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Unique, multi-stakeholder approach on human rights

Operating in an international financial environment, our Dutch Banking Sector Agreement on international responsible business conduct regarding human rights stands out as an ambitious cooperation. The adhering banks, NVB, CSOs, trade unions and government are working together to achieve a material positive impact for people (potentially) facing adverse human rights impacts related to the activities of clients of the Dutch banking sector. We have the ambition to continuously work on the effective prevention, mitigation and, where appropriate, remediation of adverse human rights impacts.

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Unique, multi-stakeholder approach on human rights

We now present our first annual report. We do this with suitable pride, but also with modesty, because we still have a long road ahead of us to achieve the results promised for 2020.

Internationally, stakeholders are closely following how we cooperate in the Dutch banking sector to improve human rights on the ground. Moreover, international organizations such as the UN and the OECD are interested to see how we transfer their guiding principles into practice.

“With the adoption of the OECD Due Diligence Guidance for Responsible Business Conduct, the OECD-nations agreed to stimulate all multinational businesses to put due diligence into practice. I am pleased to see that the Dutch Banking Sector has made serious progress on implementing their due diligence. I am interested to see how this example is being received in other countries. Banks around the world should find inspiration in the Dutch Banking Sector Agreement.”

Roel Nieuwenkamp, Chair OECD Working Party on Responsible Business

“At a time of heightened international attention to the human rights responsibilities of financial institutions, the Dutch Banking Sector Agreement is unique: it combines meaningful commitments by all the parties with a mechanism for supporting implementation through multistakeholder dialogue. It provides an innovative framework for practical exploration of Dutch banks’ responsibility to respect human rights and generates learning that others can benefit from as well.”

Rachel Davis, Managing director Shift

This first annual report shows progress on the joint commitments as well as on the individual commitments of all adhering banks. An independent Monitoring Committee evaluated the progress, based on the data provided by the parties. The first results show that the agreement process contribute to individual banks to strengthen their policies and procedures and the transparency thereof. Mutual understanding has been created on important topics such as client confidentiality, the role of the bank in enabling remediation and increasing leverage. During the next two years, these topics will be further explored. Working on joint commitments is a learning process in which we develop common ground through dialogue and trial and error.

A lot has been set in motion since we have signed the Dutch Banking Sector Agreement. The parties involved are committed to continue this journey and to achieve the objectives as described in the agreement.

Jacqueline Cramer
Chair, Dutch Banking Sector Agreement



Dutch Banking Sector Agreement

Committed to improving human rights

Offering a variety of financial services to various sectors worldwide, banks may be connected to adverse human rights risks and impacts in various ways, particularly in countries where national legislation does not provide sufficient protection. To achieve a material positive impact for people (potentially) facing adverse human rights impacts (related to the activities of clients of the Dutch banking sector), the Dutch Banking Sector Agreement was signed on 28 October 2016 and became effective on 7 December 2016 when it was published in the Dutch Government Gazette. Bank's activities in corporate debt and project financing may be related to human rights risks and potential impacts. The agreement covers the worldwide financing activities of the eleven adhering banks on corporate loans and project financing.

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Committed to improving human rights

Dutch Banking Sector: a variety of businesses

The following, non-exhaustive, differences among the adhering banks. The larger or “universal” banks are ING, ABN AMRO and Rabobank. These banks offer basically all financial services for retail, private and corporate banking clients. At the same time, each of these banks have a distinct focus on financial services, sectors and global outreach. Other banks in the Agreement focus more on small and medium enterprises in their corporate loans and/or project finance.

NIBC is a bank that provides corporate loans and project finance mainly to mid-sized enterprises in Northern and Western Europe. De Volksbank consists of four brands, SNS, BLG, Regiobank and ASN Bank. It provides loans to small enterprises and project finance in Western and Northern Europe. Triodos Bank provides loans to small entrepreneurs in Europe such as an organic farmer. Van Lanschot Kempen has a small portfolio consisting of (corporate) loans to business professionals and executives and health care specialists with a focus in the Netherlands. Van Lanschot Kempen, Triodos Bank and ASN Bank manage investment fund portfolios and NWB Bank and BNG Bank focus on projects of the public sector in the Netherlands. For instance, NWB Bank and BNG Bank finance decentral governments and organisations that fall under the governance of the (decentral) governments. One should think of municipalities, provinces, schools health care institutions and housing corporations. Intesa Sanpaolo is a small branch but part of a global Italian bank focused on Italian and multinational corporate business in the Benelux region. Finally, FMO (the Dutch development bank) has been founded with a purpose to stimulate sustainable private sector growth in developing countries by investing in high development impact sectors such as energy and agribusiness.

Banks bringing their due diligence into practice

Banks finance many clients in various sectors around the world. The OECD Guidelines for Multinational Enterprises (‘OECD Guidelines’) and the UN Guiding Principles on Business and Human Rights (‘UNGPs’) provide a framework to identify, prevent, mitigate and account for how businesses address their impacts on human rights. Banks committed themselves to the agreement to uphold these guidelines by themselves within their own organisations, and expect all their clients to do so as well. As confirmed in the agreement, a bank should first have a human rights policy in place.

Secondly, the bank will develop sector or theme policies for those sectors or themes where adverse human rights risks and impacts are most severe. Thirdly, banks committed themselves to carry out a due diligence process to identify and assess actual and potential human rights impacts in which they may be involved as a result of their business relationships. This due diligence undertaken by a bank will vary in complexity, depending on the client's company size, the risks of the human rights impacts involved and the nature and context of the operations. Fourthly, based on the due diligence findings, a bank will integrate the findings from the impact assessments across relevant internal functions and processes and take appropriate action in engagements with clients. Once a finance deal has been closed, the banks have ongoing monitoring processes in place. This human rights due diligence is an ongoing process. Banks committed themselves to further develop these milestones throughout the Agreement period, as far as they do not have this in place yet.



Participants



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Banks

Individual actions

The eleven adhering banks committed themselves to individually implement and embed their responsibilities regarding human rights throughout their operations. In 2017, they took several actions to implement, such as having a public complaint procedure in place, accessible to clients, employees and third parties. As to the complaint procedures, banks have, if relevant, updated their complaint procedure as part of its commitment in the Agreement: *"The adhering banks will, to the extent that is not yet the case, create a complaint procedure which is publicly accessible for employees, clients and third parties, or adjust existing complaint procedure to this effect, within one year from signing the declaration of adherence (article 3.5 of the Agreement)."*

See the links for the complaints procedures:



Rabobank



[> See the summary for the findings of the Monitoring Committee concerning the complaints procedures](#)

[> See the response of the Steering Committee on the findings](#)

In addition, as part of Dutch legislation and its commitment according to article 3.4 of the Agreement, all banks have whistleblower mechanisms in place for their employees.

The banks also participate in the working groups and started to work on their reporting obligations, such as developing a human rights report and publishing a detailed breakdown of their portfolio. Read more about how the individual banks such as ING, FMO, ABN AMRO, Van Lanschot Kempen and Rabobank put these actions into practice.

[> Adhering Banks - Examples](#)

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Parties

Collective effort by the NVB

Apart from its role in the Steering Committee, the NVB set up an internal working group – IMVO – to coordinate the implementation of the agreement and to exchange good practices and lessons learned and to provide assistance in the individual implementation where needed. This working group, consisting of representatives of all adhering banks, holds monthly meetings to discuss the implementation of the agreement. The working group is chaired by one of the Sustainability Directors of the banks. The NVB also coordinated the representation and input of the banks in working groups. To increase the level playing field, the NVB and the adhering banks also promoted the OECD Guidelines for Multinational Enterprises ('OECD Guidelines') and the UN Guiding Principles on Business and Human Rights ('UNGPs') and the Agreement at international fora such as the OECD, UNEP-FI, Equator Principles and London School of Economics.

Trade unions and CSOs

The trade unions and CSOs participated in the Steering Committee as well as in all working groups. In the context of the value chain mapping efforts on palm oil and cocoa, the trade unions and CSOs especially contributed by sharing their expertise and knowledge about human and labour rights risks and impacts, as well as due diligence in these sectors. Special efforts have been made to involve partner organisations from Indonesia in the work on the palm oil value chain. Trade union representatives and human rights experts from Indonesia were invited for the expert meeting that took place in November 2017. Their assessment of the situation and developments on the ground, and their suggestions about the steps (international) banks could take to improve the situation were hugely valuable. This information has been integrated in the analysis. Furthermore, CSOs promoted land rights by involving the Land Governance Dialogue within the agreement, and initiating bilateral dialogues with the NVB and individual banks.

Additionally, bilateral meetings between these Indonesian palm oil experts and ABN AMRO, Rabobank and ING took place to share information and discuss ways to increase leverage of the banks over clients in the palm oil sector. As a better information position of banks will influence the quality of their human rights due diligence, trade unions and CSOs have provided the banks with an overview of countries and regions where they have representations or partners. Contacts can be established to obtain information about the local human and labour rights situation and developments.

Finally, when looking into local situations, CSOs have stressed the need to seriously consider and to act upon the shrinking civil space and the deteriorating position of human rights defenders. Recommendations have been provided to banks, and more efforts will be undertaken to see how banks together with the other parties can jointly take initiatives in this respect.



Government: driving and supporting action

The Dutch government not only participates in the Steering Committee and the working groups, but also committed itself to supporting actions, such as to identify potential obstacles in financial and other regulations. Through its embassies, the government may provide information on actual and potential human rights impacts within the local context or foster the engagement between local authorities and other stakeholders. In order to multiply the effect of the agreement and to create a level playing field, the government's export credit agency Atradius Dutch State Business (ADSB) performed an extensive operation in the past year to get their way of working aligned with the requirements of the UNGPs. A review on the current way of working was performed by the center of expertise on the UNGPs (Shift) and the report with findings was publicly shared. This was the starting point for their updated CSR policy which included a stakeholder engagement process. They also formulated [a CSR and human rights statement](#) (in Dutch). At the moment ADSB is working on a grievance mechanism, an information disclosure policy and more disclosure of information regarding policies issued.

Adhering Banks Examples

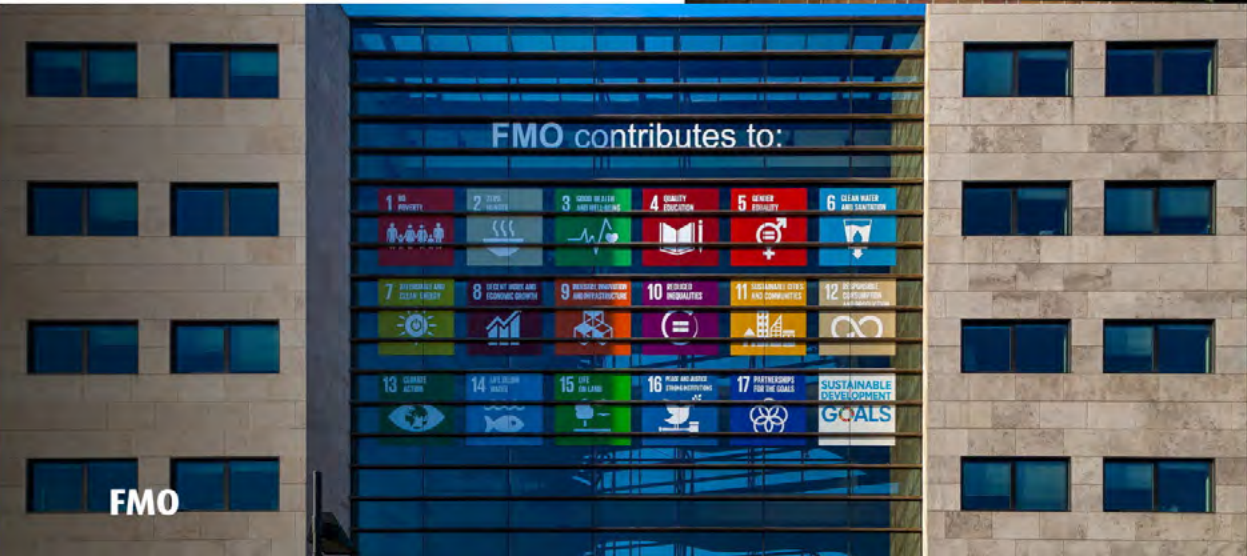
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ING



Van Lanschot Kempen



FMO



ABN AMRO



Rabobank



ING

Several steps after signing

ING is committed to operating in a way that is both commercially successful and respectful of human rights and the environment. *“Signing the agreement has offered ING a platform for constructive engagement with peers, CSOs, trade unions and the Dutch government on the topic of human rights and relevance for the banking industry. To date, we have benefited from understanding practices of our peer banks and from the knowledge and insights of other parties in the Agreement”*, says Monika Veric, Vice President, Group Sustainability. Internally, ING accelerated its efforts via several important steps: *“We set up the governance structure to facilitate group-wide implementation of the agreement by establishing an internal working group with a Steering Committee comprising senior management representatives of client-facing, lending and risk teams”*, says Arnaud Cohen Stuart, Head of Business Ethics.

“We then conducted an analysis to understand the (potential) gaps in our own performance compared to the requirements set under the agreement and we translated this into an action plan comprising three pillars” says Monika Veric:

- We worked with a well-regarded human rights consultancy to identify salient human rights risks in our lending portfolio.
- On the back of this we are working to strengthen our ESR Framework and to start engagement with a selected number of clients on their own salient human rights risks.
- In line with the agreement requirement for transparency on banks’ loan portfolios, we published a detailed breakdown of our loan portfolio for 2017 and 2018.

ING adopted a non-financial risk assessment process for its own business conduct, screening its operations on potential human rights issues to ensure the safety of our employees worldwide. *“We promoted this work in a roundtable setting ‘Balancing Human Rights In Our Operations’, discussing some of the human rights challenges linked to our operations in Philippines with the Dutch Ambassador to the Philippines, Amnesty International, and the Dutch Works Council”*, says Arnaud Cohen Stuart.

ING updated its Whistle-blower Policy by making a stronger link to ING’s Orange Code and the bank has updated its complaint procedure, which is accessible to ‘clients, ING Group shareholders, suppliers or any other stakeholder’. Both documents have been published on its corporate website. Monika Veric: *“We are especially looking forward to the outcomes from the Value Chain Analysis Working Groups for cocoa, palm oil and gold and we will evaluate how we can benefit from this systematic exercise in our own engagement with a selected number of corporate clients”*.



Van Lanschot Kempren

A structured approach to our human rights policy

Manager Corporate Social Responsibility at Van Lanschot Kempren, Sander Boleij, underlines that - *“Although corporate lending is only a minor part of our activities - we deemed the Dutch Banking Sector Agreement important enough to sign it.”* Boleij indicates that at Van Lanschot Kempren quite some due diligence requirements were already in place before the start of the agreement. *“But it absolutely helped us to regard our policies in a more structured way, based on the OECD guidelines and UNGPs. It enabled us for example to methodically chart all potential negative human rights impacts for the first time and rank them on ‘salience!’”*

The main potential negative impacts involve the labour rights of the borrower’s employees and – even more importantly – those in the borrower’s supply chain, especially in emerging markets. Boleij: *“Beforehand, we also asked about the underlying supply chain, but now we do this more explicitly. When a negative impact manifests itself, what is our involvement as a lender? As a lender, we expect that we will hardly cause human rights impacts nor contribute to those. But we could be directly linked to human rights impacts. We need to be aware of that and act upon it.”* Van Lanschot Kempren added the OECD guidelines explicitly to its responsible lending policy. Boleij is clear about the added value of the Agreement: *“You normally tend to think: there is an end to our responsibility. The Agreement helps you realize: is there, really? It makes you use the leverage you have to boost improvement.”*

[> Statement human rights - Van Lanschot Kempren, 12 april 2018](#)

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FMO contributes to:



FMO

Policies and concrete actions

Dutch development bank FMO invests in growth and frontier markets, in sectors crucial to economic and social progress. FMO expects to have the biggest impact with investments in financial institutions, energy and agribusiness, food and water. *“The countries in which we operate do not always share the western view on adverse human rights impacts”,* Sustainability Officer Beatrijs van Manen and sr. Advisor Public Affairs Frank van den Heuvel says. *“The Dutch Banking Sector Agreement – in addition to our own Sustainability and Human Rights policies – shows our partners our commitment to human rights. It makes clear that we expect them too to comply with OECD guidelines and UNGPs. And we help them to do so: in Kenya, for instance, the local Banking Association has taken the initiative to promote sustainable finance through the alignment of environmental and social risk management in the financial sector. FMO has supported this initiative’s development, as we believe in the strength of the sector approach to create a level playing field. By adhering to the agreement ourselves, we practice what we preach in the Dutch context.”*

Guidelines and trainings

The agreement has contributed to the development of a FMO guideline for its investment officers. *“Besides assessing financial and juridical risks, they investigate environmental and social (E&S) aspects of potential investments. Now they also assess more systematically how the client’s context affects their ability to improve its E&S performance.”* FMO’s position statements on human rights and land rights were updated. The new statements are now being implemented. Furthermore, the entire staff is being trained on the subject of human rights impacts and how to identify these. Newly developed tools and procedures help them do so.

Learn from each other

It’s important that eleven banks signed the agreement, thus creating a level playing field, says Van den Heuvel. *“We hope that one day this approach will be adopted internationally.”* Van Manen underlines that the agreement has made it much easier for banks to exchange good examples and to learn from each other, for instance on the subject of reporting. Van den Heuvel appreciates that the agreement includes CSOs and Trade unions. *“It’s not always easy to find common ground: our partners in the Agreement strive for a maximum result, whereas we prefer pragmatic outcomes in the local context. The cooperation within the agreement has improved our mutual understanding. Furthermore, we prefer a principle-based approach above a ticking the box exercise. Attention and understanding can provide a solid basis for cooperation and perspective.”*

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ABN AMRO

Richard Kooloos, head of Sustainable Banking: *"Banking is about people. ABN AMRO has more than 20,000 employees who provide financial services to 5 million individuals and families. And we have 400,000 corporate clients, all of whom have an impact on their workforce and the local communities in which they operate. This means that it is imperative that banks look at their activities from a human rights perspective too. We believe no one should be disadvantaged by the way we and our clients make money."*

"Respect for Human Rights is a solid foundation of our strategy. In December 2016, ABN AMRO was the first financial institution in the world to publish a report using the UNGPs. The report provides an in-depth account of areas in which we are doing well, and areas in which we could be doing better. We believe that being open about dilemmas and negative impacts is important in order to improve our human rights performance. This is also recognized by our stakeholders all over the world. Over 2017, we published an update report in which twelve colleagues from different countries and departments explain how human rights affects their work for the bank: from front office staff in Amsterdam to our fraud experts in Asia. We are looking forward to further cooperation on this with the other parties to the Agreement."

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Rabobank

Rabobank is a food and agricultural bank with extensive international operations throughout the world. Maarten Biermans, Head of Sustainability Policy of Rabobank indicates: *"Our mission of 'Growing a Better World Together' guides our approach to the way we conduct business. This relates to our commitment to protect and uphold human rights and our commitments to environmental sustainability. The UNGPs and the OECD guidelines are excellent tools that help us to navigate the extensive international agricultural supply chains that form a core component of our activities. We are committed to the objectives of the Dutch Banking Sector Agreement, where we continue to advance our human rights policy framework and practices within our operations. We are keen on working with partners who will help in achieving real change on the ground as it relates to adherence to human rights."*

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Monitoring Report Year 1

Summary

In the annual monitoring report, the independent Monitoring Committee reviewed the outcome of the progress of the Dutch Banking Sector Agreement on international responsible business conduct regarding human rights. This is a summary of that annual monitoring report and it has been written by the Independent Monitoring Committee.

The Monitoring Committee was composed of Ms Christiane Colinet, Attorney at Law at the Bar of Brussels and at the Bar of Florence, Mr Hans Voortman, retired banker and supervisor, and Mr Cees van Dam, Professor of International Business and Human Rights at the Rotterdam School of Management, Erasmus University. They were appointed by the Minister for Foreign Trade and Development and the Minister of Finance upon a binding nomination by the Steering Committee.

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General remarks

- In the annual monitoring report, the independent Monitoring Committee reviews the outcome of the progress of the Dutch Banking Sector Agreement on international responsible business conduct regarding human rights.
- According to section 13.2 of the Agreement, the task of the independent Monitoring Committee is to monitor the quality and quantity of the input and the progress made by the parties and the adhering banks in carrying out the activities as agreed upon, based on the principles of reasonableness and fairness ('redelijkheid en billijkheid') and to report on a confidential basis to the Steering Committee on its findings.
- The Agreement holds provisions on measuring the progress the parties and the adhering banks make by carrying out three annual surveys and a final monitoring report on the overall progress.
- The current report concerns year 1 of the Agreement, which runs parallel with calendar year 2017. The aim of this report is twofold:
 - First, the Monitoring Committee assessed the progress of the deliverables for 2017; these are elements of the Agreements that had to be completed in year 1.
 - Second, the Monitoring Committee provided an overview of the state of affairs with respect to elements of the agreement for which the deadline is set for a date later than 2017. The information is derived from the answers of Parties and adhering banks to so-called thermometer questions.
- The Monitoring Committee based its assessment on the answers of the Parties and the adhering banks to the survey questions. In case of doubt, it derived the decisive standards for its assessments from the provisions of the Agreement.
- The progress the Monitoring Committee measured in Year 1 focused on processes and documentation banks must have in place. Positive feedback by the Monitoring Committee needs to be seen in this light: it means that a bank is doing well on paper; it does not necessarily mean that a bank is also doing well on the ground. The latter is the major challenge for the Agreement and it is understandable that CSOs and trade unions are keenly awaiting these concrete results. It is, however, also pivotal that banks are getting time to not only getting their paperwork and policies in order but also their practices.
- The Monitoring Committee would like to express its appreciation for the work done by the Parties and the adhering Banks in the first year of the Agreement. The Monitoring Committee also values the seriousness with which most involved entities carry out their responsibilities under the Agreement.

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Deliverables

Individual commitments: NVB and the government

- The Monitoring Committee concluded that the Government's and the NVB's deliverables for Year 1 (2017) have been achieved.

Adhering banks: complaint procedure

- The Monitoring Committee pointed out the importance of a complaint procedure. This year's deliverable for the adhering banks according to section 3.5 of the Agreement: "to the extent that it is not yet the case, the adhering Banks should create a complaint procedure, which is publicly accessible for employees, clients and third parties, or adjust existing complaint procedure to this effect." In the first year, 7 out of 11 banks had good to excellent procedure in place. The procedures are generally clear, well addressed and easily accessible. In the opinion of the Monitoring Committee, three banks need to improve their procedures and the committee advises them to do so. At one bank the process is delayed but it reported to have firm intentions to implement this in 2018.

Joint commitments: Working groups

- From the reports of the Value Chain Working Group and the Matrix/Database Working Group, the Monitoring Committee understands that the members of these groups have worked hard and that serious efforts have been made to deliver these tools. The Monitoring Committee appreciates the joint efforts of Parties and adhering banks to substantially and substantively contributing to the research and discussions in these working groups.

Thermometer questions

- In order to provide the parties with initial feedback and support on their progress beyond the 2017 deliverables, the monitoring report also contains an overview of the state of affairs regarding elements of the Agreement for which the deadline is set for a date later than 2017.
- As regards the adhering Banks, the 'thermo questions' related to the public policy statement with respect to implementing the Agreement's commitments, to the human rights due diligence procedure, to exclusion lists, to sectors or themes outlining human rights standards, to whistle blowing and grievance mechanisms, and to the preparatory work for human rights reporting.
- As regards the Parties, the thermo questions related to the support given by the Government, especially by focusing its diplomacy on human rights as part of its economic relations, the role of the NVB, as well as that of the CSOs and trade unions in the Agreement activities, including the working groups on increasing leverage, enabling remediation and transparency and client confidentiality.
- On the basis of the answers to the thermometer questions, the Monitoring Committee concluded that achieving the 2018 deliverables is feasible. It therefore encourages the Parties and the adhering banks to mark the Agreement as a sufficiently high priority in order to yield the foreseen results in 2018.

Added value of cooperation between Banks and Parties

- Beyond the deliverables (II.) and the progress on other elements of the Agreement (III.), the Monitoring Committee observed a number of valuable developments flowing from the cooperation between the Parties and the adhering banks.

Level playing field

- A vast majority of the CSOs and trade unions reported that they stimulated banks to endorse the Agreement. A number of them clarified that a substantive number of participating banks was very important for their participation and engagement.

Policy commitment

- A vast majority of the CSOs and trade unions also reported that they supported banks in implementing their human rights policy statement in a meaningful and practical way. This happened in particular by their participation and input in the Working Groups and the Steering Committee.

Human rights due diligence

- A vast majority of the CSOs and trade unions equally reported that they supported banks in implementing their HRDD process. Also here, this happened through participation and input in the Working Groups and incidentally by communication with one or more banks outside the Agreement framework.

Promoting FPIC

- Virtually all CSOs and trade unions promote the broader application of Free Prior and Informed Consent (FPIC).
- CSOs and trade unions have learned more and gained more insight in the way banks work with respect to due diligence procedures and decision-making processes. A lot of information could be shared with the other Parties and the adhering banks. The dialogues were usually constructive and they helped to identify more clearly the gaps where information is still lacking. This will add to the quality of the follow-up steps to be taken in the forthcoming years.
- Maybe not a direct but certainly an indirect result of the Agreement was the joint lobby of the Dutch Senate by CSOs, trade unions and a number of banks (Rabobank, ABN Amro, Triodos Bank, Van Lanschot Kempen, ASN Bank), supporting the Dutch child labour due diligence Bill (*Wetsvoorstel zorgplicht kinderarbeid*). The Monitoring Committee considers it unprecedented for major banks to publicly speak out in favour of legislation aimed at improving the protection of human rights.

The background of the page is a blurred financial chart with multiple data series in blue, green, and red, overlaid on a dark grid. The chart shows various trends and peaks, typical of a stock market or economic data visualization.

Steering Committee response to the recommendations in the annual monitoring report

[> Response Steering Committee to the recommendations and follow-up actions](#)

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Response Steering Committee to the recommendations

Recommendation

The Monitoring Committee pointed out the importance of having a complaint procedure, which is publicly accessible for employees, clients and third parties. According to the information provided to the Monitoring Committee 7 out of 11 banks have good to excellent procedures in place. The procedures are generally clear, well addressed and easily accessible. In the opinion of the Monitoring Committee, three banks need to improve their procedures and the committee advises them to do so. At one bank the process is delayed but it reported to have firm intentions to implement this in 2018.

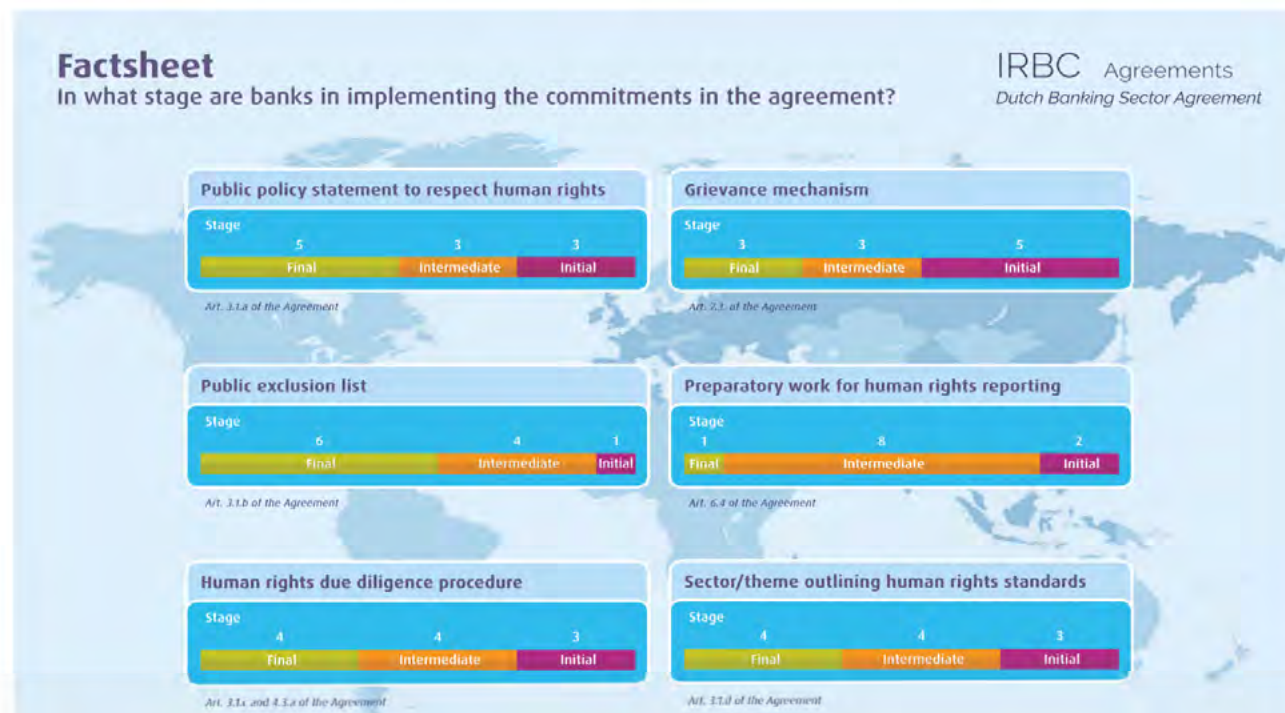
Follow-up actions

The Steering Committee has communicated this with the banks and the Steering Committee urges the remaining adhering banks to establish or improve their complaint procedure before October 2018.

Recommendation

Based on the answers provided to the thermometer questions, the Monitoring Committee concluded that achieving the deliverables for 2018 is feasible. It therefore encourages the Parties and the adhering banks to mark the Agreement as a sufficiently high priority in order to yield the foreseen results in 2018.

The Monitoring Committee has identified the progress made by banks regarding the thermometer questions, see below. The distinctions are not based on predetermined criteria, but on a comparison between the adhering banks (peers comparison).



Follow-up actions

The Steering Committee recognizes that the Agreement is ambitious and that much work has been done over the last year, both in the working groups and by the individual Parties and adhering banks. The Steering Committee is happy with this evaluation of the Monitoring Committee and supports the encouragement to the Parties and the adhering banks to mark the Agreement as a sufficiently high priority, in order to yield the foreseen results. The deliverables for 2018 are of course crucial to all the Parties involved and based on the information provided by the Monitoring Committee, the NVB will make an inventory of deliverables on which additional action is needed and inform the Steering Committee in Q3 2018.

Recommendation

The Monitoring Committee noted with concern that only one CSO received a request by a bank for solutions to problems. The Monitoring Committee considers that there may be room for improvement. Although the Agreement provides various opportunities to receive help in a general sense, a specific engagement between one or two banks and one or two CSOs or trade unions could add to the informational dynamics and the mutual learning process.

Follow-up actions

The Steering Committee feels that there has been a lot of interaction between the Parties and the adhering banks within the working groups of the Agreement. However, it shares the view of the Monitoring Committee that other types of engagement are valuable as well. Therefore, the Steering Committee will encourage the Parties and adhering banks to explore the possibilities in this area in the coming years.

Recommendation

Another concern expressed by the Monitoring Committee related to the considerable difference in expertise and experience between the adhering banks in the area of business and human rights. The NVB reported various activities, which had the potential of decreasing these differences but the Monitoring Committee would appreciate to see a more specific plan as to how to further narrow this gap in order to make the engagement of the sector as a whole more sustainable.

Follow-up actions

The Steering Committee has taken notice of this concern and has asked the NVB to consult with the adhering banks to identify and assess these gaps and to come up with a plan to support those banks for which parts of the Agreement might be challenging. The NVB appreciates the recommendation of the Monitoring Committee, however, also would like to refer to the differences among the banks in terms of complexity and size. The NVB will discuss with its members how to tailor the actions planned for 2018 and further more to the specific context of these banks. The internal working group of the NVB consisting of the adhering banks and will inform the Steering Committee with how to address the concerns mentioned by the end of Q3 2018.

Recommendation

The Monitoring Committee stated that ASR Bank N.V. is a 100% subsidiary of an insurance company, only active in consumer savings. In its observations it has left out this bank.

Follow-up actions

The Steering Committee would like to indicate that following the participation of ASR Nederland N.V. in the Agreement on International Responsible Investment in the Insurance Sector from July 5th 2018, ASR Bank N.V. has decided to terminate its participation in the Dutch Banking Sector Agreement as of July 5th 2018.

→ Dutch Banking Sector Agreement, signatories

Recommendation

The Monitoring Committee observed that at least three banks are still at an initial stage with respect to their deliverables for 2018 Q2 and it seems unlikely they will be able to deliver in time. In case of any shortcoming, the Monitoring Committee will only be able to assess this in Q2 2019, which is too late for any feedback to be useful. The Monitoring Committee looks forward to hearing from the Steering Committee how it sees the role of the Monitoring Committee in the light of this development.

Follow-up actions

The Steering Committee takes these concerns very seriously. As mentioned earlier, the NVB will discuss with its members how to tailor the actions planned for 2018 and further more to the specific context of these banks. Based on this specific concern of the Monitoring Committee the NVB has consulted with these banks. The NVB recognizes that there are differences in implementation between banks, but also noticed that there is room for nuance. The NVB would also like to see these nuances better reflected in the next monitoring report. The internal working group of the NVB, consisting of the adhering banks, will assist these banks in the implementation by exchanging best practices. The NVB will inform the Steering Committee on the progress in Q3 2018. The Steering Committee calls upon all Parties to provide the necessary support to make sure that deliverables are implemented in time.

The Steering Committee also recognizes the concern that based on the timelines the Monitoring Committee will only have the opportunity to monitor the deliverables due for Q2 2018 in Q2 2019. The Steering Committee will discuss the appropriate form to address this concern during the Annual Evaluation meeting (article 13.2.b of the Agreement), and communicate the outcomes externally in 2018.

Recommendation

The Monitoring Committee refers to the Government Coalition Agreement which holds that if no sufficient results are made with the Agreements, legislative intervention may be on the agenda. Unless the Government is anticipating that legislation is inevitable, the Monitoring Committee would suggest that the Government could play a more active role in making a success of the Agreement.

Recommendation

The Monitoring Committee observed that at least three banks are still at an initial stage with respect to their deliverables for 2018 Q2 and it seems unlikely they will be able to deliver in time. In case of any shortcoming, the Monitoring Committee will only be able to assess this in Q2 2019, which is too late for any feedback to be useful. The Monitoring Committee looks forward to hearing from the Steering Committee how it sees the role of the Monitoring Committee in the light of this development.

Follow-up actions

The Steering Committee takes these concerns very seriously. As mentioned earlier, the NVB will discuss with its members how to tailor the actions planned for 2018 and further more to the specific context of these banks. Based on this specific concern of the Monitoring Committee the NVB has consulted with these banks. The NVB recognizes that there are differences in implementation between banks, but also noticed that there is room for nuance. The NVB would also like to see these nuances better reflected in the next monitoring report. The internal working group of the NVB, consisting of the adhering banks, will assist these banks in the implementation by exchanging best practices. The NVB will inform the Steering Committee on the progress in Q3 2018. The Steering Committee calls upon all Parties to provide the necessary support to make sure that deliverables are implemented in time.

The Steering Committee also recognizes the concern that based on the timelines the Monitoring Committee will only have the opportunity to monitor the deliverables due for Q2 2018 in Q2 2019. The Steering Committee will discuss the appropriate form to address this concern during the Annual Evaluation meeting (article 13.2.b of the Agreement), and communicate the outcomes externally in 2018.

Recommendation

The Monitoring Committee refers to the Government Coalition Agreement which holds that if no sufficient results are made with the Agreements, legislative intervention may be on the agenda. Unless the Government is anticipating that legislation is inevitable, the Monitoring Committee would suggest that the Government could play a more active role in making a success of the Agreement.

Follow-up actions

The Steering Committee appreciates the encouragements of the Monitoring Committee and would like to emphasize that the full Steering Committee is committed to the success of the Agreement. As a Party to the Agreement, the Dutch Government (together with the other Parties) will continue to guard the quality, ambition and timelines of the Agreement. If necessary, the Government will urge lagging adhering banks to increase their efforts to reach the deliverables and, where relevant, encourage other banks to adhere to the Agreement.

➤ [Steering Committee response to the recommendations in the annual monitoring report](#)

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Steering Committee response to the recommendations in the annual monitoring report

Concluding remarks

The report provided by the Monitoring Committee has shown progress in various areas of the Agreement. It confirms that the parties and the adhering banks are on the right path, while it also shows that there is no reason for complacency for the Parties and adhering Banks, as there is still a lot to be done. However, the Steering Committee would like to conclude this reaction to the Monitoring report with the observation that the work within the Agreement has had new insights in creating a better understanding among Parties and adhering banks on their practices. It has strengthened the relationships and increased mutual contacts and engagement. The first year has brought the Steering Committee many insights in the challenges and opportunities of this way of working which truly is a learning process. We look forward to the coming year and believe that all Parties and adhering banks are committed to the success of the Dutch Banking Sector Agreement.

[› Steering Committee response to the recommendations in the annual monitoring report](#)

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Value chains

The quest for leverage

Throughout the agreement period, the working group Value Chain will analyse a number of value chains that are characterised by severe human rights risks and impacts. The objective of the value chain mappings are to: 1) Build collective information and knowledge by pooling data and expertise from multiple actors; and 2) Facilitate brainstorming and analysis to find creative and constructive ways to exercise and increase leverage in a particular value chain. Furthermore, the value chain mappings aim to improve the situation for those adversely impacted by human rights abuses. In the first year, the working group started with the cocoa and palm oil value chains.

Cocoa value chain

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Palm oil sector

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Cocoa value chain

A working group on cocoa was set up and has analysed the value chain, drawn up a shared vision and made recommendations. The value chain from the farmer in Africa to the supermarket in the Netherlands has been mapped out, as well as the severe human rights risks and abuses that are present in the sector. The analysis provides insight into which actors in the chain are being financed by Dutch banks. The ultimate goal was to identify possible pressure points where adhering banks and parties can individually and collectively exercise leverage to improve the human rights situation. The most promising pressure points will be the focus of follow up steps of the working groups.

Jaap Bartels, Save the Children: *“The adverse human rights impacts we’ve identified are interlinked and have multiple root causes. For example child labour has various social economic drivers, such as a lack of living wage and low availability and quality of education. Therefore, a solution or action can only be effective and sustainable when it addresses the adverse human rights impacts and the key drivers behind it. This requires banks to act individually and collectively on a local and international level for which our recommendations provide ways forward.”*

Ruben Zandvliet, ABN AMRO: *“Because Dutch banks finance companies that are active in all parts of the cocoa value chain, we have a unique position to address adverse human rights impacts. We think banks can do more to learn from each other’s best practices in order to improve their due diligence. But there are more opportunities to contribute to a more sustainable value chain, for example through impact banking for smallholders.”*

> [The results of the cocoa value chain mapping exercise](#)

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Improving human rights in the palm oil sector

The second value chain that the working group has started analyzing is the palm oil chain. The analysis focuses on Indonesia and Malaysia. There is an impressive body of literature on sustainability in this value chain, enabling responsible procurement of palm oil by manufacturers, but mainly focusing on deforestation and other environmental impacts.

“The different parties around the table of the Agreement are adding two dimensions to existing knowledge: a focus on human rights and the perspective from the financial sector” says Johan Verburg of Oxfam Novib. His organization and Rabobank have first shared their extensive knowledge on the product's value chain with the other working group members. This knowledge transfer enabled the banks, CSOs, trade unions and the government in the group to jointly draw up a solid analysis of the palm oil value chain and the salient human right risks and impacts that feature this sector. Special meetings have been organized in which ‘the salience’ of the human rights issues has been discussed. The working group mapped out the scale, scope and (ir)remediability of each severe human rights impact that was identified, in order to determine what should be addressed first. This part of the analysis is work in progress. Maarten Biermans of Rabobank: *“It will allow us to develop a shared understanding, which will serve as the basis for recommendations to improve adherence to human rights in the palm oil value chain.”* These issues mainly involve labour and land related human rights, says Verburg. Biermans remarks that the collaboration initiated by the Dutch Banking Sector Agreement opens up new roads to trigger real change on the ground: *“As we go forward, we will explore new and improved forms of leverage within the value chain.”* These initiatives to improve the human rights situation in this value chain will see the light during 2018.

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Increasing leverage

Banks, the government, trade unions and CSOs all have their own individual role. Joining forces allows these parties to increase their leverage at an individual and collective level. They can gather more information from different sources and angles. This enables them to design effective, multilateral strategies to address impacts. When for instance a CSO has on the ground evidence of human rights abuse within a specific company or industry, it can share this information with banks, enabling these to make better informed decisions about financing. Likewise, the government can use its embassies in their contacts with local authorities.

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Increasing leverage

Effective approach

In 2017, the working group Increasing Leverage conducted a study on how to define leverage, on the kinds of leverage available to them individually, with business peers, through bilateral engagement with third parties, through multi-stakeholder collaboration. Also, they investigated how to increase leverage from an eco-system perspective. This provides insight into current practices and indicates how to improve responsible business conduct.

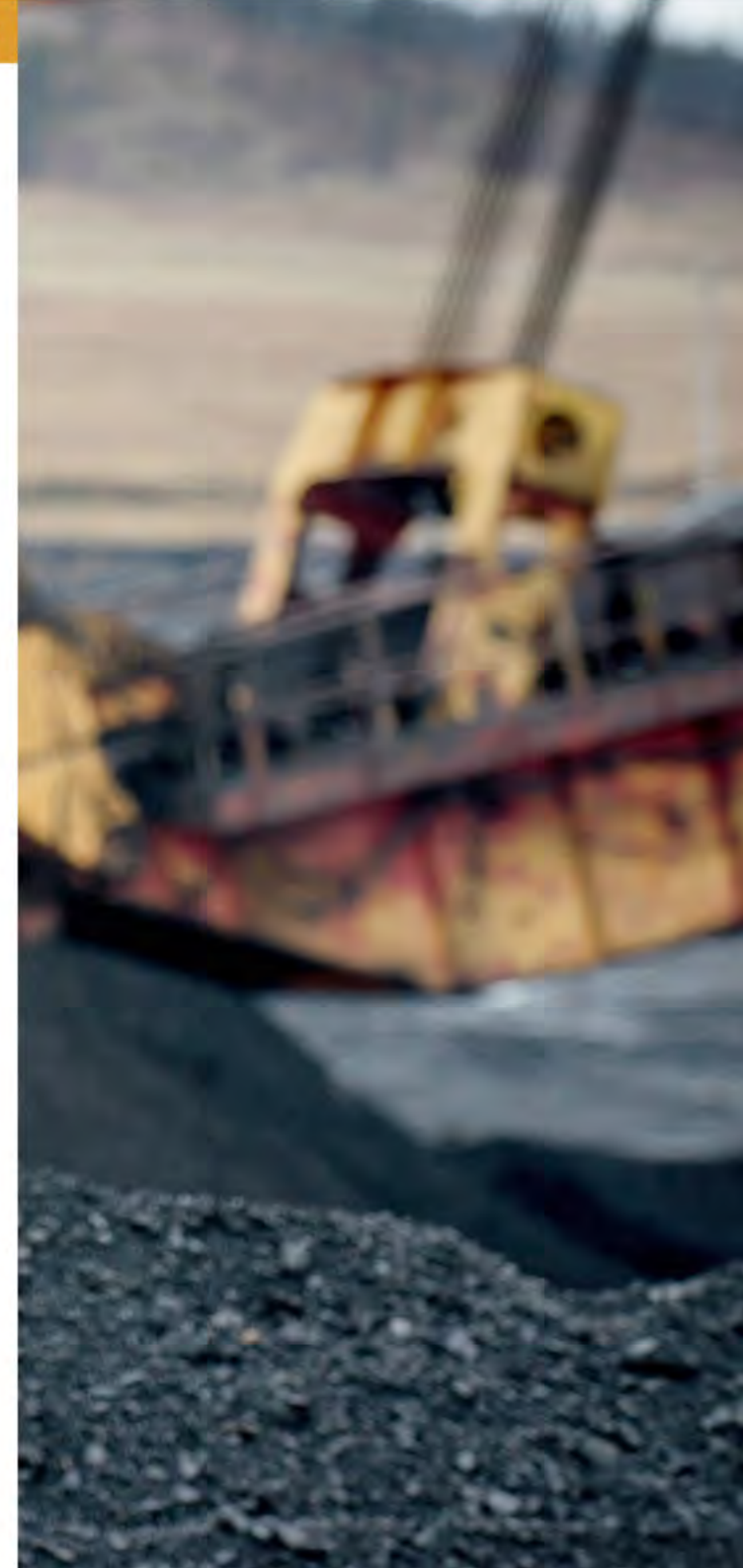
The analysis of the working group is available on the website dedicated to the agreement.

By way of this report, the working group aims to contribute to the explorative work being done and to contribute to setting standards in the area of increasing leverage. They hope the insights will also provide ideas and opportunities for others to increase their own leverage.

By no means should this report be seen as an end note: it is intended as an exploration of potential next steps to achieve positive impact, through exercising leverage by adhering banks, parties and by joint multi-stakeholder initiatives. The next step will be that the working group makes a selection of the most promising opportunities to increase leverage.

[> Analysis of the working group](#)

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Enabling Remediation

What's the bank's role?

David Kovick, Shift:
"The first time remediation is addressed in practice"

In 2011, the UNGPs were unanimously adopted by the UN Human Rights Council. They were intended to help clarify the roles and responsibilities of different actors in preventing and addressing negative human rights impacts on people as a result of business activities

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Enabling Remediation

What's the bank's role?

The UNGPs set an expectation that businesses that cause impact or contribute to it, should provide remedy to those who are harmed. Businesses that are 'linked to' impacts on people should use their leverage with other responsible parties to motivate those parties to meet this expectation. The practical reality is that there are many business impacts on people for which no remedy has been provided.

What is the role of banks in helping to bridge this gap between expectation and practice? This is one of the fundamental questions being addressed by the Dutch Banking Sector Agreement, through a working group on Enabling Remediation. David Kovick is a Senior Advisor at Shift, a leading center of expertise on business and human rights. He has been supporting agreement parties to tackle this question: "The agreement is so significant because it brings a lot of the relevant stakeholders together around one table to help bring greater clarity to these types of questions."

For the past year, the working group has been exploring how banks can support greater availability of remedy for impacts they might be connected to through their corporate clients. What factors can help determine the responsibility ('cause', 'contribute to' or 'linked to') of a bank in a given case? How can the bank contribute to remedy? Can it use its leverage with others to provide remedy? What tools could banks use to make sure that their clients are meeting their responsibilities to provide remedy for impacts they cause? What roles can banks play to make sure that effective grievance processes exist for people who might be harmed by the activities of their corporate clients?

Kovick emphasizes: "The agreement has created a unique forum where banks, civil society and government stakeholders explore these questions in the open. All members of the working group hope that our work can help banks to take effective steps. The steps should prevent impacts from occurring in the first place. When impacts occur despite these efforts, banks are to play appropriate roles to make sure that those who are harmed have access to remedy."

UN Forum Geneva

The Dutch Banking Sector Agreement was represented by the Dutch Government, ABN AMRO and Pax at the UN Forum on Business and Human Rights in Geneva in November 2017. They were participating in a panel discussion on banks and access to remedy.





Lessons learned

Building a relationship based on trust

It takes time for partnerships to develop; that is one of the main lessons learned in 2017. All parties have spent time on exchanging information and practices, and on getting to know each other. This was necessary to build trust, to explore opportunities and to come to a solid approach shared by all parties to jointly address adverse human rights impacts.

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Lessons learned

Building a relationship based on trust

Exploring the possibility of a new Matrix Database

One of the joint commitments in the agreement was working on a matrix database in order to exchange information properly. During the past year, a working group has taken several steps in exploring the function of a new database, compared to existing tools. Over time, it became apparent that much information is already publicly available and is already integrated by banks in their financing decisions. What's missing is current and specific, on the ground information, which has not yet been published. The working group concluded that this type of information cannot be assembled in a matrix database. Other ways to assemble and share this information were explored. One of the options was to incorporate lessons learned and how to proceed from here, in the value chains approach. This option has been adopted as the most promising way forward.

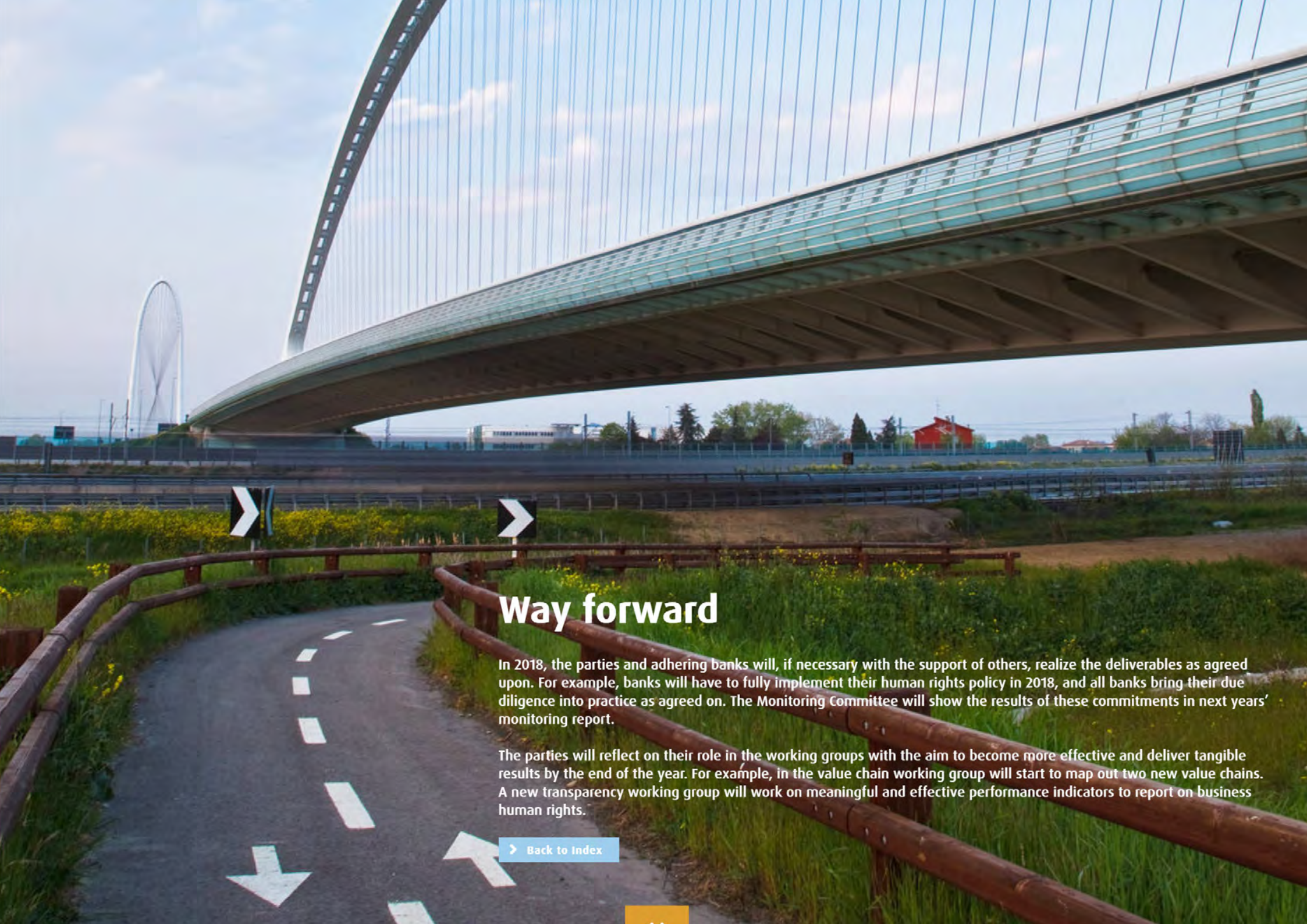
Understanding practices

Starting to work together on joint commitments has given the parties insight into their respective practices. Parties had to find a way to continue their own activities regarding the financial sector and at the same time collaborate within this agreement. The parties also explored the limitation and possibilities regarding client confidentiality and requested the international law firm NautaDutilh to give insight in the legal state of play. This resulted in a report on what is legally permitted: client confidentiality needs to be respected, but banks can ask their clients permission to share information. Banks are free to collect and share information on an aggregated level with others, and individual client information in anonymous form can be shared or made public. In addition to legal considerations, the adhering banks also indicated that there may be strategic considerations for (not) sharing information about clients or transactions. During the course of the agreement, options to increase transparency about banks' human rights policies and practices will be further explored.

[Website Dutch Banking Sector Agreement](#)

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Way forward

In 2018, the parties and adhering banks will, if necessary with the support of others, realize the deliverables as agreed upon. For example, banks will have to fully implement their human rights policy in 2018, and all banks bring their due diligence into practice as agreed on. The Monitoring Committee will show the results of these commitments in next years' monitoring report.

The parties will reflect on their role in the working groups with the aim to become more effective and deliver tangible results by the end of the year. For example, in the value chain working group will start to map out two new value chains. A new transparency working group will work on meaningful and effective performance indicators to report on business human rights.

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Colophon

This is a publication of the Dutch Banking Sector Agreement. The agreement is a coalition of banks, the Dutch Banking Association (NVB), trade unions, civil society organisations (CSOs), and the Dutch Government. They aim to work towards a situation in which human rights are respected.

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Strengthening collaboration

The monitoring and evaluation report provides opportunities to bring the existing collaboration to the next level. This will be done by reiterating the goals of the agreement and by evaluating the roles and contributions by parties, based on the insights gained during this first year. The recommendations of the Monitoring Committee will be carefully taken into account. The Steering Committee will make sure that these are followed through.

Communication: Strengthening internal/external communication

We will improve the communications among parties and banks and to external stakeholders about the progress made on the individual and joint commitments. We will organize a stakeholder meeting in September 2018.

Outreach for creating an international level playing field

This year, parties will use various opportunities to present results of the agreement on the European, OECD and UN levels and in other international networks. The parties will do so to inspire other banks, governments, trade unions and CSOs worldwide to join their efforts and thereby to increase the impact of this agreement.

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