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**CASE STUDY**

# Financing Commodities and Human Rights: The Case of ABN AMRO in the Palm Oil Sector

Lilach Trabelsi and Dorothée Baumann-Pauly



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Part A . Aligning Business Strategy with Human Rights Principles

Part B . Considering the Boundaries of a Bank's Responsibility

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This case study is inspired by real cases. The case study scenario is fictitious.

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Part A.  
Aligning Business Strategy  
with Human Rights Principles



### Amnesty's 2016 report and civil society's uproar over the financing of a large Singaporean palm oil company operating in Indonesia

In January 2017, Adriana Jansen, Director of CSR in Asia at ABN AMRO, Dirk Bakker, ABN AMRO's Outreach & Engagement Manager, and Jan Visser, CSR Advisor at the bank, got together to discuss one of their corporate clients whose business practices create controversy among human rights advocates. For several weeks, following the publishing of a report by Amnesty International, ABN AMRO<sup>1</sup> has been receiving criticism about its financing of a large Singaporean palm oil company operating in Indonesia, which is a long-standing client of the bank. The client is one of the world's largest oil palm plantation owners, and, according to the company, a leading agribusiness group in Asia.<sup>2</sup>

ABN AMRO's client, headquartered in Singapore<sup>3</sup>, controlled around 45% of the global palm oil trade around the time that Amnesty published its report (from The Guardian, published on January 26, 2016). The company's plantations are located predominantly in Indonesia (65%), followed by Malaysia (26%), and Africa (9%). In addition to cultivating oil palms, the company processes palm fruits from plantations of other suppliers.<sup>4</sup> It has been estimated that plantations around the world associated with the company's palm oil business span 232,950 hectares (from S&P Global Platts, published on April 29, 2021), which is almost the size of Luxembourg or 326,260.50 soccer fields<sup>5</sup>. In 2020, the company's net profit amounted to USD 1.53 billion.<sup>6</sup>

According to the client, it follows its "no deforestation, no peat, no exploitation" policy to run its operations in an environmentally and socially responsible way. This policy extends to the operations of the client's third-party suppliers. The company is also actively working on obtaining the certification of the Roundtable on Sustainable Palm Oil (RSPO)<sup>7</sup> for its upstream operations.<sup>8</sup>

Nevertheless, in November 2016, Amnesty International (Amnesty) published a compromising report on the client's palm oil operations in Indonesia. According to Amnesty, there are "serious human rights abuses on the plantations of [the company] and its suppliers. These include forced labor and child labor, gender discrimination, as well as exploitative and dangerous working practices that put the health of workers at risk." The report also claims that such abuses are systemic, have been taking place for several years, and that to remedy them the company must eradicate all abusive practices. From Amnesty's perspective, ABN AMRO's client's leading position in the palm oil sector means that the client has the power to ensure that human rights of workers in palm oil plantations are protected (Amnesty International, 2016).

The Amnesty report triggered a range of reactions from the media and civil society. For instance, an NGO called Friends of the Earth Netherlands launched a campaign asking citizens to support the exit of Dutch banks from the palm oil sector. This NGO collected thousands of postcards from Dutch citizens addressed to the CEOs of Dutch banks. These postcards were handed over to the banks, asking them to exit the palm oil sector. At the same time, protests were held in front of ABN AMRO's offices in Amsterdam in the weeks following the publication of the report, attracting further media attention. Employees of ABN AMRO also started questioning its engagement in the palm oil sector. Adriana, Dirk, and Jan had to think about how to respond to Amnesty's and other activists' requests. Should they prepare to withdraw from clients in the palm oil business, given the growing controversy over human rights conditions on plantations, or are there ways to uphold the bank's human rights commitments through business?

As a first step to dealing with the public uproar and internal criticism, Adriana, Dirk and Jan suggested that the bank should focus on increasing awareness of why it would be important for it to continue financing palm oil companies, and that it should also be more open about its involvement in this sector. For example, the bank's CEO could start answering questions about the bank's palm oil-related business and explaining why ABN AMRO may be favorable to staying in palm oil despite the difficulties associated with operations in this sector. Most importantly, however, a decision had to be made internally regarding the bank's relationship with the client. Is the company's performance in line with ABN AMRO's sustainability policies and human rights commitments? Can ABN AMRO continue retaining this client? Should any changes be made to the relationship?

### The palm oil sector

Palm oil consumption takes place mainly in India, China, Indonesia, and Europe (RSPO, 2021a), with demand for palm oil surging over time. Palm oil is used in a wide range of products, from food, to cosmetics, to hygiene products. In fact, it is the most widely consumed, as well as the most efficient vegetable oil as it requires relatively less land to produce (using an alternative oil could necessitate up to 10 times the amount of land). Palm oil has additional qualities that make it difficult to replace, such as being relatively cheap, readily available, shelf-stable, and having natural preservative qualities (Business Insider, 2020; WWF, 2021).

Growing demand for palm oil results in the expansion of palm oil plantations in tropical rainforests. Palm oil plantations are associated with deforestation, which is detrimental to the urgent need to reduce CO<sub>2</sub> emissions, and the destruction of habitats of endangered species that harms biodiversity. On the human rights side, issues arise in relation to child labor, discrimination against women, inadequate working conditions of (migrant) workers (be they related to unfair wages and/or (un)safe working conditions), limited freedom of association, and infringement on land rights of communities (Business Insider, 2020; RSPO, 2021c; WWF, 2021). Human rights issues are often difficult to identify, audit, manage, and remediate (RSPO, 2021c).

Harvesting palm fruit is a physically demanding job, as steel poles are used to manually cut down palm fruit bunches from trees that can grow as tall as 20 meters. Then, the fruit is placed onto and carried away to collection points using wheelbarrows. This job is done by men because the loads are very heavy. Women are usually recruited to work in plant maintenance, meaning that they are given fertilizers to spread, chemicals to spray, or asked to remove weeds. Women are often hired as day laborers. Hence, they do not have a permanent contract, nor do they receive social security benefits (Amnesty International, 2016).

Regardless of the type of job, workers are provided with daily targets that they need to achieve, which, according to Amnesty's report, are based on company needs rather than realistic expectations of how much a worker can do in a given day. The threat of a loss of wages and a lack of transparency on pay deductions make workers vulnerable to supervisor pressure. Additionally, an inability to reach set targets often results in pay deductions. This means that workers are likely to ask their spouses and children to help them complete some of the work. Sometimes, workers may be paid below minimum wages as they may arbitrarily be denied pay (Amnesty International, 2016).

Palm oil production takes place predominantly in Indonesia and Malaysia. Those two countries are responsible for around 85% of global palm oil production. Yet, palm oil species have originated in West Africa (Business Insider, 2020), and are also grown there. According to the World Wildlife Fund (WWF) and the RSPO, it is possible to grow palm oil in a sustainable manner by respecting both the environment and the communities living in and/or around the plantations (RSPO, 2021a; WWF, 2021). In fact, the palm oil sector can have a positive social impact. Millions of people, especially in Malaysia and Indonesia, are dependent on this sector for their livelihoods (Pandjaitan, 2018). It is therefore an important economic activity in some developing countries. This is reflected in the promotion of the palm oil sector by governments, such as the government of Indonesia, which has introduced its Indonesian Sustainable Palm Oil (ISPO) scheme in 2011. This scheme was extended in 2020 to include smallholder palm oil farmers. In particular, the ISPO standard aims to ensure that palm oil production is free from deforestation, labor rights issues, and conflicts related to land ownership (Jong, 2020).

Despite various efforts that have already been made by companies, NGOs, and governments, key issues that make the sustainable production of palm oil intricate remain. These include the highly complex supply chains of palm oil, and the varying levels of government support that exist in different regions across the world where palm oil is produced (Business Insider, 2020). The RSPO is an organization that was established in 2004 to address these issues and promote sustainability by bringing together and engaging a range of stakeholders throughout the supply chain of palm oil.<sup>9</sup> These include palm oil producers, processors, and traders, as well as consumer goods manufacturers, retailers, financiers, and NGOs (RSPO, 2021b). The RSPO is an important actor in the palm oil sector and is taken into account in ABN AMRO's work with palm oil companies. ABN AMRO is, in fact, an active member of the RSPO.

As a multi-stakeholder initiative, the RSPO has established common global standards for advancing sustainable palm oil production, to be implemented through its certification scheme (RSPO, 2021b).<sup>10</sup> It has also established a Human Rights Working Group (HRWK) in 2014, linking its work to the UN Guiding Principles on Business and Human Rights (RSPO, 2021c). Concretely, the RSPO's almost 5,000 members have committed to produce, source and/or use sustainable palm oil. In 2020, around 19% of global palm oil production was certified by the RSPO, representing 4.43 million hectares of certified production area (RSPO, 2021b).

Despite its efforts, the work of the RSPO has been criticized by some NGOs. For instance, according to Amnesty's report from 2016 – the same report that criticizes the bank's client – companies in the palm oil sector rely on their membership in the RSPO and the certification that they receive from the initiative to prove that they did their due diligence and are respecting human rights. However, the implementation and monitoring of the criteria set by the RSPO may be perceived as weak and inadequate, and the assessment system superficial (Amnesty International, 2016).

### **ABN AMRO's financing of agri-business and palm oil**

Dutch banks have been involved in the financing of palm oil companies for decades. The major Dutch banks such as Rabobank, ING, and ABN AMRO have been putting in place increasingly stricter sustainability policies and more detailed procedures to ensure that these policies are implemented. The policies aim to prevent deforestation, land grabbing, and human rights violations. The banks

expect their clients to certify that at least some of their activities are aligned with the expectations of the RSPO. Furthermore, in general, these banks tend to prefer engaging with their clients to encourage compliance with existing sustainability policies (Milieudefensie, 2018). In addition, high volumes of palm oil pass through the port of Rotterdam. This port is “a major player in the supply of edible oils to the European food industry, [where] oils such as palm oil, sunflower oil, rapeseed oil and coconut oil are refined and processed on a large scale” (Port of Rotterdam, 2021).

As one of the major Dutch banks, ABN AMRO has a long history of working with companies in the palm oil sector, has long-lasting relationships with its palm oil clients, and is a known financial party for these companies. For all its clients in the agri-business sector, irrespective of whether they are active in the production, processing, or trading of agri-commodities (including palm oil), the bank has put together sustainability requirements. These address deforestation, peatland degradation, land issues related to communities, working conditions, and water and soil pollution. Only clients that can comply with the bank's minimum requirements for acting in a responsible manner, or clients that at least have an improvement plan in place, may receive financing from the bank.

There are different types of financing for commodities like palm oil. Banks can provide loans to companies (i.e. a credit relationship) or invest in them through shares and bonds (i.e. an investment relationship). Credit relationships can take different forms, including corporate loans, project financing, and revolving credit facilities (Milieudefensie, 2018). As Dirk explained, ABN AMRO often provides palm oil companies short term loans for 30, 60, or 90 days. The clients use these loans to finance specific transactions – shipments from one location to another. Longer-term financing can last three to five years and may be undertaken via a syndicate of banks. In this case, the client can choose how to use the money with some limitations, such that the bank has less insight into what is being financed with the loan. Nevertheless, ABN AMRO follows extensive criteria for any lending relationship with a client. For the palm oil sector, this includes human rights-related criteria such as no forced or child labor. These criteria are taken into account in the bank's assessment of the clients' operations. The assessment of the client takes place annually – unless an event triggers an ad hoc assessment – and may also take place if the bank increases its exposure to the client by, for instance, providing an additional loan.

The different durations of financing instruments affect the credit risk level that the bank attaches to the financing of its clients. Generally, short-term loans are less risky than long-term financing. As part of its risk management process, ABN AMRO first determines the sustainability-related risk, assesses it, approves the transaction if reasonable, and then monitors and reports about said transaction.<sup>11</sup> To assess a client's operations, the bank searches for publicly available information about risk incidents associated with the client, and uses data from third party providers, such as Sustainalytics and RepRisk. It may also directly reach out with questions to the client. ABN AMRO then agrees to finance a client under clearly spelled out conditions, which include commitments to make progress on agreed-upon sustainability targets.

To obtain a more objective point of view regarding a client's progress towards the agreed-upon terms related to social and environmental standards, the bank involves a neutral third party. A third party in this case may be an NGO or a research agency that has expert consultants who can, for instance, assess compliance of the client's operations with international labor standards. This independent perspective allows the bank to better assess whether the progress is sufficient and in line with the agreements that it has reached with its client.



If a specific human rights issue arises, ABN AMRO conducts an investigation into that issue. If the bank notices that the client does not comply with one of the bank's criteria, the client could receive internal negative advice. This could negatively impact the credit approval of the client by the bank's credit committee, and hence the client's ability to obtain financing. For ABN AMRO, sustainability risk is one of the types of risks that are taken into account in the assessment of credit proposals submitted for approval. By addressing clients' sustainability risks, the bank can mitigate its exposure to social, environmental, and ethical risks that may arise through client activities.<sup>12</sup> In fact, all the sectors that the bank engages with have been analyzed to fit the bank's strategy, taking sustainability considerations into account.

In case of non-compliance with ABN AMRO's policies, the bank has an engagement process in place. This shows that the bank is open to engaging with its clients, and prefers to take an inclusive approach when possible.<sup>13</sup> This means that the bank prefers to work with its clients to improve or resolve whatever issues arise instead of ending the relationship with them (i.e. exclusion). To start such an engagement, ABN AMRO needs to see a willingness on the client's side to engage, as well as a capacity to manage the issues. The bank has a formal engagement process in place (an infographic of the process can be found in the Appendix). It includes a series of conversations with the client during which the bank evaluates the client's willingness and capacity. It also assesses the relationship with the client and how sustainability is organized within the company. Ordinarily, an engagement process with a client has a time horizon of three years, after which a decision has to be made about whether to continue working with the client following an evaluation of the client's progress or compliance. If the client is not up to ABN AMRO's sustainability standards, the relationship with the client may be terminated. However, the engagement phase could also be extended if circumstances justify such a decision.

ABN AMRO has different ways of creating leverage in its relationships with its clients to improve sustainability in the clients' operations. Aside from an interactive engagement process, the bank may include contractual criteria in loan documentation related to sustainability issues. If the client chooses not to accept the contractual clauses, then the bank may start an exit scenario. Often, the bank has a long-term relationship with clients, so it would prefer giving clients an opportunity to work on or fix the issue that has been flagged by the bank. Another way for the bank to incentivize clients to act more responsibly is by including KPIs (key performance indicators), for example on transparency in the value chain, that, if met, would grant the client a discount (i.e. a lower interest rate) on a loan.

The bank has also been actively participating in the RSPO (RSPO, 2021a). In effect, one of the bank's minimum requirements vis-à-vis clients in the palm oil sector is that the company be a member of the RSPO. The bank often refers to the importance of being a member of the RSPO and following its guidelines. It considers its participation in the RSPO as highly valuable. According to the bank, being an active member of the RSPO allows it to have a greater impact on the sector's sustainability agenda. This can be done, for instance, by sharing best practices and tools with other actors in the ecosystem. These include smaller, more local banks as, according to Adriana, "they are just starting their sustainability journey – especially in risk management. They do not yet apply ESG (environmental, social, and governance) criteria to their financing, so ABN AMRO explains what its policy is, the tools that the bank uses to implement the policy, and what the challenges are."

### ABN AMRO and the client – The way forward?

Being familiar with the palm oil sector, ABN AMRO's internal guidelines and policies, and the client, the sustainability team had to decide - how should the bank proceed vis-à-vis the client, and more broadly the financing of the palm oil sector?

Adriana argued that the bank must honor its sustainability commitments. Sustainability is an integral and central part of the bank's overall strategy, as it endeavors to help its clients become more sustainable (ABN AMRO, 2020). Despite the controversies surrounding the palm oil sector, one of ABN AMRO's aims is to help accelerate the sustainability shift in this sector, taking into account its existing client portfolio. Jan pointed out that "an important point to consider is that by continuing our relationship with the client, we can use our leverage as a financier (finance provider) to ask for improvements in the client's operations." If the bank were to disengage from the client, or indeed from the sector entirely, it would lose its ability to try to positively influence operations in the palm oil sector.

Following up on Jan's point, Dirk commented that the choice to finance the palm oil sector is not an easy one: "The sector continuously receives negative attention, while positive stories are rare." Adriana replied that this means that the bank needs to "continuously educate and create awareness about what companies in this sector are doing by telling positive stories (because telling the story once is not enough), while remaining critical." To do this, the bank needs to repeatedly invest resources and engage its internal and external stakeholders. "At the same time," Adriana argued, "the option of exiting the palm oil sector is an option of last resort, and is also not in line with the UN Guiding Principles." In fact, the palm oil companies that ABN AMRO finances are large multinationals that can have a consequential positive impact on the societies in which they operate, some of which, like the client, can take actions to improve the entire sector, not just their own operations.

Additionally, ABN AMRO has a long-standing relationship with the client. It is one of the bank's most important clients in the palm oil and Asian portfolios. For the client, ABN AMRO is an important financier. ABN AMRO's international presence represents an advantage for companies because many banks, including local (Asian) banks, are reluctant to finance companies in the palm oil sector. The company's business relationship with an international bank such as ABN AMRO enables it to attract financing from other international banks, especially given ABN AMRO's well-known approach to business that places a strong emphasis on sustainability. "ABN AMRO does not just have standards in place, it also implements them," Jan remarked. Hence, when a client works with ABN AMRO, the bank lends credibility to the client, and this can have a positive impact on a client's access to capital.

In effect, external parties to the bank have a favorable opinion of the bank's palm oil policy and rate them positively. Adriana mentioned that "Greenpeace, for example, attested that the bank has a comprehensive policy, and that, compared to other banks it is among the best in the banking sector". ABN AMRO has also been very open and transparent about its approach and the challenges that it faces when working with clients in the palm oil sector. According to the bank, NGOs like Greenpeace and WWF acknowledge that the palm oil sector is not easy to finance, but that it is important for banks such as ABN AMRO to continue financing this sector and use their leverage to advance their clients' sustainability agendas.

At the same time, a few NGOs such as Friends of the Earth Netherlands have been criticizing ABN AMRO (alongside ING and Rabobank) for what is perceived

as the bank's involvement in the destruction of rainforest and the infringement on rights of local communities in Asia and Africa. Friends of the Earth Netherlands acknowledges that Dutch banks are advanced in their approach to sustainability compared to other banks, that ABN AMRO has been advancing its sustainability agenda over the past decade, and that it has policies to ensure that clients respect human rights and engage with and respect local communities (Milieudefensie, 2018). Yet, it asserts that the bank has not been transparent about its ties to the palm oil sector, nor about its sustainability performance (Milieudefensie, 2018). Furthermore, the NGO claims that the bank's promises for improvement over time did not materialize, and that it should stop financing companies in the palm oil sector altogether (Milieudefensie, 2018).<sup>14</sup> Friends of the Earth Netherlands therefore promotes a full exit of ABN AMRO and other banks from the palm oil sector.

Considering all the different elements, from the bank's overall strategy, to its approach to financing the palm oil sector, to its relationship with the client, what should Adriana, Dirk, and Jan recommend that ABN AMRO do? Should the bank continue its relationship with the client as is? Should it stop its relationship with this client? Or is there another solution?

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<sup>1</sup> ABN AMRO Bank N.V. is headquartered in Amsterdam, the Netherlands. It is considered as one of the Netherlands' leading banks, employing around 18,000 individuals across the world. The bank has retail, private, and corporate clients (ABN AMRO, 2020). Through its activities, the bank has generated an operating income of 7,916 million euros in 2020 (ABN AMRO, 2021).

<sup>2</sup> This source is related to the bank's client and known to authors. Anonymized for publication. Information retrieved on February 02, 2021.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> 1 ha = around 1.4 soccer fields (retrieved from <https://www.justintools.com/unit-conversion/area.php?k1=hectares&k2=soccer-fields>).

<sup>6</sup> This source is related to the bank's client and known to authors. Anonymized for publication. Information retrieved on April 31, 2021.

<sup>7</sup> The certification of the RSPO is the leading certification in the palm oil sector, addressing environmental and social issues that can occur in this sector.

<sup>8</sup> This source is related to the bank's client and known to authors. Anonymized for publication. Information retrieved on February 02, 2021.

<sup>9</sup> General information about the RSPO and its principles and criteria as of 2018 is available here: <https://www.rspo.org/principles-and-criteria-review>; A short video about the RSPO and its work is available here: <https://www.youtube.com/watch?v=0LevImnonUM&t=390s>.

<sup>10</sup> Information about the certification scheme is available here: <https://rspo.org/certification>.

<sup>11</sup> Ibid.

<sup>12</sup> Based on internal documents that were shared with the authors.

<sup>13</sup> Ibid.

<sup>14</sup> ABN AMRO's Non-Financial Data & Engagement report can be found and downloaded here: <https://www.abnamro.com/en/about-abn-amro/product/download-centre>.

## Part A.

### Aligning business strategy with human rights principles

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## QUESTIONS

1.  
What is the role and/or responsibility of ABN AMRO in addressing human rights through its lending practices?
2.  
Based on the information in the case, what should ABN AMRO do with its client? Would it be possible for the bank to honor its human rights commitments while continuing to work with this client, or should the bank's relationship with this client be terminated?  
Under what conditions, if any, may the bank be able to continue its relationship with the client?
3.  
How does ABN AMRO's involvement in the palm oil sector in general and with its clients in particular, reflect on the bank's human rights commitments?
4.  
Should ABN AMRO continue financing companies in the palm oil sector?
5.  
What are the pros and cons of an engagement strategy for ABN AMRO in this case?  
Note: The engagement strategy could go beyond the specific client, e.g. engagement within the RSPO to raise standards for the sector at large.

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## Part B. Considering the Boundaries of a Bank's Responsibility

### **Friends of the Earth Netherlands' 2018 report and concerns over the financing of palm oil operations in Liberia**

Fast forward to 2018, Adriana, Dirk, and Jan find themselves facing another dilemma related to a new report, this time by Friends of the Earth Netherlands. This report alleges that another one of the bank's clients is associated with human rights violations in Liberia. More specifically, according to Friends of the Earth Netherlands and BankTrack, the operations of a company that is related to the bank's client, have had a "devastating impact on people and the environment".<sup>15</sup> The related company has been pointed at as responsible for land grabbing, as locals were allegedly forced to agree to a memorandum of understanding (MoU) giving away land rights to the company. The NGO also claims that, despite its promises, the related company has not provided employment for the local population (Milieudefensie, 2018). In addition, this related company is accused of clearing rainforest in an area that has served as a source of food and water for the local population and that is now destroyed due to the company's operations in the area (Milieudefensie, 2018).

The related company is the largest palm oil company in Liberia. It is related to a client of ABN AMRO, which is one of the largest palm oil plantation companies in the world, and is based in Singapore.<sup>16</sup> Contrary to the new report's accusations, the related company perceives itself as a strategic long-term and responsible investor in Liberia. It is committed to conducting its palm oil operations in a sustainable manner, by protecting the environment and working together with local communities.<sup>17</sup> According to the related company, productive agriculture is needed to ensure food security and help eradicate poverty, while facilitating economic growth and development in the country. The company claims that palm oil cultivation can raise the standard of living in the areas in which it takes place.<sup>18</sup>

According to the Friends of the Earth Netherlands' report published in July 2018, by financing its client, which is related to the company working in Liberia via a fund, ABN AMRO is in violation of its own policies, which require that companies respect basic human rights (Milieudefensie, 2018). Therefore, Friends of the Earth Netherlands claim that ABN AMRO should stop financing the related company, even if it may be doing so only indirectly by providing financing to its own client (from Banktrack, published on December 19, 2018). Already in October 2012, a complaint about the related company's operations was submitted to the RSPO on behalf of several local communities and NGOs. It alleges that, amongst other things, the company "has not conducted a comprehensive and participatory independent social and environmental impact assessment(s) of the area concerned and incorporated the results into relevant action plans." Additionally, according to the complaint, the related company has cleared land "without the free, prior, and informed consent of the customary land owners as represented through representative organizations of their choice." After reviewing the complaint and evidence, the RSPO's Complaints Panel has found that "there is merit in the complaint".<sup>19</sup>

### **ABN AMRO's investigation into the allegations**

Similarly to when the Amnesty report came out in 2016, this new report by Friends of the Earth Netherlands generated negative civil society and media attention for the bank. Adriana, Dirk, and Jan met yet again to discuss the new allegations and how to address them. Keeping in mind that many of the arguments in favor or against continuing to work with the client are akin to the ones that the three had discussed back in 2017, they noted that in this case, the issue that was raised by the NGO was not directly related to the bank's client. Instead,

it was related to a company that the client had invested in via a fund and is the sole owner of. Moreover, they knew that the money that the bank had lent to the client did not end up in Liberia. Nonetheless, Friends of the Earth Netherlands decided to try to hold the bank's client accountable and to demand that the bank stop working with this client. This made the team wonder - how far does the bank's responsibility extend to?

For ABN AMRO, it was an open question whether the bank's responsibility should extend to clients' related companies that are not financed by the bank. The team decided to seek additional information that could help it decide whether it should recommend that the bank continue its relationship with its client. The team (i) reached out to the client and the related company to find out how they plan to address the allegations; (ii) engaged with other NGOs to better understand their perspectives; and (iii) spoke to some of the alleged victims directly.

First, ABN AMRO's sustainability team reached out to its client, who was willing to discuss the report. The client told the ABN AMRO team that it is aware of all the allegations related to land grabbing, employment, and the clearing of rainforest. In fact, some of the issues had apparently already been resolved, while others were still pending. The client had obtained information from the related company about its action plan to address the issues that have been raised, whether they be related to the environment, communities, or specifically human rights-related, including a specific timeline. The client had also verified that the action plan was submitted to and approved by the RSPO.<sup>20</sup> Moreover, the bank's sustainability team learnt that, following the complaints, the client had decided to assist the related company in Liberia by (i) sharing technical expertise with the related company; (ii) training the local employees and helping the related company build a better sustainability team; and (iii) helping the related company in undertaking certain assessments. Most importantly for the bank, the client had acknowledged that its own policy had been breached, listed the issue in its grievance list, and made sure to demand compliance with its policy throughout its entire supply chain.

Second, the ABN AMRO sustainability team wondered – how representative is the perspective of Friends of the Earth Netherlands? Do they represent a large group of external stakeholders? Or are they only representing a small portion of stakeholder views? To answer these questions, the bank's sustainability team reached out to other NGOs. The aim was to understand, as Dirk explained, whether other NGOs “want to travel North” together with Friends of the Earth as they also think that ABN AMRO should quit financing the palm oil sector, or whether it is only Friends of the Earth who are interested in “traveling North”, while the others want to “travel South” together with ABN AMRO. Wanting to “travel South” would mean that the NGO agrees with ABN AMRO that the bank can do more to improve conditions in the palm oil sector by continuing to finance companies in this sector rather than by exiting it. From conversations with other civil society representatives, the bank concluded that Friends of the Earth likely does not represent the point of view of many external voices, who for the most part would like to see ABN AMRO continue to be involved in the palm oil sector. Adriana pointed out that “an exit scenario should always be a last resort,” and that “engagement would also be in line with the UN Guiding Principles.”

Third, bank representatives, including Dirk, met with a couple of alleged victims following a request made by Friends of the Earth. Two alleged victims came to the offices of ABN AMRO in the Netherlands, accompanied by representatives of the NGO and journalists, raising media attention. The meeting included representatives of the NGO, the two victims, and two representatives of the bank.

During the discussion held with the alleged victims, Dirk understood that “the local community was not, in fact, unhappy with the promises made by the related company and the terms of the agreement that was reached.” In reality, it was the community’s view that it stands to benefit from the related company’s presence in this very poor, rural area. The MoU giving the related company the local communities’ permission to operate stipulated, amongst other things, that job opportunities would be provided to the local communities. It also included clarifications about land rights. However, as Dirk discovered, “not everyone in the community was equally content with the potential benefits that the related company’s presence and promises could bring.” While some did benefit from the related company’s presence, others felt that they were not gaining anything and were therefore unhappy. This created a conflict within the community.

Another interesting point that came up during this discussion was that Friends of the Earth Netherlands seemed to care more about the environmental impact of the related company’s operations (such as deforestation), whereas the local communities were more focused on ways to improve their livelihoods. This highlighted that while both environmental and social sustainability dimensions are relevant for ABN AMRO, the perspective of local communities should be integrated into any decisions that involve trade-offs because it may not always be possible to satisfy both dimensions at the same time.

Finally, as they were about to conclude the meeting, Dirk asked the alleged victims: “What, according to you, would be a good outcome? Should we stop financing our client?” Contrary to the position of Friends of the Earth Netherlands who brought the victims to talk with the bank, the alleged victims responded that the solution would not be to stop working with the client. Rather, the solution – as far as they were concerned – would be to ensure that the related company keeps the promises that it made to the communities as per the signed MoU. Dirk made note of this response, and an additional mental note of the existing conflict within the community.

### ABN AMRO and the client — The way forward?

Against this background, Adriana, Dirk, and Jan had to decide on the best way forward for the bank. Does the bank’s responsibility extend to the related company? Should the bank continue its relationship with its client? If so, should changes be made to this relationship? Or, should the bank discontinue its relationship with its client altogether?

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<sup>15</sup> This source is related to the bank’s client and known to authors. Anonymized for publication. Information retrieved from the RSPO Members website on February 01, 2021.

<sup>16</sup> This source is related to the bank’s client and known to authors. Anonymized for publication. Information retrieved on August 19, 2021.

<sup>17</sup> These sources are related to the bank’s client and known to authors. Anonymized for publication. Information retrieved from the related company’s website on February 01, 2021; from the RSPO Members website on February 01, 2021.

<sup>18</sup> This source is related to the bank’s client and known to authors. Anonymized for publication. Information retrieved from the related company’s website on February 01, 2021.

<sup>19</sup> This source is related to the bank’s client and known to authors. Anonymized for publication. Information retrieved from the RSPO Members website on February 01, 2021. The complaint is still pending. An overview of how the RSPO’s complaints and appeals procedures work can be found here: <https://askrspo.force.com/Complaint/s/>. A short video about the procedures is available here: <https://www.youtube.com/watch?v=6SX3bQ2kqC8>.

<sup>20</sup> The complaint is still being processed.

## Part B. Considering the Boundaries of a Bank's Responsibility

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### QUESTIONS

1.

Based on the information in the case, what should ABN AMRO do with its client? Would it be possible for the bank to honor its human rights commitments while continuing to work with this client, or should the bank's relationship with this client be terminated?

Under what conditions, if any, may the bank be able to continue its relationship with the client?

2.

What are the pros and cons of an engagement strategy for ABN AMRO in this case?

3.

What role does the RSPO play in this case, and more generally in regulating the financing of the palm oil industry?

4.

What different trade-offs and misalignments does this case bring to light? Discuss.

- a. Attending to environmental vs. social considerations;
- b. Intra-community misalignment of interests;
- c. Misalignment of interests and differences in requests from different NGOs;
- d. Different perspectives on what the best approach is as perceived by Friends of the Earth Netherlands who brought forward the allegations against the related company and the alleged victims that it brought to the meeting with bank representatives.



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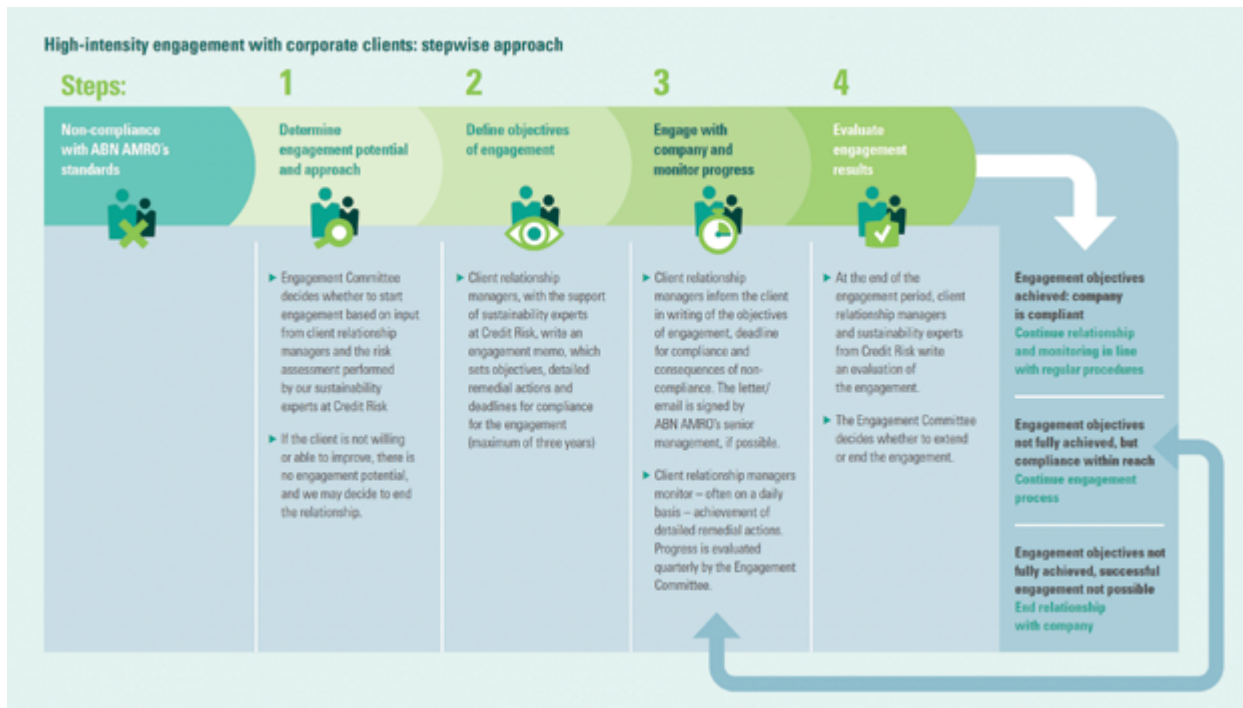
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## APPENDIX

### ABN AMRO's engagement process



Source: Non-financial Data & Engagement 2020 Report, page 24, available for download at: <https://www.abnamro.com/nl/over-abn-amro/product/downloadpagina>.





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