



National Contact Point

OECD Guidelines for Multinational Enterprises

Evaluation Final Statement

Friends of the Earth Europe and Friends of the Earth Netherlands/
Milieudefensie vs. Rabobank

23 July 2018

ArgentinaAustraliaAustriaBelgiumBrazilCanadaChileColombiaCzechRepublicDenmarkEgyptEstoniaFinlandFranceGermanyGreeceHungaryIcelandIrelandIsraelItalyJapan

Evaluation by the Dutch National Contactpoint (NCP) for the OECD Guidelines for Multinational Enterprises ('the Guidelines') further to the final statement¹ on the dialogue facilitated by the NCP.

Agreements and recommendations in the final statement

On 15 November 2016 the Dutch National Contactpoint for the OECD Guidelines for Multinational Enterprises ('the Guidelines') published a final statement further to a specific instance submitted by Friends of the Earth Europe and Friends of the Earth Netherlands/Milieudefensie concerning an alleged breach of the Guidelines by Rabobank².

The NCP recommended that at the end of 2017 an evaluation should be conducted of the outcome of the dialogue, namely the agreements made by the parties and the NCP's recommendations.

The NCP held an evaluation meeting with parties in February 2018. At the request of the NCP, both parties provided evaluation papers for the meeting.

Evaluation of the agreements and recommendations

As stated in the Final Statement, during the dialogue it became clear that both parties pursue the goal of sustainable palm oil, each of them in its own way. Parties agreed that a critical view of the issues relating to the use of the environment and land is imperative. Rabobank would like to maintain its dialogue with external stakeholders on the basis of concrete evidence of non-compliance by Rabobank's clients in the palm oil industry. Friends of the Earth argues that there is insufficient improvement in the industrial palm oil sector and that Rabobank should therefor divest from the industrial palm oil sector.

In the final statement the different positions of Friends of the Earth and Rabobank regarding palm oil and its use were described. Although parties still have fundamentally diverging views on palm oil and whether or not to disengage from this sector, the NCP notices that both parties remain firmly committed to sustainable ways of agriculture. Rabobank is committed to making the palm oil sector sustainable, while Friends of the Earth is committed to agro-ecology and small scale farming by local communities. Friends of the Earth highlights the publications of Greenpeace and Amnesty International on environmental and human rights issues and stresses the need for further action in the palm oil sector by the financial sector³.

¹ <https://www.oesorichtlijnen.nl/documenten/publicatie/2016/1/15/fs-foe-milieudefensie-rabobank>

² <https://www.oesorichtlijnen.nl/documenten/publicatie/2016/1/15/fs-foe-milieudefensie-rabobank>

³ <http://www.greenpeace.org/seasia/Global/international/publications/forests/2017/Still-Cooking-the-Climate.pdf> and <https://www.amnesty.org/en/documents/asa21/5243/2016/en/>

Rabobank states it continues its efforts to make the palm oil sector more sustainable in the RSPO, in dialogues with its customers and other stakeholders and also in the Dutch banking sector agreement⁴. Rabobank refers to its annual report of 2016 where an overview of their dialogues with NGO's and clients can be found (p.138-141)⁵. It also refers to the UNEP fund⁶.

Friends of the Earth is of the opinion that measures to enforce the execution of the suggestions made by the NCP as a result of the complaint process are not taken. Friends of the Earth states that most suggestions have not been followed up correctly by Rabobank, Friends of the Earth is concerned that the problems will remain as is, without any consequences. It also raises questions about the effectiveness of the NCP.

Rabobank's policies and procedures

In March 2016 Rabobank published its Sustainability Policy Framework⁷ in which the bank's commitment to making the world more sustainable is explained and what they expect from their clients. It clarifies that there is a core policy and a specific sector policy for a number of sectors, such as palm oil. In 2016 Rabobank published its vision on palm oil⁸. The consequences of non-compliance with the FPIC requirement in the provisions of its palm oil policy are addressed.

Friends of the Earth acknowledges the fact that Rabobank has invested in new policies and in communication to profile itself as sustainable. The dialogue and the policies of Rabobank show that they recognize the problems of deforestation and human rights violations. However, Friends of the Earth is not convinced that these policies are sufficient to ensure that Rabobank would no longer be investing in palm oil companies which violate human rights and cause environmental damage. This is why Friends of the Earth asks Rabobank to divest from the palm oil sector.

Complaints procedure

Rabobank handles complaints concerning negative impact caused by clients. In the dialogue Rabobank committed to modify its approach to handling complaints. It would publish its complaints procedure including a time frame for the procedure.

Rabobank refers to the complaints process published on its website and possibility to give feedback⁹. Furthermore, Rabobank mentions the new complaints procedure of the RSPO¹⁰.

Friends of the Earth is of the opinion that Rabobank has insufficiently complied with the commitment to publish a clear complaints procedure, including a time frame. The published complaints procedure refers to regular clients of the Rabobank and not to NGOs or other affected people. They also stress the need for an independent grievance mechanism.

Rabobank offers to jointly examine where the procedure can be improved. Furthermore, it explains the internal processes that secure the independent complaint assessment.

The Guidelines recommend that enterprises have processes in place to enable remediation and mention the core criteria of: legitimacy, accessibility, predictability, equitability, compatibility with the Guidelines and transparency, and are based on dialogue and engagement with a view to seeking agreed solutions (Chapter IV, article 46).

The NCP sees the need to clarify and refine the current complaints procedure and appreciates that Rabobank proposes to further discuss this with Friends of the Earth. Rabobank could consider making its internal complaints procedure for civil society organisations and (foreign) citizens who may suffer damage from financed projects more transparent to show how independent complaints handling is guaranteed.

Transparency

In a detailed overview published on its website Rabobank shows in which sectors they have outstanding loans¹¹.

Friends of the Earth is of the opinion that this overview does not meet their expectations on transparency; the categorization limits insight; customers and cases are anonymous which makes external monitoring impossible in time; the overview does not provide insight into requirements for customers and the associated time frame. Friends of the Earth believes that more transparency is possible and refers to HSBC's statement on its revised policy on palm oil which requires the consent of new customers, before any financial services are provided, to HSBC being able to disclose the relationship¹². Friends of the Earth is also in favor of including ESG requirements as conditions in contracts.

Rabobank indicates that it strives for maximum transparency within the boundaries of client confidentiality that have to be observed. In the Dutch banking agreement these boundaries are widely recognized, including by NGOs involved. De Eerlijke Bankwijzer also agreed to respect these boundaries in their work. Nevertheless, attention is also paid to this theme within the banking covenant. According to the Guidelines transparency about your business is of the utmost importance. By regularly disclosing accurate information on all business activities, you show that you have nothing to hide and you present yourself as a trustworthy and

⁴ https://www.imvoconvenanten.nl/banking?sc_lang=en

⁵ <https://www.rabobank.com/nl/images/jaarverslag-2016.pdf>.

⁶ <https://www.unenvironment.org/news-and-stories/press-release/rabobank-and-un-environment-announce-new-billion-dollar-partnership>

⁷ <https://www.rabobank.com/nl/images/sustainability-policy-framework.pdf>

⁸ <https://www.rabobank.com/en/images/make-sustainable-palm-oil-the-norm-our-vision-on-a-commodity-chain.pdf>

⁹ <https://www.rabobank.com/nl/products-and-solutions/wholesale-banking/feedback-complaints/index.html> and <https://www.rabobank.com/nl/images/Client%20Brochure%20Complaints%20handling%20process.pdf>

¹⁰ <https://www.rspo.org/members/complaints>.

¹¹ <https://www.rabobank.com/nl/images/o8-overview-loan-portfolio-nl.pdf>.

¹² <https://www.hsbc.com/news-and-insight/media-resources/media-releases/2017/hsbc-statement-on-revised-agricultural-commodities-policy>

reliable business partner. Companies are advised to also publish the underlying standards that are used within your business operations for financial as well as for non-financial information. The NCP welcomes the above mentioned overviews. The NCP encourages Rabobank to effectively bring its commitment to maximum transparency into practice through own initiatives and by looking at steps taken by other financial institutions in this area.

Conclusion

The NCP appreciates the constructive and open conversation of Friends of the Earth and Rabobank in this evaluation. The NCP supports the efforts of both parties to maintain a constructive dialogue on this complicated subject to jointly achieve step-by-step improvements in the palm oil sector.

The NCP welcomes the investment of Rabobank in new policies and in communication to profile itself as sustainable. The NCP would appreciate it to be kept informed of further refinements in Rabobank's complaints procedure and policies.

That NGO's have an important role in getting attention to the problems and challenges that the palm oil sector brings with it is beyond question. The NCP encourages organizations as Friends of the Earth to continue its work as this contributes to awareness and policy improvements of companies.

Furthermore, the NCP will closely follow the developments at national level in the banking agreement, and internationally in the financial sector as a whole, and will bring points as discussed to attention of MNE and other stakeholders when relevant to promote further discussion in the sector.

The role of National Contact Points (NCPs) is to further the effectiveness of the OECD Guidelines. The Dutch government has chosen to establish an independent NCP which is responsible for its own procedures and decision making, in accordance with the Procedural Guidelines section of the Guidelines. In line with this, the Netherlands NCP consists of four independent members, supported by four advisory government officials from the most relevant ministries. The NCP Secretariat is hosted by the Ministry of Foreign Affairs. The Minister for Foreign Trade and Development Cooperation is politically responsible for the functioning of the Dutch NCP.

More information on the OECD Guidelines and the NCP can be found on www.oecdguidelines.nl

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