compliance with its stated corporate standards with respect to human rights and take steps to visibly demonstrate the proper application of the standards to ensure they give effect to the OECD Guidelines **[Recommendation 1]**.
47. The AusNCP recommends that ANZ further strengthens 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 **[Recommendation 2]**. Doing this would be consistent with ANZ's reflection in correspondence with the AusNCP about the importance of learning from this experience.
48. The AusNCP recommends that ANZ establishes a grievance resolution mechanism (including publication of outcomes) to support the effective operation of its corporate standards in relation to human rights – and as a way of demonstrating that its actions are consistent with community expectations around the accountability of multinational enterprises operating in this field **[Recommendation 3]**.
49. The AusNCP requests that ANZ report back to the AusNCP on its actions in response to each of these recommendations in 12 months.
50. In concluding this process, the AusNCP acknowledges the significant impact on the families affected by the various aspects of PPS' development of a sugar plantation and refinery in Cambodia.

SCHEDULE OF EVENTS

Specific Instance	Date
• Complaint submitted by EC and IDI	7 Oct 2014
• Complaint acknowledged by the AusNCP	9 Oct 2014
Initial Assessment	Date
• AusNCP provided a copy of the complaint to ANZ for response	11 Nov 2014
• ANZ response to complaint received	8 Dec 2014
• ANZ provided additional information	16 Dec 2014 27 Jan 2015
• AusNCP informed both parties that it would be offering its good offices	12 Aug 2015
Good Offices	Date
• AusNCP informed notifier of decision to proceed with original mediator	14 Sep 2015
• Various telephone meetings and email correspondence between the mediator and parties	Sep-Dec 2015
• Mediator informed AusNCP that at 17 Dec 2015 teleconference parties agreed that mediation process had 'no further purpose'	22 Dec 2015
• AusNCP emailed parties noting end of mediation and intention to draft a Final Statement. Parties invited to provide further information	14 Jan 2016
Final Statement	Date
• Notifier provided additional information	19 Jan 2016
• ANZ provided additional information	8, 23 Feb 2016 12 April 2016
• First draft of Final Statement provided to parties for comment	12 May 2016
• Notifier provided a response to draft Final Statement	26 May 2016
• ANZ provided information regarding media coverage of issue	17 Aug 2016
• ANZ provided information about updated human rights standards	13 Oct 2016
• AusNCP met with EC and Cambodian farmer representatives	23 Feb 2017
• ANZ provided additional information about updated human rights standards and examples of implementation in current practices	2 Aug 2017
• AusNCP has telephone discussion with notifier regarding feedback on process and further information	21 Sep 2017
• Notifier provided additional information, including a response to ANZ's August 2017 information	3 Oct 2017
• Notifier's letter of 3 Oct 2017 provided to ANZ	19 Oct 2017
• AusNCP staff met with ANZ to discuss matter	1 Nov 2017

- ANZ provided a letter requesting finalisation of matter 17 Nov 2017
- AusNCP teleconference with ANZ to discuss finalisation of matter 31 Jan 2018
- AusNCP teleconference with IDI to discuss finalisation of matter 21 Mar 2018
- AusNCP provided second draft of Final Statement to Oversight Committee 29 Mar 2018
- AusNCP provided second draft of Final Statement to parties 30 Apr 2018
- Parties provided AusNCP with comments on second draft of Final Statement 15-25 May 2018
- AusNCP closed the case by providing the parties with a copy of this Final Statement 27 Jun 2018

* Prior to May 2017 another Treasury official held the role of AusNCP.

INSTITUTIONAL ARRANGEMENTS

The Australian Government is committed to promoting the use of the OECD Guidelines and implementing them effectively and consistently. Through business cooperation and support, the OECD Guidelines can positively influence business conduct and ultimately economic, environmental and social progress.

The OECD Guidelines are not legally binding. They are recommendations on responsible business conduct addressed by governments, including Australia, to multinational enterprises. Importantly, while the OECD Guidelines have been endorsed within the OECD international forum, they are not a substitute for, nor do they override, Australian or international law. They represent standards of behaviour that supplement Australian law and therefore do not create conflicting requirements.

Companies operating in Australia and Australian companies operating overseas are expected to act in accordance with the principles set out in the OECD Guidelines and to perform to — at minimum — the standards they recommend.

The OECD Guidelines can be seen as:

- a useful aid to business in developing their own code of conduct (they are not aimed at replacing or preventing companies from developing their own codes);
- complementary to other business, national and international initiatives on corporate responsibility, including domestic and international law in specific areas such as human rights and bribery; and
- providing an informal structure for resolving issues that may arise in relation to implementation of the OECD Guidelines in specific instances.

GOVERNANCE

Countries adhering to the OECD Guidelines have flexibility in organising their National Contact Points (NCPs) and in seeking the active support of social partners, including the business community, worker organisations, other non-governmental organisations, and other interested parties.

Accordingly, the OECD Guidelines stipulate that NCPs:

- a) will be composed and organised such that they provide an effective basis for dealing with the broad range of issues covered by the OECD Guidelines and enable the NCP to operate in an impartial manner while maintaining an adequate level of accountability to the adhering government;
- b) can use different forms of organisation to meet this objective. A NCP can consist of senior representatives from one or more ministries, may be a senior government official or a government office headed by a senior official, be an interagency group, or one that contains independent experts. Representatives of the business community, worker organisations and other non-governmental organisations may also be included; and
- c) will develop and maintain relations with representatives of the business community, worker organisations and other interested parties that are able to contribute to the effective functioning of the OECD Guidelines.
 - i. An Oversight Committee oversees the AusNCP in its implementation of the OECD Guidelines, including advising on Specific Instances and broader international issues. Members of the Committee meet formally biannually and out of session as required, working collegiately to support the AusNCP in promoting a sustainable approach to business conduct and engender mutual confidence between multinational enterprises and the communities in which they operate.
 - ii. Ms Victoria Anderson, in her capacity as the Australian National Contact Point, is the current chair of the Oversight Committee. Officials from the Australian Treasury provide secretariat services to the Committee. Members of the Committee include representatives from the Department of Foreign Affairs and Trade; Attorney-General's Department; the Department of Home Affairs (previously the Department of Immigration and Border Protection); the Department of Industry, Innovation and Science; the Department Jobs and Small Business (previously the Department of Employment), Export Finance and Insurance Corporation; and Australian Trade Commission (Austrade). Other Departments, including the Department of Prime Minister and Cabinet, may participate in Committee meetings on an ad-hoc basis when issues of relevance arise. The Oversight Committee may call upon further experts where appropriate.