



To: Gerard Brown, Group General Manager, Corporate Affairs
Australia and New Zealand Banking Group Limited
ANZ Centre, 833 Collins Street,
Docklands VIC 3008
Australia
Via Email: gerard.brown@anz.com

Tuesday 29 July, 2014

Dear Gerard,

We write to you to provide a formal response to the ANZ Media Release dated 28 April 2014 regarding Oxfam's investigation into allegations of improper acquisitions of land in emerging market economies.

Firstly, we wish to thank your team particularly Ben Walker and Tilly Weate for their genuine engagement with Oxfam on this issue. We acknowledge that in the period between the ANZ Media Release and this communication we have had a number of productive discussions with your team on this issue.

Secondly, we note that your Media Release was in response to Oxfam's publication of its Report *Banking on Shaky Ground*, which outlined the evidence we had earlier provided to ANZ of involvement by ANZ with clients accused of improper acquisitions of land and resulting human rights abuses. This Report incorporated all details requested by ANZ for inclusion in the Report. As a result of this Report, to date, 1,437 ANZ customers have written to ANZ requesting that ANZ adopt Oxfam's recommended 'Zero Tolerance for Land Grabs' approach. We note that Ben Walker has responded to these customers. A further 13,327 people have signed a petition calling on all four of Australia's major banks to address this issue, underlining the strong response of the Australian public to our Report and the evidence contained therein. You can find all details of these actions here: <https://www.oxfam.org.au/act/take-action/>

Finally, we wish to provide in this letter a formal outline of Oxfam's view in relation to ANZ's progression on this issue to date. It remains clear that the ANZ is the most exposed of Australia's major banks to the issue of improper land acquisitions in emerging market economies. To understand why is relatively easy - to quote your CEO in 2013, "*We believe that a bank connecting across the Asia-Pacific region will achieve superior growth and returns over the longer term. Integral to achieving this is our ability to manage social and environmental risks.*" Oxfam's Report makes clear that despite your significant, and laudable, focus on managing the environmental, social and governance (ESG) risks inherent in your Asian expansion our evidence unavoidably illustrates a gap through which significant cases of exposure have fallen through. In this context, the reasonable action by a major financial institution expanding significantly into a new region would be to take swift and decisive action to close that gap. This is why Oxfam believes the ANZ stands to benefit greatly from implementing the Zero Tolerance for Land Grabs approach taken by agribusiness giants such as the Coca-Cola Company, to comprehensively address the current and future risks of exposure to improper land acquisitions the ANZ faces.

A response to the ANZ Media Release of 28 April 2014

The ANZ Media Release of 28 April 2014 contained a number of perplexing comments by the ANZ Bank. In relation to your comments regarding your customers, we note that we commenced contact with you in relation to their activities months prior to the launch of Oxfam's report. At no point during that period did the ANZ indicate to us that "almost half the companies raised with us are not customers". We are very willing to discuss this with you, in particular the 'other half' of the companies Oxfam has raised with you who do appear, at your admission, to be your customers, and the clear exposure that brings for ANZ to the credible

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accusations of involvement in improper acquisitions of land outlined in our Report. Contrary to the assertion made in the Media Release that some of the claims in relation to these customers are almost a decade old, the oldest date of a complaint is 2010, which is, as outlined in detail in the Report, a far more contemporary affair.

It is notable that after having being presented with the allegations contained in the Report months earlier, your consistent response has been that the ANZ is unwilling to discuss, confirm or deny the existence of clients or discuss particular allegations or complaints. We provided numerous opportunities for the ANZ to correct the record for inclusion in Oxfam's Report, and make comments as to whether the companies raised with you were in fact your clients. It was therefore surprising to Oxfam that the ANZ chose to publically disclose these details in a Media Release, information which had been represented to us as highly sensitive. It would have been preferable for the ANZ to instead make these comments to Oxfam when we sought to privately raise the allegations made against your clients. Some of your competitor banks engaged in this fashion, and Oxfam removed references to their previous clients where we were satisfied a relationship no longer existed.

Unfortunately, ANZ's comments in the Media Release stand in contrast to the serious consideration given by your CEO to the Oxfam report in response to a question put to him by Blue Notes Managing Editor Andrew Cornell in a video released by ANZ here: <https://bluenotes.anz.com/posts/2014/04/asia-is-a-point-of-difference,-high-growth-and-improving-returns/>. To quote, Andrew Cornell asked ANZ CEO Mike Smith, "*One of the more sensitive areas in dealing with Asia, with emerging Asia in particular, are governance issues and human rights issue., Oxfam's just released a very detailed report, which ANZ was implicated in, how do you deal with those sorts of very real threats and dangers in the region?*" The ANZ CEO responded, "*We try and be a good global citizen. That is very important to us. And many of these countries want companies like ANZ to come to them to impose the governance standards of Australia on other businesses in their country, that's why they like us there...*" His comments continued in greater detail with further questions, but this quotation is sufficient to illustrate that clearly there is a public recognition at the ANZ's highest levels of the serious and real nature of the issues outlined in our Report. Oxfam notes that this position reflects wider sentiment in the financial markets that the ANZ's Asia-Pacific expansion requires careful planning and risk assessment – and that reports like that which Oxfam has produced should be addressed by the ANZ with serious consideration, rather than instinctive defensiveness. It is Oxfam's hope that this sentiment prevails at the ANZ, and we can continue positive engagement towards the ANZ addressing the existing risks outlined in Oxfam's report through adopting a Zero Tolerance for Land Grabs approach.

ANZ's clear commitment to respect of Human Rights as integral to its Asia-Pacific expansion

As we stated in our Report, the ANZ has clearly attempted to both address and implement an approach to Human Rights, applicable to ANZ's operations globally. Our Report also assessed the ANZ in relation to its competitor banks and found it led in both specifically stating that the ANZ will "take measures to ensure we do not become associated with or inadvertently support human rights violations by the organisations or projects we support," and in outlining a willingness to conduct social and environmental screenings of customers including their human rights performance. Oxfam applauds this position, and sees it as particularly apt given the ANZ's setting of growth targets for expansion into the Asia-Pacific region.

Addressing the particular risk of exposure to improper land acquisitions in the soft commodities sector

Of particular application to the issue of improper land acquisitions in the soft commodities sector in emerging markets, the ANZ also has formulated an approach of applying social and environmental criteria for lending especially in sectors it deems 'sensitive' – which are the currently sectors of energy, extractive, forests and forestry, hydropower and water.¹ This appears an acknowledgement of the necessity, when faced with certain sector-endemic risks, to provide authoritative internal guidance of the banks approach to a particular sector, *in addition to* existing applicable external commitments (such as the Equator Principles).

We note however, that at present the ANZ does not specify an approach to the soft commodities sector. Nor does it demonstrate a clear commitment to land rights in any of its publically available sensitive sector policies. It appears to have thus far not deemed the soft commodities industry, or the issue of 'land' as a sensitive sector, despite a focus on water. This is despite the ANZ being a member of the Roundtable on Sustainable Palm Oil, and therefore its intimate knowledge of the land-related problems of the palm oil industry specifically. On its publically available policies, despite a strong overarching commitment to human rights, Oxfam believes the ANZ does not particularise nor address the specific issues which would allow it to predict and respond to the risk of land grabbing. We acknowledge that the ANZ's commitment to the Equator Principles, and the Global Compact all require some consideration of land issues in certain areas of bank operations, however this has clearly been insufficient to prevent the cases of exposure to this risk Oxfam has documented in its report. Oxfam has made this clear to the ANZ in discussions, and is heartened by the consideration your team is currently giving to inclusion of the Zero Tolerance for Land Grabs pathway in your sensitive sector review, however the materiality of the cases presented in Oxfam's Report demand swift and decisive action.

The need for leadership in taking a specific approach to addressing improper land acquisitions

The ANZ has established a solid foundation for action to address the risk of exposure to improper land acquisitions. It has a clear human rights commitment, and a sensitive sector framework within which to take action. The ANZ has also made clear progression in acknowledging the soft commodities sector as holding particular risks, and its membership of the Roundtable on Sustainable Palm Oil has set the scene for the bank to take decisive internal action to particularise and address the exposure the bank has in this sector. Oxfam's Report made apparent that even on the small amount of information Oxfam could gather, the ANZ clearly had gaps and client relationships that exposed the bank to ESG risks in exposure to land acquisitions *not picked up by existing policies and practices*. There remains little excuse of inaction.

The ANZ Case Study – Phnom Penh Sugar

Additionally, as the ANZ Case Study in the Report demonstrated, there appears to be a gap between ANZ's existing strong commitments under the Equator Principles and its practices in this very instance of Phnom Penh Sugar in Cambodia. In this case, the ANZ appears to have conducted an audit in 2010, which signalled significant social, human rights and environmental issues with the company and project's operation. Yet the ANZ invested *after* this point. Was this because the ANZ had established that the social, human rights and

¹ ANZ, *Corporate Sustainability Review 2013* (2013), 18 <http://www.anz.com/resources/d/b/db373506-9e6d-446a-a54e-62c7b89a451d/ANZ_2013_CS_Review.pdf?MOD=AJPERES>.

environmental issues outlined in the 2010 audit were insufficient to meet the criteria of human rights violations that would prevent the ANZ financing this client? Or had the ANZ's internal policies not been followed in this instance? Did the ANZ make any requirements of its client that were supposed to resolve the issues addressed in its own audit? The ANZ has not clarified this issue publically, or with Oxfam. Additionally, Oxfam has also been notified that the affected community in this case has been requesting the conducting of an independent third-party social, environmental and human rights impact assessment since January 2014. Despite assertions made by the ANZ and Phnom Penh Sugar, no such impact assessment has yet taken place. There appears a clear breakdown of policy, practice and response to an affected community in this instance.

This breakdown has an enduring impact for the affected community, irrespective of recent changes in the relationship between ANZ and Phnom Penh Sugar. On 5 July 2014 an article published in The Australian newspaper reported that Phnom Penh Sugar had suddenly repaid its loan to the ANZ, a report confirmed by an unnamed ANZ spokesperson. Given our efforts to constructively engage with the ANZ, we were disappointed that we were not contacted about this development. Concerns were raised in the Report and communicated to the ANZ privately that *'community members are worried that they are vulnerable to a swift exit by an ANZ fearful of the reputational risk now clearly made public around this investment'* (p.35). While the ANZ is no longer lending to Phnom Penh Sugar, we expect the ANZ to take action consistent with its ESG commitments that were in place while it financially supported the company from 2010-2014. Initiating an independent third-party social, environment and human rights impact assessment would clearly signal to ANZ customers and investors that the bank recognises, and is managing, the ongoing reputational and potential material risk associated with this case. This risk can be perceived as ongoing as unjust land access practices have enduring impacts on the living conditions of affected communities, exposing the bank to continued scrutiny of its ESG commitments and implementation. In this case, such scrutiny includes questions surrounding the ANZ's initial decision to invest and its ability to respond in ways that contribute to the improvement of the material circumstances of affected communities. Addressing this dynamic of ongoing risk for the ANZ aligns with Oxfam's calls for banks to take appropriate action towards Justice for Affected Communities, as described in the Report.

Practicalities of implementing Zero Tolerance for Land Grabs

As we have repeated in our discussions with you and your team, Oxfam is sympathetic to the often practical hurdles that can arise in adopting and implementing ESG approaches for a major corporation. In all our engagement with corporations on this issue, we have therefore summarised the proliferation of international standards and approaches towards the risk of improper land acquisitions into a clear, short and adoptable set of guidelines 'Zero Tolerance for Land Grabs' that both mirrors best practice, and allows for practical instruction for large corporations. Both Coca-Cola and PepsiCo have adopted Oxfam's Zero Tolerance for Land Grabs approach, and it is consistent with the ESG policies implemented by other agribusiness giants such as Wilmar.

Even despite the adoption of this approach by others, Oxfam is entirely willing to discuss the practicalities of particularising the Zero Tolerance for Land Grabs pathway to the specific operations of the ANZ Group, and talk through staged implementation of the approach particularly related to newer areas such as disclosure, or difficulties such as addressing the concerns of a particular affected community. However, we cannot accept that there is no need for the ANZ to take this pathway. For the reasons we have outlined above, the notion that the ANZ's existing policies and practices address these issues sufficiently is not borne out by the evidence Oxfam has put forward in our Report.

Moving forward

As has been communicated, Oxfam's research into cases of improper land acquisitions is continuing, and we are working together with media organisations, which see this issue as being of public interest. We are also engaging with the financial sector more broadly, including institutional and other investors on this issue, and have had a very positive response to date with some ANZ shareholders indicating interest in taking further action at your 2014 AGM should this issue remain unaddressed. Discussions are progressing with each of the other three major Australian banks, with some clear progress starting to take shape, and greater acknowledgement of the welfare and rights of the communities affected by clients' actions. We have also seen significant movement in emerging economies – particularly relevant to the ANZ you may have been notified that in June PNG's cabinet was reported as having cancelled all of the Special Agricultural Business Leases found by the Commission of Inquiry to have been obtained improperly. This is obviously a significant development and will have serious financial consequences for those clients of ANZ exposed to these leases in PNG.

In this context we sincerely hope that the ANZ will commit to working with Oxfam to adopt a Zero Tolerance approach for Land Grabs, which incorporates responsible practice towards affected communities. As we have already provided significant documentation on this Approach, we won't do so with this letter, but please to let us know if you need further clarification on any of its particulars.

We look forward to hearing your response, and hope this letter has been useful in formally setting out our position,

Yours sincerely,



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