



Council on Ethics for the Government Pension Fund Global

Annual Report 2009



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Introduction

The Council on Ethics for the Norwegian Government's Pension Fund Global (SPU) is an independent council that makes recommendations to the Ministry of Finance on the potential exclusion of companies from the Pension Fund on the basis of acts or omissions that contravene the criteria in the Ethical Guidelines for the Pension Fund. The Council was established by the Norwegian Government on 19 November 2004, at the same time as the Ethical Guidelines were approved. The Council has now operated for more than five years. The Council has five members and maintains its own secretariat that has recently been increased to eight people.

Last year, in the Report to the Storting (Parliament) on the management of the Pension Fund (Report no. 20 (2008–2009)), the Ministry of Finance announced some modifications to the Ethical Guidelines, some of which have come into effect by the time this Annual Report is being published. The new guidelines will allow the Council on Ethics to contact companies directly, whereas previously all contact was via Norges Bank (the Norwegian Central Bank). Another new aspect is that the Council can recommend placing companies on an observation list if there is uncertainty about future developments or whether the conditions for exclusion are met. Some changes were implemented already in 2009, which is the case for the decision to exclude companies that produce tobacco. Modifications to the Ethical Guidelines are discussed in more detail on page 12, and the guidelines as per 31 December 2009 are included on page 63.

The most visible result of the Council on Ethics' work is the recommendations to the Ministry of Finance, which are made public once any purchase or sale of securities has been completed. In the course of a year, the Council assesses many cases and issues that do not result in a recommendation. For example, in 2008 the Council started work on an assessment that revealed widespread use of hazardous child labour in the tobacco industry. This assessment was not used as basis for any recommendations for exclusion, because it became apparent that all companies that produce tobacco were going to be excluded from the Pension Fund. A brief description of this assessment can be found on page 16.

The number of companies excluded from the Pension Fund increased sharply in 2009 due to the new tobacco criterion. 17 tobacco-producing companies have been excluded, out of a total of 48 companies excluded at the end of 2009. Two companies were excluded in 2009 pursuant to the criteria concerning severe environmental damage and violations of fundamental ethical norms. One is the Russian company MMC Norilsk Nickel, which is one of the world's largest producers of nickel and palladium. The company emits large quantities of SO₂ and heavy metals, and the environmental damages after many years' operation are obvious. Forest and other vegetation up to 200 km from the factories in Norilsk are dead or damaged, and many people in the area have suffered and continue to develop serious health problems.

The other company is Elbit Systems Ltd., which was excluded because it produces surveillance equipment for the separation barrier that Israel has built partially on occupied territories in the West Bank. This year, the Council on Ethics has focused in particular on companies engaged in activities in Israel. The Fund's investments in Israeli companies



increased from five companies in 2007 to 42 companies in 2008 as a result of changes in the Pension Fund's benchmark index. At the same time, the Council has received reports that several of the companies have contributed to, for instance, construction of infrastructure or settlements in occupied territories in the West Bank.

The Council on Ethics regularly assesses whether excluded companies can be reinstated in the investment universe. In 2009 three exclusions were reversed, as the grounds for exclusion no longer exist. These were DRD Gold Ltd., Thales S.A. and United Technologies Corp.

In 2009 the Ministry of Finance placed the company Siemens AG on its official observation list after the Council on Ethics had recommended excluding the company on grounds of gross corruption. It was beyond doubt that the company had systematically used corrupt methods to win contracts, but after the Council had made its recommendation the company implemented comprehensive measures to prevent corruption in the future and entered into a settlement with the German and US authorities. The Ministry of Finance therefore decided to observe and await developments in the company. The Council on Ethics is currently observing the company by studying publicly available information and through dialogue with the company and the controller that the US authorities have charged with monitoring the company.

The number of companies in the Pension Fund continues to increase. There are now more than 8,000 companies in the Pension Fund's portfolio, compared with less than 3,000 companies when the Council on Ethics started its activities. The Fund currently has a much higher percentage of small-cap companies and companies in so-called emerging markets than previously. Information about such companies is less readily available than information about large companies in developed markets, making the Council on Ethics' work more demanding.

In 2009 the Council on Ethics has taken steps to improve its monitoring of the Pension Fund's portfolio. A number of external consultants carry out regular Internet searches for news items about the companies in the portfolio. These searches are done in several languages, including English, Spanish, Russian and Mandarin. A special monitoring system has been set up for the weapons and tobacco criteria. The Council receives monthly reports about companies accused of complicity in human rights violations, corruption, severe environmental damage and other criteria in the Ethical Guidelines. Among these, the Council selects the cases that appear to be the most serious for further assessment. The Council's search system is described on page 15.

Table 1 below provides a summary of the Council on Ethics' assessments of companies in 2009 and compares them with the figures for 2008. Of the approximately 450 cases captured by the monitoring system in 2009, 170 cases have been assessed further. In most of these cases, it was quickly established that grounds for exclusion appeared not to be there. Others needed further assessment, and there were just over 50 such cases in 2009.

If the assessments reveal that there may be grounds to exclude a company, the Council on Ethics contacts the company to obtain information about the matters the Council is assessing. The company is also given the opportunity later on in the assessment process to correct any errors and express its opinion on a draft recommendation. In addition, the Council on Ethics has had meetings with a number of companies in 2009.

During the course of the year, the Council has increased its assessment capacity by means of a framework agreement with a British consultancy company that has a network of experts in many countries. This makes it easier to access information and make assessments in cases where local knowledge is required.

Table 1
Overview of
the Council on
Ethics' activities

Year	2008	2009
Total no. of excluded companies at the end of the year	32	48
Companies on the observation list at the end of the year	0	1
Companies excluded during the year	5	19
Recommendations published	6	6
Companies reinstated during the year	0	3
Companies in SPU at the end of the year		
Companies in SPU at the end of the year	7800	8300
Cases flagged in monthly consultants' reports	360	450
Cases where initial assessments were carried out	130	170
Companies under further assessments	30	55
Council meetings		
Council meetings	10	9
People in the Secretariat		
People in the Secretariat	7	7
Budget		
Budget	NOK 9.6 mill.	NOK 11.3 mill.

In addition to the assessments mentioned above, the Council on Ethics' work in 2009 also included in-depth assessments of one company suspected of gross corruption, companies with mining operations in Africa and Latin America, companies with petroleum operations in the Amazon, companies that may be involved in illegal cutting of tropical forests, companies with operations in the Democratic Republic of Congo, companies that buy phosphates from Western Sahara, and companies with operations in Burma. These assessments are still underway.

The Council often starts looking into cases after allegations are made of potential violations of the Ethical Guidelines. However, it also undertakes studies of regions or sectors not based on news items about individual companies, but on the basis of information about recurrent problems in an industry or area. In 2010, the Council will continue its assessments of companies with operations in the conflict areas in the Democratic Republic of Congo, partly in light of UN reports claiming that companies are fuelling conflicts. The Council is also going to investigate more closely the Fund's investments in coal mines in light of the many accidents in this industry, and is as well as looking into oil pollution in the Niger Delta in light of the many oil spills in the region over a prolonged period and the impact this may have on the environment and human health.

In 2010 the Council on Ethics will continue its work on identifying investments that contravene the Ethical Guidelines for the Pension Fund. The Council's recommendations shall be thorough and well-documented to ensure that implementation of the Ethical Guidelines for the Fund is credible. The threshold for exclusion shall be high. The Council has had a number of meetings with interest organisations in Norway and internationally, and reports and requests from such organisations are one of the information sources about matters that the Council on Ethics decides to assess in more detail. The Council on Ethics has noted that some organisations enquire about the outcome of a matter they reported to the Council. It can be difficult to explain publicly why the Council decides not to recommend the exclusion of a company, partly because this might appear to constitute endorsement of highly reprehensible activities, which are nevertheless not adequate basis for exclusion. The Council on Ethics would like to stress that its contact with different professional communities and interest organisations plays an important role and that all matters reported to the Council are taken seriously.

Gro Nystuen Andreas Føllesdal Anne Lill Gade Ola Mestad Ylva Lindberg
(Chair)



Members of the Council and of the Secretariat

The Council on Ethics

Gro Nystuen (Chair), Dr. juris and Associate Professor at the Center for Human Rights, and The Norwegian Defence University College.

Andreas Føllesdal, Professor Ph.D. in Philosophy at the Center for Human Rights, University of Oslo.

Anne Lill Gade, MSc in limnology (freshwater ecology), Programme Manager at Jotun AS, Research Fellow at the Department of Biology, Toxicology, University of Oslo.

Ylva Lindberg, Managing director of SIGLA. From 30 November 2009.

Ola Mestad, Dr. juris and Professor at the Centre for European Law, University of Oslo.

Bjørn Østbø, Economist HAE, Managing Director at First Securities ASA, Bergen.
Until 30 June 2009

The Secretariat

The Council has a Secretariat that investigates and prepares cases for the Council.

The Secretariat has the following employees:

Pia Rudolfsson Goyer (Cand. jur, LL.M)

Svein Erik Hårklau (Cand. agric.)

Hilde Jervan (Cand. agric.)

Anita Karlson (IT)

Eli Lund executive head of Secretariat, (Economist)

Charlotte Hafstad Næsheim (Master of Law)

Aslak Skancke (Graduate Engineer)

Pablo Valverde (Master in War Studies)

Mandate for the Council on Ethics

This translation is for information purposes only. Legal authenticity remains with the original Norwegian version.

The Ministry of Finance presented ethical guidelines for the Government Pension Fund – Global (former Government Petroleum Fund) in the Revised National Budget for 2004. The Storting endorsed the guidelines in Budget Recommendation to the Storting No. 1 (2003–2004). The Ministry of Finance established the ethical guidelines with effect from 1 December 2004. Clause 4.4 of the guideline was revised on the 29th of September 2008, according to the Report to the Storting No. 16 (2007–2008), and again on the 30th of September 2009, according to the Report to the Storting No. 20 (2008–2009).

The guidelines establish the following tasks for the Council on Ethics:

1. The Council shall be composed of five members. The Council shall have its own secretariat. The Council shall submit an annual report on its activities to the Ministry of Finance.
2. The Council is to issue recommendations at the request of the Ministry of Finance on whether an investment may be in violation of Norway's obligations under international law.
3. The Council shall issue recommendations on the negative screening of companies that:
 - produce weapons which, through their normal use, violate fundamental humanitarian principles;
 - sell weapons or military materiel to states mentioned in Clause 3.2 of the supplementary guidelines for the management of the Fund; or
 - produce tobacco.

The Council shall issue recommendations on the exclusion of companies from the investment universe because of acts or omissions that constitute an unacceptable risk of the Fund contributing to:

- serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other forms of child exploitation;
- serious violations of individuals' rights in situations of war or conflict;
- severe environmental damages;
- gross corruption; or
- other particularly serious violations of fundamental ethical norms.

The Council shall raise issues under this provision on its own initiative or at the request of the Ministry of Finance.



4. The Council is to gather the necessary information on an independent basis and ensure that the matter is elucidated as fully as possible before a recommendation concerning screening or exclusion from the investment universe is issued. The Council can request Norges Bank to provide information as to how specific companies are dealt with in the exercise of ownership rights. All enquiries to such companies shall be channelled through Norges Bank. If the Council is considering an exclusion recommendation, the draft recommendation, and the grounds for it, shall be submitted to the company for comment.
5. The Council shall review on a regular basis whether the grounds for exclusion still apply and can, on receipt of new information, recommend that the Ministry of Finance reverse the exclusion decision.

See the Revised National Budget for 2004 for an elaboration of the Ethical Guidelines and of the Council's tasks.

According to the Ethical Guidelines, the recommendations of the Council on Ethics and the decisions of the Ministry of Finance are in the public domain. The Ministry may, in special cases, defer the date of publication if this is deemed necessary to assure due and proper disinvestment from a financial point of view. Against this background, and in regard to the Council's recommendations, the Ministry of Finance is the appropriate body to approve or reject requests to examine documents under the Freedom of Information Act.

The Ministry of Finance determines the remuneration of the Council Members and the members of the Secretariat, as well as the Councils' budget. The Ministry of Finance shall be the contractual counterparty to any agreement the Council needs to enter into with other parties. The Ministry of Finance may make additions to, or changes in, this mandate.

Overview of recommendations issued by the Council on Ethics in 2009

Published by
March 2010

13.02.2009 Recommendation to reverse the exclusion of Thales SA

Recommendation to reverse the exclusion of the American company Thales SA because the company no longer produces cluster munitions.

(Published 3 September 2009)

13.02.2009 Recommendation to reverse the exclusion of DRD Gold Ltd.

Recommendation to reverse the exclusion of the South-African company DRD Gold Ltd. because the company has divested from the Tolukuma Gold-mine which carries out riverine tailings disposal.

(Published 3 September 2009)

16.02.2009 Recommendation to exclude MMC Norilsk Nickel

Recommendation to exclude the Russian company Norilsk Nickel because its nickel plant on the Taymyr peninsula is causing serious damage to the environment.

(Published 20 November 2009)

15.05.2009 Recommendation to exclude Elbit Systems Ltd.

Recommendation to exclude the Israeli company Elbit Systems Ltd. because its supplies surveillance systems to the separation barrier on the West Bank.

(Published 3 September 2009)

22.10.2009 Recommendation to exclude companies producing tobacco

Recommendation to exclude 17 tobacco companies as tobacco production was introduced as a new exclusion criterion in 2009.

(Published 19 January 2010)

16.11.2009 Recommendation to reverse the exclusion of United Technologies Corp.

Recommendation to reverse the exclusion of United Technologies Corp. because the company is no longer involved in the production of key components for nuclear weapons.

(Published 2 March 2010)



Companies the Ministry of Finance has excluded from the Government Pension Fund Global

Cluster Weapons

- Alliant Techsystems Inc.
- General Dynamics Corp.
- Hanwha Corp.
- L3 Communications Holdings Inc.
- Lockheed Martin Corp.
- Poongsan Corp. – New
- Raytheon Co.
- Textron Inc.

Nuclear Weapons

- BAE Systems plc.
- Boeing Co.
- EADS Co., including its subsidiary EADS Finance BV
- Finmeccanica Sp. A.
- GenCorp Inc.
- Honeywell International Corp.
- Northrop Grumman Corp.
- Safran SA.
- Serco Group plc.

Anti Personnel Landmines

- Singapore Technologies Engineering Ltd.

Companies supplying arms or military equipment to Burma

- Dongfeng Motor Group Co. Ltd.

Environmental Damage

- Barrick Gold Corp.
- Freeport McMoRan Copper & Gold Inc.
- Vedanta Resources Ltd., including its subsidiaries Madras Aluminium Company Ltd. Sterlite Industries Ltd.
- Rio Tinto plc. and
- Rio Tinto Ltd.
- MMC Norilsk Nickel

Tobacco

- Alliance One International Inc.
- Altria Group Inc.
- British American Tobacco BHD
- British American Tobacco plc.
- Gudang Garam tbk pt
- Imperial Tobacco Group plc.
- ITC Ltd.
- Japan Tobacco Inc.
- KT&G Corp.
- Lorillard Inc.
- Philip Morris Int. Inc.
- Philip Morris CR AS
- Reynolds American Inc.
- Souza Cruz SA
- Swedish Match AB
- Universal Corp VA
- Vector Group Ltd.

Human Rights

- Wal-Mart Stores Inc., including its subsidiary Wal-Mart de Mexico

Other particularly serious violation of fundamental ethical norms

- Elbit Systems Ltd.

Revised guidelines for the Council on Ethics

The ethical guidelines for the Government Pension Fund Global, introduced in autumn 2004, have been the subject of an evaluation process, most of which was carried out in 2008. On the basis of this evaluation and experience from five years' practical use, revised guidelines have been adopted for the responsible management of the Fund. The Ministry of Finance presented the revised guidelines in its Report no. 20 (2008–2009) to the Storting. The new guidelines will affect the Council on Ethics' future working methods in some areas.

1 Product-based exclusion

Product-based exclusion of companies from the Government Pension Fund Global (SPU) entails that companies are excluded on the basis of their production or sale of defined products. Exclusion is based on objective criteria. Common to all of these criteria for exclusion is the intention that every company whose activities are in contravention of the criteria shall be excluded. For example, importance is not attached to matters such as how large a proportion of the companies' turnover comes from the products that qualify it for exclusion.

In October 2009, the Ministry of Finance laid down that companies that produce tobacco products shall be excluded from the Fund. Ever since its establishment in 2004, the Council on Ethics has advised the Ministry on the exclusion of companies that produce weapon systems that violate fundamental humanitarian principles in their normal use. In practice, this has led to the exclusion from the Fund of companies that produce anti-personnel mines, nuclear arms and cluster munitions. In 2008 it was decided that companies that sell military materials to the authorities in Burma (Myanmar) are to be excluded.

The Council on Ethics has already submitted recommendations that 17 companies that produce tobacco products be excluded from the Fund. This was implemented through the Ministry's decision to exclude said companies. For these companies, tobacco production constitutes all or a substantial share of the turnover. However, there may also be companies where the production of tobacco products constitutes only a small share of the turnover. The Council on Ethics has initiated investigations to identify these kinds of companies and, as appropriate, recommend the exclusion of more companies.

Since 2005, the Council on Ethics has continuously monitored companies in the Fund by means of external information providers and other systems, in order to identify producers of weapons that violate the Ethical Guidelines for the Fund. This monitoring is being continued and expanded to include tobacco producers.

2 Conduct-based exclusion

There are no changes in the criteria for exclusion based on companies' conduct. Companies that contribute to severe environmental damage, gross violation of human rights, gross corruption, gross violations of individual rights in war or conflict situations, or other particularly gross violations of fundamental ethical norms, shall continue to be excluded from the Fund. The amendments to the Guidelines concerning exclusion based on conduct pertain mainly to the working methods of the Council on Ethics.



Report no. 20 (2008–2009) to the Storting underlines that the main purpose of the Ethical Guidelines is to contribute to change. The main purpose of the Council on Ethics' activities – and the exclusion mechanism of the Fund – continues to be ensuring that the Fund shall not have investments that entail complicity in gross violations of fundamental ethical norms by companies. If it is possible to influence a company with unethical practices to change, it is better to maintain ownership in the company and work for change than to sell the holding in the company. In practice, the Council on Ethics has frequently used this kind of approach by taking into account whether Norges Bank is carrying out an active corporate-governance process on the topics in question with companies that the Council on Ethics is assessing for exclusion. Experience indicates that it is rare that Norges Bank and the Council on Ethics assess the same companies.

The new Guidelines enable the Council on Ethics to establish direct contact with companies at an early stage of an investigation. Previously, the purpose of the Council on Ethics' contact with companies was primarily to present them with a draft recommendation on exclusion and give them the opportunity to respond to the allegations. In some instances, companies interpreted this approach as meaning that the decision to exclude the company had in fact already been made. The amendments to the Guidelines will allow a more open dialogue with the companies throughout the assessment process. The main objective of the Council on Ethics' contact with companies will continue to be to clarify whether there are grounds for exclusion. In keeping with the announced amendments to the Guidelines, the Council on Ethics initiated contact with several companies in autumn 2009 during the early stages of its assessments.

The starting point for the Council on Ethics' assessments is always the question of whether there is an unacceptable risk of the Fund being complicit in current or future violations of its ethical norms. The forward-looking perspective has always been at the crux of the Council on Ethics' assessments, requiring an evaluation of any steps the company takes to prevent future violations. This necessitates forward-looking assessments which in some cases may be quite demanding, such as what constitutes a reasonable time frame for improvements in a company and what impacts the company's ongoing improvements might be expected to have. In some cases, the opportunity for closer dialogue with companies might facilitate and improve forward-looking assessments of this nature.

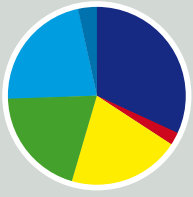
In its recommendations, the Council on Ethics has always attached importance to good documentation of norm violations from a wide range of sources. There may be limited access to information in some emerging markets and especially in conflict areas, and it can be difficult to obtain reliable documentation of companies' activities in all states. This can affect the selection of companies to be assessed. In its Report to the Storting, the Ministry of Finance announced the introduction of a more nuanced documentation requirement in cases pertaining to companies operating in areas where it is especially difficult to document norm violations. Inability and/or unwillingness on the part of companies to provide information can play a role in the assessment of whether there is an unacceptable risk of complicity.

The Ministry of Finance stresses the significance of good interaction between the instruments available at all times to the Fund in its role as a responsible investor. The distribution of roles between the Council on Ethics, which advises the Ministry on the exclusion of companies, and Norges Bank, which exercises the Fund's ownership rights, helps to ensure the legitimacy of both instruments. In some cases, however, it may be deemed useful to coordinate these two instruments. Up until now, there have been limited exchanges of information on specific cases between Norges Bank and the Council on Ethics. A greater degree of information-sharing between the Council on Ethics and Norges Bank would make it easier to ensure that the Fund's entire set of instruments for protecting ethical considerations are used efficiently and effectively. The Council on Ethics welcomes this development.

3 Watch-list

The Ministry of Finance has decided to introduce a watch-list for companies where there is uncertainty as to whether the conditions for exclusion have been met or uncertainty about future developments. The Ministry of Finance can put a company under observation on the basis of recommendations of exclusion or observation from the Council on Ethics. In these cases, assessments will be made regularly to determine whether the company should remain on the watch-list. If the risk of norm violations is reduced over time, the company can be taken off the watch-list. If the required improvements are not observed, companies on the watch-list may be recommended for exclusion from the Fund.

Figure 1. Geographic distribution of shares as of 31.12.2008



Europe	20 %
USA og Canada	33 %
Americas (others)	2 %
China and Japan	20 %
Other Asia/Oceania	22 %
Others (including Russia)	3 %

Figure 2. Number of times a region's companies were mentioned in reports during the last 4 months of 2008



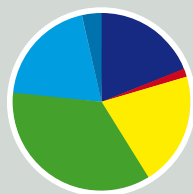
Europe	28 %
USA og Canada	34 %
Americas (others)	2 %
China and Japan	10 %
Other Asia/Oceania	22 %
Others (including Russia)	4 %

Figure 3. Geographic distribution of shares as of 31.12.2009



Europe	18 %
USA og Canada	29 %
Americas (others)	3 %
China and Japan	29 %
Other Asia/Oceania	19 %
Others (including Russia)	3 %

Figure 4. Number of times a region's companies were mentioned in reports during the last 4 months of 2009



Europe	21 %
USA og Canada	19 %
Americas (others)	1 %
China and Japan	35 %
Other Asia/Oceania	20 %
Others (including Russia)	4 %

The Council on Ethics' search system

The Council on Ethics has strengthened its surveillance of companies during 2009 in a way which will make it better able to tackle recent developments in the composition of the Fund's portfolio.

By the end of 2008, the Government Pension Fund Global was invested in over 7,800 companies. In 2009 this number increased to around 8,300 companies, due in part to an important increase in the number of Chinese companies represented. Companies from developing markets pose a challenge to the work of the Council on Ethics because the Council is largely dependent on the availability of information on the companies and their possible breaches of the Ethical Guidelines. Many developing markets have a more limited civil society and a less active press. Even when the information is available, it is not always the case that it is available in a European language. It may therefore prove challenging to capture news-stories concerning breaches by the Fund's companies if the supplier of screening services lacks the necessary language skills.

The Council on Ethics is assisted in its work by suppliers of search systems who daily capture news items involving the Fund's companies in connection with environmental damage, human right violations, corruption and other possible breaches of the Ethical Guidelines. These consultants provide monthly reports with the events which may be most relevant for further studies. As the pie charts show, western companies have so far been overrepresented in these reports. For example, some 64 percent of events the last four months of 2008 concerned western companies (figure 2), while only 10 percent made reference to Chinese or Japanese companies. Meanwhile, as figure 1 shows, the percentage of Chinese and Japanese companies in the portfolio at this time was closer to 20 percent.

In today's globalised world, there is only a weak correlation between where a company is registered and where the company carries out its activities. Generally, even in the case of companies from developed markets, the breaches investigated by the Council on Ethics take place in countries with a weaker legal system or where laws are not sufficiently enforced. Information about these companies is nevertheless available, in part because voluntary organisations and the media in the companies' home countries follow the activities of the company around the world. There is no apparent reason for companies registered in developed markets to be any more unethical than companies registered elsewhere. When the global search system was tendered, one of the requisites was that searches should be carried out in English and Spanish, with language skills being given particular weight in the final decision. Furthermore, the Council now has its own searching service for companies from China, Japan, Taiwan and Hong Kong which includes searches in English and Mandarin. As figures 3 and 4 show, this has led to a marked increase in the number of news stories concerning Asian companies.

An increased number of news items does not necessarily translate into a larger amount of relevant cases. Although the access to information has improved, it continues to be difficult for our suppliers to find information in Asia to a degree comparable to that which is available in the rest of the world. This is a challenge for all investors with ethical guidelines. One can only hope that the demand for information will eventually lead to an improved access to information about companies in developing markets.

Investigation into hazardous child labour in the tobacco sector



Over the years, the Council on Ethics has received a number of communications concerning the alleged involvement of tobacco companies in unethical marketing, smuggling of cigarettes, deforestation and use of child labour. In 2007, the Council therefore decided to investigate the allegations in order to determine whether they constituted violations of the Ethical Guidelines of the Norwegian Government Pension Fund Global (SPU). Since the Ministry of Finance subsequently decided to make tobacco production a criterion for exclusion from the Pension Fund in 2009, the Council on Ethics did not make a recommendation, despite the fact that the investigations indicated that there were grounds for excluding several companies based on their use of hazardous child labour in tobacco farming.

Initial investigations of the 17 tobacco companies that the Pension Fund had invested in indicated that the use of child labour in tobacco production was a widespread and serious problem in the industry. Therefore a comprehensive field study was carried out in particularly vulnerable areas on three continents to ascertain the extent and magnitude of the problem.

The first step was to find out where the companies sourced their tobacco from. There was wide variation between the different areas, but production was primarily in developing countries, which is a common feature of the tobacco industry at present. The companies either entered into contracts directly with smallholder farmers who grew tobacco, or they bought tobacco through local auctions, cooperatives or other buyers. Six tobacco companies were selected for further investigation since they or their fully owned subsidiaries had contracts directly with smallholder farmers or cooperatives in areas where child labour is common.

The field study was carried out between November 2008 and January 2009 in Andhra Pradesh in India, Tabora in Tanzania and Jujuy in Argentina. An

American professor of anthropology, accompanied by

local contacts, undertook unannounced visits to 33 farms and interviewed 237 adult and under-age tobacco workers. The study revealed that many farmers felt obliged to use

*India
Argentina
Tanzania*

children in the tobacco farming process in order to meet the contractual requirements of the tobacco companies. The price of raw tobacco has been reduced considerably in recent years, and farmers have to produce more in order to make a living from tobacco farming. The study also found that several of the tobacco companies sold seed, fertiliser, pesticides and technical advice to the farmers, usually on credit, and bought their tobacco harvest once it had dried. In this way, many farmers end up in debt to the company.

In India, Argentina and Tanzania, child labour were found to constitute respectively 16 percent, 15 percent and 80 percent of the total workforce. The children were aged 7 to 14 years. Child labourers as young as 7 were involved in watering tobacco plants, weeding, harvesting and bundling tobacco leaves in all three countries. In India, it was reported that children often worked when their parents had fallen ill from spraying the tobacco plants with pesticides. Neither adults nor children used personal protective equipment in this work. Sickness as a result of pesticide exposure usually requires two or three days off work, and also results in costs for medicines. The children in India and Tanzania reported backache, headache and vomiting associated with tobacco farming, in particular after spraying with pesticides. Many of the symptoms can also be linked to 'green tobacco sickness', which causes nausea, diarrhoea and headache. As moisture from the tobacco leaves is absorbed by the children's skin, nicotine enters their blood and they suffer nicotine poisoning. In addition to the risk of poisoning, the children in Tanzania in particular are exposed to extreme heat during the tobacco harvest.

Despite the fact that some of the largest tobacco companies have taken an active stance against child labour through organisations such as ECLT (Eliminate Child Labour in Tobacco), the field study findings suggest that child labour is still a widespread problem in the tobacco industry. Although the companies have a policy of not employing minors, parents often take their children to work with them in order to be able to produce the amount of tobacco specified in the contract. ILO describes much of the child labour in the tobacco industry as the "worst form of child labour" pursuant to ILO Convention No. 182 Article 3, because of the health hazards entailed by this work.



The Recommendations

To the Ministry of Finance

Oslo, October 22nd, 2009
(Published January 9th, 2010)

Recommendation to exclude companies producing tobacco

1 Introduction

In its Government Whitepaper no. 20 (2008–2009), the Ministry of Finance proposed that tobacco companies should be excluded from the investment universe of the Government Pension Fund Global. The proposition was supported by Stortinget (the Parliament). In line with this, the Ministry has changed the Fund's ethical guidelines to the effect that companies which produce tobacco are to be excluded from the Fund.

The Council on Ethics has reviewed the companies in the Fund which are classified as tobacco producers and thus subject to exclusion based on the new criterion. The Fund's investments in each company (in NOK) as of December 31st, 2009 are provided for each company.

Alliance One International Inc. (NOK 6 543 727)	ITC Ltd. (NOK 338 514 700)	Reynolds American Inc. (NOK 251 436 677)
Altria Group Inc. (NOK 916 297 967)	Japan Tobacco Inc. (NOK 1 469 905 318)	Souza Cruz SA (NOK 52 051 152)
British American Tobacco BHD (NOK 65 776 837)	KT&G Corp. (NOK 114 873 735)	Swedish Match AB (NOK 523 059 285)
British American Tobacco plc. (NOK 4 777 801 401)	Lorillard Inc. (NOK 292 038 569)	Universal Corp VA (NOK 20 897 286)
Gudang Garam tbk pt (NOK 0)	Philip Morris Int. Inc. (NOK 3 335 098 781)	Vector Group Ltd. (NOK 14 899 151)
Imperial Tobacco Group plc. (NOK 2 426 963 580)	Philip Morris CR AS (NOK 19 019 853)	

The Council on Ethics recommends that these companies be excluded from the Fund.

The Council will examine whether there could be companies in the Fund that produce tobacco but are not classified as tobacco producers. The Council may submit additional recommendations based on its findings.

2 Background

The Council received a letter from the Ministry of Finance dated September 30th, 2009, in which changes to the Fund's ethical guidelines and to the mandate of the Council are established. The changes entail that the Council is to submit recommendations on the exclusion of companies which produce tobacco.

In its letter, the Ministry writes that, as stated in the Government Whitepaper no. 20 (2008–2009), this new criterion for exclusion is based on the production of tobacco, not on the sale of tobacco products. Also, the criterion is limited to the production of tobacco products themselves, not to additives or ingredients used in the production of tobacco products.

The Council will therefore issue recommendations on companies which cultivate and process tobacco, and exclusion from the Fund will be recommended for all companies which manufacture products made from tobacco. Production of any form of tobacco product, regardless of its intended use, will form the basis for exclusion.

Cultivation of tobacco takes place partly in the United States, India, Brazil, China, and in several African countries. Tobacco is cultivated in large plantations, smaller farms and on small patches of land. So-called "leaf companies" purchase tobacco crop either directly from farmers or in local auctions where farmers sell their produce. The leaf companies process the tobacco and sell it on to tobacco companies, which produce various tobacco products for end consumers. Some tobacco companies also purchase tobacco crops directly from farmers or in local auctions, without the use of leaf companies.

The Council has used the classification of tobacco companies in the industry classification of the Fund's benchmark as its starting point for this recommendation.

The industry classification is based on the type of business activity that is dominant for the companies' turnover. The Fund's benchmark for equities is derived from the FTSE All Cap. FTSE classifies the companies in the index into different industries. In the industry "Consumer Goods", "Tobacco" is defined as a separate sector. Companies classified in this sector will receive the bulk of their revenues from the tobacco industry. As for the bond investments, Barclays Global Aggregate is used as basis for the Fund's benchmark. Also here, companies with the bulk of their revenues from the tobacco industry are classified under "Tobacco".

When using the classification of the index-providers to identify tobacco companies, there are two issues which should be particularly noted:

Among the companies classified as tobacco companies, there may be companies which only produce additives or components for tobacco products, such as paper, filters etc., and not products made from tobacco. Such production does not form basis for exclusion from the Fund.

There may be companies in the Fund which manufacture tobacco products without being classified in the indices under "Tobacco". This could be companies with activities in tobacco production as well as other industries, and where the revenues from tobacco production do not make up the largest proportion. The Council will therefore introduce monitoring of the Fund's portfolio with the aim of identifying such companies. Based on this, the Council may submit additional recommendations in the future.

3 The Council's previous assessments of companies in the tobacco industry

At its own initiative the Council has previously conducted surveys to assess the extent of child labour in the tobacco industry. Preliminary findings have indicated that the extent of health hazardous child labour in tobacco cultivation in some countries can be large. When it was clear that production of tobacco was to be introduced as an objective criterion for exclusion of companies from the Fund, further enquiries were halted as the companies in question would in any case be recommended for exclusion.

4 Tobacco companies in the Fund's portfolio

Based on the index providers' industry classification of companies in the Fund's portfolio and information on companies' web pages, the Council has identified the following companies with production which leads to exclusion under the revised guidelines. As the companies themselves clearly state that they manufacture tobacco products, the Council has not found it necessary to write to the companies in order to have this confirmed.

Alliance One International Inc. (USA)

This is an American leaf company. The company purchases tobacco in local markets, processes and sells it on to tobacco companies, mostly cigarette producers.¹

Altria Group Inc. (USA)

The company owns 100 % of the production company Philip Morris USA, which is the largest cigarette producer in the USA.² In 2009, Altria Group Inc. purchased UST Inc., which, through its wholly owned subsidiary US Smokeless Tobacco Company is the largest US producer of smokeless tobacco.³

British American Tobacco plc. (UK)

The company's subsidiaries annually produce 715 billion cigarettes in 49 factories in 41 countries.⁴

British American Tobacco BHD (Malaysia)

The company is 50 % owned by British American Tobacco PLC and produces cigarettes in Malaysia.⁵

Gudang Garam Tbk pt (Indonesia)

The company is the largest cigarette producer in Indonesia, with an annual production of 70 billion cigarettes (2001).⁶

ITC Ltd. (India)

The company is the largest producer of cigarettes in India.⁷

Japan Tobacco Inc. (Japan)

The company manufactures cigarettes in Japan.⁸

KT&G Corp. (South Korea)

The company is the largest cigarette producer in South Korea.⁹

Lorillard Inc. (USA)

The company is the third largest cigarette producer in the USA.¹⁰

Philip Morris International Inc. (USA)

The company is one of the world's largest cigarette producers. In 2008, the company held a 15 % share of the international cigarette market outside of the USA.¹¹

Philip Morris CR AS (Czech Republic)

This Czech company is 77 % owned by Philip Morris International Inc. The company produces, distributes, markets and sells cigarettes and other tobacco products.

Reynolds American Inc. (USA)

Reynolds American Inc is the holding company of R.J. Reynolds Tobacco Company, which is the second largest cigarette producer in the USA.¹²

Souza Cruz SA (Brazil)

The company produces cigarettes in Brazil.¹³

Swedish Match AB (Sweden)

The company produces smoke-free tobacco and other tobacco products at factories in 10 countries.¹⁴

Universal Corporation VA (USA)

This is an American leaf company. The company purchases tobacco in local markets, processes and sells it on to tobacco companies, mostly cigarette producers.¹⁵

Vector Group Ltd. (USA)

Through its subsidiaries Liggett Group LLC and Vector Tobacco Inc., the company produces cigarettes in the USA.¹⁶

5 Recommendation

Based on the above, the Council on Ethics recommends that the companies Alliance One International Inc., Altria Group Inc., British American Tobacco BHD, British American Tobacco plc., Gudang Garam Tbk Pt, Imperial Tobacco Group plc., ITC Ltd., Japan Tobacco Inc., KT&G Corp., Lorillard Inc., Philip Morris International Inc., Philip Morris CR AS, Reynolds American Inc., Souza Cruz SA, Swedish Match AB, Universal Corp VA, and Vector Group Ltd. be excluded from the Government Pension Fund Global.

Gro Nystuen
(Chair)

Andreas Føllesdal

Anne Lill Gade

Ola Mestad

Notes

- 1 "As a leading independent leaf tobacco merchant, Alliance One International provides worldwide service to the large cigarette manufacturers. Multinational manufacturers of consumer tobacco products rely on independent merchants such as Alliance One to supply the majority of their leaf. We purchase tobacco in more than 45 countries and serve manufacturers of cigarettes and other consumer tobacco products in over 90 countries. Alliance One proudly claims broad geographic processing capabilities, a diversified product offering, and an established customer base, which includes all of the major consumer tobacco product manufacturers. We select, purchase, process, pack, store, ship, and, in certain developing markets, provide agronomy expertise and financing for growing leaf tobacco." See company webpage: www.aointl.com/au/
- 2 "Altria Group's operating companies include Philip Morris USA, U.S. Smokeless Tobacco Company, John Middleton and Ste. Michelle Wine Estates. Our tobacco company brand portfolios consist of successful and well-known brand names such as Marlboro, Copenhagen, Skoal and Black & Mild. Philip Morris USA is the largest tobacco company in the U.S. and has half of the U.S. cigarette market's retail share." See company webpage: www.altria.com/about_altria/1_o_aboutaltriaover.asp
- 3 "With Altria Group's acquisition of UST Inc., U.S. Smokeless Tobacco Company becomes a wholly-owned subsidiary of Altria Group, making Altria the owner of the premier tobacco companies in the United States. See company webpage: www.altria.com/about_altria/1_6_4_USSmokelessStory.asp "U.S. Smokeless Tobacco Company is a wholly-owned subsidiary of Altria Group that manufactures and markets smokeless tobacco products.", see www.altria.com/about_altria/1_2_5_ussmokelesstobacco.asp
- 4 "Our subsidiary companies produce some 715 billion cigarettes through 49 cigarette factories in 41 countries. We are the only international tobacco group with a significant interest in tobacco leaf growing, working with thousands of farmers internationally." See company webpage: www.bat.com/group/sites/uk_3mfnf.nsf/vwPagesWebLive/DO52ADCY?opendocument&SKN=1
- 5 Bloomberg: "BAT BHD manufactures, imports and sells cigarettes, pipe tobacco, cigars and luxury consumer products."
- 6 "PT Gudang Garam Tbk is one of the leading cigarette producers that secures the largest market share in Indonesia, produced more than 70 billions sticks in the year 2001 and well-known as the high quality kretek cigarette producer." See company webpage: www.gudanggaramtbk.com/company/index.php?act=profile
- 7 "ITC is the market leader in cigarettes in India. With its wide range of invaluable brands, it has a leadership position in every segment of the market. ITC's cigarettes are produced in its state-of-the-art factories at Bengaluru, Munger, Saharanpur and Kolkata." See company webpage: www.itcportal.com/sets/cigarette_frameset.htm
- 8 "The domestic tobacco business is positioned as the core source of profits for the JT Group Japan Tobacco International (JTI), the international tobacco division of JT, enjoys the fastest organic growth among all global tobacco manufacturers." See company webpage: www.jt.com/about/division/tobacco_japan/index.html
- 9 "While improving superior product quality and manufacturing capabilities by competing with foreign cigarette manufacturers operating their production bases in Korea, KT&G has dominated domestic market over 70 % by developing and releasing new products marked by ceaseless technological innovations. Cigarette business will strengthen its role as Value Base for KT&G by investments focused on R&D, brands and marketing." See company webpage: www.ktng.com/
- 10 "Lorillard Inc. is the nation's third largest tobacco company. Lorillard Tobacco Company, the company's operating subsidiary, does business in all 50 states, the District of Columbia and Puerto Rico and other outlying U.S. possessions." See company webpage: www.lorillard.com/index.php?id=33
- 11 "Philip Morris International (PMI) is the leading international tobacco company, with products sold in approximately 160 countries. In 2008, we held an estimated 15.6 % share of the international cigarette market outside of the USA. We own seven of the top 15 brands in the world and have a strong mix of international and local products that seek to appeal to a wide array of adult smokers. We are committed to providing our consumers with the highest-quality tobacco products." See [selskapets hjemmeside: www.philipmorrisinternational.com/PMINTL/pages/eng/ourbus/About_us.asp](http://www.philipmorrisinternational.com/PMINTL/pages/eng/ourbus/About_us.asp)

- 12 "The second-largest tobacco company in the United States, R.J. Reynolds Tobacco Company makes many of the nation's best selling cigarette brands [...]" See company webpage: www.rjrt.com/aboutus.aspx
- 13 "The unchallenged leader on the Brazilian cigarette market, Souza Cruz is a subsidiary of British American Tobacco, the most international of the tobacco groups, whose brands are sold in 180 countries all over the world. [...] Cruz today works with the entire product cycle, from leaf-growing and processing tobacco through to manufacturing and distributing cigarettes." See company webpage: www.souzacruz.com.br/oneweb/sites/SOU_5SQEgE.nsf/vwLivelookupHomePage/HOME?opendocument
- 14 "Swedish Match produces and sells market-leading brands in smokefree tobacco products, cigars and lights products. The products are sold across the globe, with production units in 10 countries." See company webpage: www.swedishmatch.com/
- 15 "Universal's business includes selecting, buying, shipping, processing, packing, storing, and financing of leaf tobacco in tobacco growing countries for sale to, or for the account of, manufacturers of tobacco products throughout the world. Universal does not manufacture cigarettes or other consumer products. The Company's revenues are derived from sales of processed tobacco and from fees and commissions for specific services." See company webpage: www.universalcorp.com/
- 16 "Through our subsidiaries, Liggett Group LLC and Vector Tobacco Inc., we manufacture and market high quality cigarette products to adult smokers in the United States." See company webpage: www.vectorgroupltd.com/abtus.asp

To the Ministry of Finance

Oslo, May 15th, 2009
(Published September 3rd, 2009)

Recommendation on the exclusion of Elbit Systems Ltd.

1 Introduction

The Council on Ethics recommends that the Israeli company Elbit Systems Ltd. ("Elbit") be excluded from the Government Pension Fund Global.

Elbit supplies a surveillance system that is part of the separation barrier being built by the Israeli government in the West Bank. The construction of parts of the barrier may be considered to constitute violations of international law, and Elbit, through its supply contract, is thus helping to sustain these violations. The Council on Ethics considers the Fund's investment in Elbit to constitute an unacceptable risk of complicity in serious violations of fundamental ethical norms.

As of 31.12.08 the Fund's equity investments in Elbit Systems Ltd had a market value equivalent to NOK 35.8 million.

2 Background

2.1. About the separation barrier in the West Bank

Declared purpose of the barrier

Since 2002, Israel has been building a barrier fencing off the West Bank. Israel's express purpose with the barrier is to put an end to terror attacks against Israel by preventing the infiltration of terrorists from the West Bank.¹

From the Israeli side it has been pointed out that the barrier does not define any national border, nor will it have any bearing on border negotiations, and that the barrier will be dismantled when it is no longer needed.²

Barrier construction

Some 95 % of the barrier consists of a system of fences, razor wire, patrol paths, and electronic surveillance systems. This part of the barrier is 50-100 m wide.

Approximately 5 % of the barrier is made of prefabricated concrete slabs forming an eight-metre high wall.

There is a system of gates and checkpoints for traffic intending to pass the barrier. An electronic surveillance and control system is used to detect persons who attempt to cross the barrier.

Barrier route

Once it is completed, the barrier will be more than 700 km long. The construction of the barrier has taken place in stages and has not yet been concluded.

As of July 2008, the UN Office for Coordination of Humanitarian Affairs reported the following:

- The projected barrier route is 726 km, which is more than twice the length of the armistice line from 1949 (the so-called "Green Line").
- Once it has been completed, some 13 % of the barrier will follow the Green Line, and the remaining 87 % of the barrier will be inside the West Bank.
- The total area located between the barrier and the Green Line makes up nearly 10 % of the West Bank area.
- Some 35 000 West Bank Palestinians reside between the barrier and the Green Line. There are also around 250 000 Palestinians in East Jerusalem living between the barrier and the Green Line, thus being separated from the rest of the West Bank.
- Approximately 125 000 Palestinian residents in the West Bank are surrounded by the barrier on three sides. Moreover, some 26 000 Palestinians who live in enclaves are completely surrounded by the barrier and only have access to the West Bank through regulated gates.

Annex 1 shows a sketch-map of the West Bank indicating the separation barrier's projected route as of July 2008. The map has been prepared by the UN agency OCHA.³

2.2. The role of the company Elbit Systems Ltd.

The Government Pension Fund Global is invested in the Israeli company Elbit Systems Ltd., which produces electronic systems primarily for the defence industry.

The company supplies an electronic surveillance system, called "Torch", for the separation barrier. *Torch* is designed to detect persons attempting to cross the barrier and to provide this information to the staff that guards it.

The Israeli Ministry of Defence provides the following information on its website:

*"Three Israeli companies are approved by the IDF to provide intrusion detection fence, having passed its technical requirements through an extensive two-year on site experiment. Of these three companies, Magal Security Systems won the contract for the central section (Salem towards Elkana) and Elbit Systems, together with the American company, Detektion, won the contract for the northern and southern sections of Jerusalem."*⁴

On its website, the Israeli Ministry of Defence also publishes a video showing the Torch system in use. The following is a quote from this video:

*"The IDF put Elbit System's Torch system into operational use six months ago, after just two years of development [...]"*⁵

As appears from the above, Elbit is one of three companies that have delivered surveillance systems to the separation barrier. Among these three, only Elbit features in the portfolio of the Government Pension Fund Global.

2.3 The separation barrier's legitimacy

Various authorities have pointed out that the construction of the separation barrier along its chosen route must be deemed illegal.

Advisory opinion from the International Court of Justice in the Hague (ICJ)

At the request of the UN General Assembly, the International Court of Justice (ICJ) in the Hague issued an advisory opinion in 2004 regarding the legitimacy of the construction of the separation barrier in occupied territory.

The foundation for the advisory opinion is the following question:

“What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?”⁶

In its statement, the ICJ takes as its point of departure that only the parts of the barrier located in occupied territory are to be assessed. The sections of the barrier located inside Israeli territory are thus not included in the ICJ’s assessment, nor are they part of the foundation for the Court’s conclusion.⁷

The ICJ finds that the construction of the separation barrier along the chosen route is in contravention of international law:

“In sum, the Court finds that, from the material available to it, it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. The wall, along the route chosen, and its associated régime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of security or public order.

The construction of such a wall accordingly constitutes breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments.”⁸

As appears from the above, the ICJ’s assessment takes as a point of departure that the barrier and its associated control regime violate the rights of a large number of Palestinians in the West Bank. The ICJ attaches particular importance to the choice of route for the barrier:

“[...] The specific course Israel has chosen for the wall [...] cannot be justified by military necessity or Israeli security requirements. Moreover, the ICJ points out that the barrier itself, the choice of route, and the control regime that the barrier is part of, jointly constitute Israel’s violation:

“The wall, along the route chosen, and its associated régime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel[...].”

At the same time, the ICJ stresses Israel’s right, and indeed duty, to protect its citizens against terror attacks.⁹ The measures that Israel implements, however, must be legal and the right of self-defence or considerations of military necessity cannot justify the construction of the separation barrier along the chosen route.¹⁰

Israel’s reply to the ICJ

Israel submitted a comprehensive written statement to the ICJ before the hearing of the case.¹¹

Primarily, Israel argued that the matter at hand did not pertain to the ICJ’s jurisdiction and that the ICJ, even if it had the jurisdiction, should not, on various grounds, issue any opinion:

“Israel considers that the Court does not have jurisdiction to entertain the request and that, even were it to have jurisdiction, it should not respond to the requested opinion.”¹²

Secondarily, Israel argued that the ICJ, in light of the material that had been presented to the Court, would not be able to weigh Israeli security needs against the disadvantages that the separation barrier implies.¹³

Since Israel disputed the ICJ's jurisdiction in this case, its pleadings were not based on a presentation of substantial information:

"[...] Israel contests the jurisdiction of the Court and is not putting forward a case based on the substance."¹⁴

Nevertheless, Israel argued that the separation barrier is a necessary measure to protect the country against terror attacks and that the barrier's route is determined by military necessity.

Report from the UN's Special Rapporteur

In January 2006 the UN's Special Rapporteur presented a report on the human-rights situation in the occupied territories.¹⁵

The report points out that the barrier route evidently has been chosen also on the basis of considerations other than preventing terror attacks against Israel. According to the report, it is clear that one objective of the separation barrier is to protect illegal settlements and allow the expansion of these:¹⁶

"The wall near Bil'in has clearly been constructed to allow for the expansion of the Modi'in settlement. The construction of the settlement of Matityahu East in the Modi'in bloc is there for all to see and provides the obvious explanation for the wall."

The illegal settlements are being extended quite openly, and the number of Israeli settlers is increasing. With regard to the section of the separation barrier that surrounds East Jerusalem, the report states that the obvious purpose of the barrier here is to reduce the number of Palestinians in the area.¹⁷

The report states that the construction of the separation barrier, combined with the expulsion of Palestinians and the expansion of illegal settlements have the purpose of annexing occupied territory and that the chosen route of the separation barrier must be seen in this context.¹⁸

Rulings by Israel's Supreme Court

Various aspects of the legality of the barrier have been examined by Israel's Supreme Court in more than 100 petitions.¹⁹

Israel's Supreme Court maintains that the separation barrier as such and its chosen route, in general, are legal and do not entail disadvantages that are disproportionate to the purpose they are to serve.

However, based on rulings by Israel's Supreme Court the course of the barrier has been altered in certain areas. This is the case with sections of the barrier where the projected route has caused unreasonable inconvenience for the affected Palestinian population.

In the Supreme Court ruling *Beit Sourik Village Council vs. the Government of Israel* from 2004, the Court states that the choice of barrier route cannot be motivated by other considerations than security, and that the purpose of the barrier cannot be annexation:

*"We accept that the military commander cannot order the construction of the separation fence if his reasons are political. The separation fence cannot be motivated by a desire to "annex" territories to the state of Israel. The purpose of the separation fence cannot be to draw a political border."*²⁰

Israel's Supreme Court does, however, find that the construction of the barrier is motivated by military necessity and that the barrier therefore, in principle, is legal.

The Supreme Court ruling *Mara'abe vs. the Prime Minister of Israel*²¹ from 2005 also discusses the advisory opinion of the ICJ, declaring that it is founded on an erroneous factual basis and that it is unbalanced because the ICJ has not attributed sufficient importance to Israel's security needs.

3 The Council on Ethics' contact with the company

On 17 March this year Norges Bank wrote a letter to Elbit Systems Ltd. on behalf of the Council on Ethics requesting the company to clarify whether Elbit Systems Ltd., or any of its subsidiaries, delivers surveillance equipment to the separation barrier and, if so, what these deliveries consist of and whether they are ongoing.

Elbit replied to the request from NBIM in a letter dated 2 April this year, informing that it is not in a position to answer the questions posed and consequently refrains from doing so.

4 The Council on Ethics' assessment

In light of the information cited in section 2.2, The role of the company Elbit Systems Ltd, the Council on Ethics takes as its point of departure that Elbit delivers surveillance systems to the separation barrier. The company has been requested to explain its role regarding these deliveries, but has declined to do so. Since the construction of the barrier is still ongoing, the Council on Ethics must also presume that the company's deliveries are ongoing. Moreover, it must be presumed that the company will be involved in updates and maintenance of the surveillance system after the construction of the barrier has been completed.

To enter into the details of the many issues of international law that have been raised with regard to the construction of the separation barrier would be outside the Council on Ethics' mandate. In this context the Council will refer to the advisory opinion from the ICJ and the report from the UN Special Rapporteur, both of which accept that the construction of the separation barrier along the chosen route is illegal. Israel's Supreme Court has also established that to the extent that its purpose is to annex occupied territory, the separation barrier is not legal.

The Council on Ethics is aware that the Israeli government deems the barrier a necessary and temporary measure to prevent terror attacks and that the considerations regarding the necessity of the barrier must carry more weight than the considerations vis-à-vis the disadvantages it entails.

The Council on Ethics' has not made an assessment of Israel's right and duty to protect its citizens against terror attacks. A state's construction of fences or other control mechanisms on its own territory cannot, in principle, be considered illegal or unethical. Neither does the ICJ's advisory opinion concern the sections of the separation barrier that are located inside Israeli territory. Israel, however, has chosen to build a separation barrier nearly 90 %

of the extension of which is located in areas occupied by Israel. This, and the humanitarian problems that the choice of the route causes, constitute the problematic aspects of the separation barrier.

The Council on Ethics' role is to assess companies' complicity in violations of the Ethical Guidelines of the Government Pension Fund Global. In general, the Council on Ethics' task is to evaluate issues specifically related to companies, not possible violations committed by states or other actors. In this case however, the Council on Ethics is faced with an assessment of a company commissioned by its own state authorities to commit acts that must be deemed illegal.

The construction of the separation barrier in the West Bank is the biggest infrastructure project in Israel.²² A series of input factors enter into the construction of the barrier, including extensive construction work and large quantities of materials such as asphalt, concrete, barbed wire, etc. Some companies that are subcontractors of such products are probably included in the portfolio of the Government Pension Fund Global. However, the Council on Ethics does not find that all types of contribution to the construction of the separation barrier provide grounds for a recommendation to exclude companies from the Fund.

To assess a company's contribution to violations based on the sale of products that in principle are legal and generic presents several problems. The significance of a company's role in the violations must therefore be evaluated individually.

In another case, the Council has, while assessing the Fund's investment in the American company Caterpillar Inc., taken as its point of departure that there must be a strong element of complicity in the violations on the company's part in order for such participation to be considered contrary to the Fund's Ethical Guidelines. In the Caterpillar case, it was deemed that the company's products also had legitimate uses for the buyer (i.e. the Israeli Army), and that the company could not be held responsible for the buyer's possible illegal use beyond this.²³

A surveillance system such as Torch, which is what Elbit has developed and delivers, does not in itself appear to be unethical. When examining whether Elbit's Torch contract as part of the separation barrier can be said to constitute a serious violation of norms, the importance of its contribution to the barrier must be assessed.

To the Council on Ethics, Torch appears to be one of the main components of the separation barrier and its associated control regime, and Elbit is the end supplier of this system. The surveillance system, with its control and command functions, is especially designed for the separation barrier. Torch has no alternative areas of application, and it is obvious that Elbit is aware of where and how the system is intended to be used.

Elbit supplies a surveillance system that constitutes a functionally integral part of the separation barrier that the Israeli government is building to fence off the West Bank. The construction of the barrier is considered to be in contravention of international law, and Elbit's contract makes it an important contributor to this activity.

The Council on Ethics thus finds that the Fund's investment in Elbit represents an unacceptable risk of complicity in particularly serious violations of ethical norms and that the company should be excluded from the Fund's investment universe on these grounds.

5 Recommendation

In light of the above, and in accordance with the Ethical Guidelines, point 4.4, last clause, the Council on Ethics recommends that the company Elbit Systems Ltd. be excluded from the investment universe of the Government Pension Fund Global.

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Annex 1 (See p. 33.)

Map of parts of Israel that shows separation barrier route projections as of July 2008.

Cartography by the OCHA.

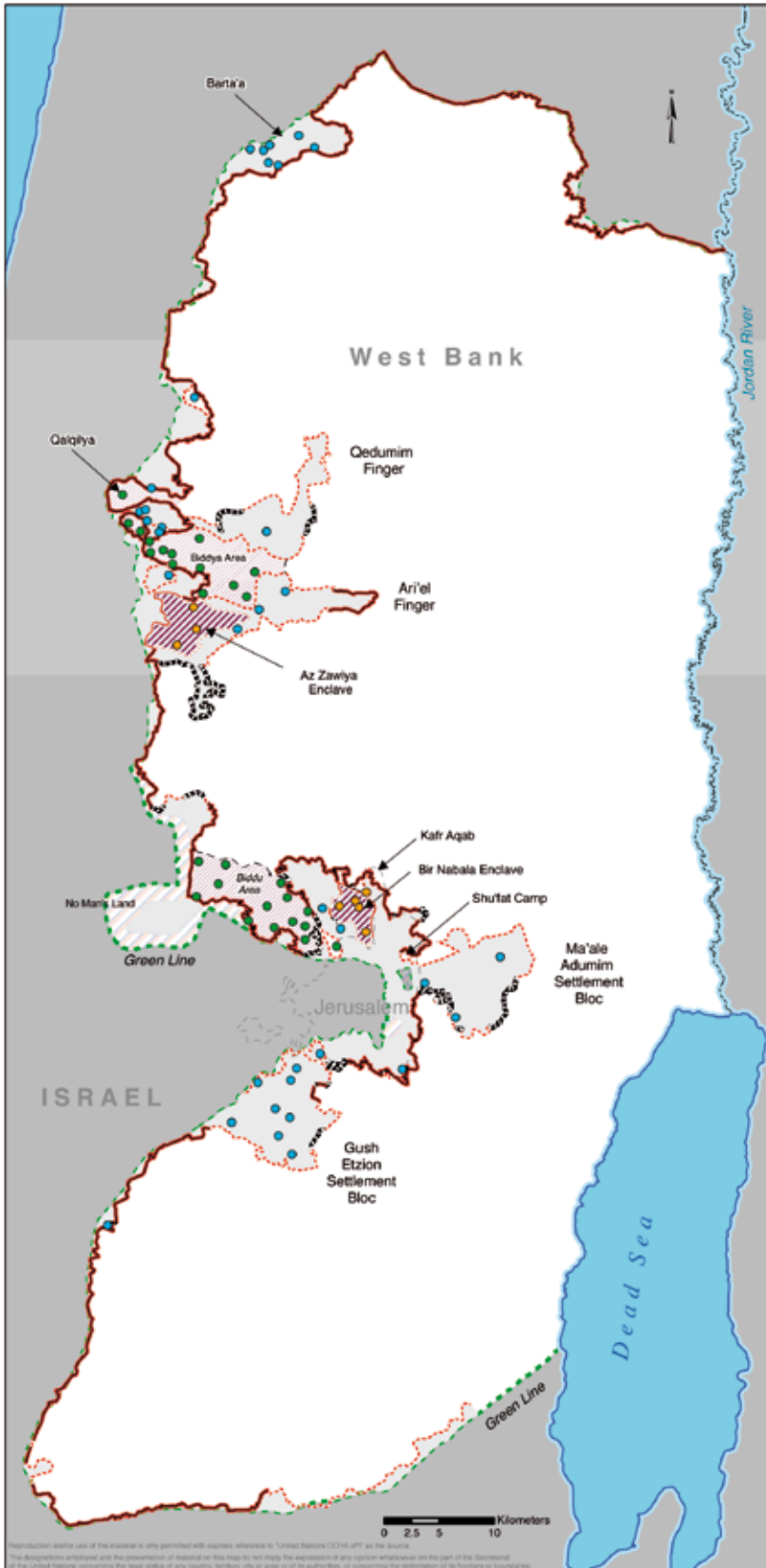
Annex 1. Source: OCHA, see www.ochaopt.org/documents/BarrierRouteProjections_July_2008.pdf



UN Office for the Coordination of Humanitarian Affairs

West Bank Barrier Route Projections

July 2008



Area Affected

The Barrier's total length is 723 km, more than twice the length of the 1949 Armistice Line (Green Line) between the West Bank and Israel.

The total area located between the Barrier and the Green Line is 9.8 % of the West Bank, including East Jerusalem and No Man's Land.

When completed, approximately 13 % of the Barrier will be constructed on the Green Line or in Israel with 87 % inside the West Bank.

Populations Affected

If the Barrier is completed based on the current route:

Approximately 35,000 Palestinians holding West Bank ID cards in 35 communities will be located between the Barrier and the Green Line.

The majority of the approximately 250,000 Palestinians with East Jerusalem ID cards will reside between the Barrier and the Green Line. However, Palestinian communities inside the current municipal boundary, Kafr Aqab and Shu'fat Camp, are separated from East Jerusalem by the Barrier.

Approximately 125,000 Palestinians will be surrounded by the Barrier on three sides. These comprise 28 communities; the Bidda and Biddu areas, and the city of Qalqilya.

Approximately 26,000 Palestinians in 8 communities in the Az Zawiyah and Bir Nabala Enclaves will be surrounded on four sides by the Barrier, with a tunnel or road connection to the rest of the West Bank.

Barrier Route

- Completed
- - - - Under construction
- - - - Planned

Cartography and Barrier Themes: OCHA-oPt IMU
 Map December 2007
 Base data: MoPIC (2000) updates OCHA (2006)

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Notes

- 1 On its website, the Israeli Ministry of Defence states that the sole purpose of the separation barrier is to provide security against terror attacks: "The sole purpose of the Security Fence, as stated in the Israeli Government decision of July 23rd 2001, is to provide security. The Security Fence is a central component in Israel's response to the horrific wave of terrorism emanating from the West Bank, resulting in suicide bombers who enter into Israel with the sole intention of killing innocent people." <http://www.securityfence.mod.gov.il/Pages/ENG/purpose.htm>
- 2 The Israeli Ministry of Defence: "The Security Fence that is being built is intended to counter terrorism of the most brutal kind, not to dictate a border that is and remains the subject of permanent negotiations. It is our hope that by building this fence its very function will become irrelevant and that one day it will be dismantled." <http://www.securityfence.mod.gov.il/Pages/ENG/questions.htm>
- 3 See map on OCHA's website: http://www.ochaopt.org/documents/BarrierRouteProjections_July_2008.pdf
- 4 The Israeli Ministry of Defence: <http://www.securityfence.mod.gov.il/Pages/ENG/execution.htm#2>
- 5 "IDF" is the acronym for the Israel Defence Forces, i.e. the Israeli armed forces. See http://www.securityfence.mod.gov.il/Pages/ENG/masoa_eng.avi
- 6 The UN General Assembly, 12 December 2003, resolution ES 10/14: <http://domino.un.org/unispal.nsf/d9d9od845776b7af85256do8006f3ae9/f953b744269b9b7485256e1500776dca!OpenDocument>
- 7 ICJ - Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 4 July 2004, para. 67: "The Court notes furthermore that the request of the General Assembly concerns the legal consequences of the wall being built "in the Occupied Palestinian Territory, including in and around East Jerusalem". As also explained below [...] some parts of the complex are being built, or are planned to be built, on the territory of Israel itself; the Court does not consider that it is called upon to examine the legal consequences arising from the construction of those parts of the wall." <http://www.icj-cij.org/docket/files/131/1671.pdf>
- 8 Ibid, 137
- 9 Ibid, 141 "The fact remains that Israel has to face numerous indiscriminate and deadly acts of violence against its civilian population. It has the right, and indeed the duty, to respond in order to protect the life of its citizens. The measures taken are bound nonetheless to remain in conformity with applicable international law."
- 10 Ibid, 142: "In conclusion, the Court considers that Israel cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall resulting from the considerations mentioned in paragraphs 122 and 137 above. The Court accordingly finds that the construction of the wall, and its associated régime, are contrary to international law."
- 11 Pleadings by the Israeli Ministry of Foreign Affairs: <http://www.icj-cij.org/docket/files/131/1579.pdf>
- 12 Ibid, 0.5
- 13 Ibid, 8.4: "Any assessment of the military necessity of the fence would necessarily have to entail, including in respect of parts of the fence where the routing has not been finally determined:
 - a) an assessment of the security threat faced by Israel, which would in turn require an assessment of the nature and scale of terrorist attacks, the continuing nature of the threat, and the likely nature and scale of future attacks;
 - b) an assessment of the effectiveness of the fence to address the security threat relative to other available means. [...]"
- 14 Ibid, 8.8
- 15 UN Economic and Social Council: Report of the Special Rapporteur on Human Rights, John Dugard, on the situation of Human Rights in the Palestinian territories occupied since 1976: <http://www.unhcr.org/refworld/country,,UNCHR,,PSE,4562d8cf2,42d66e330,o.html>
- 16 Ibid, paragraph 16: "The Special Rapporteur has repeatedly expressed the opinion that many sections of the wall appear to have been built for reasons other than security. Observations on the present visit confirmed this view. The wall near Bil'in has clearly been constructed to allow for the expansion of the Modi'in settlement. The construction of the settlement of Matityahu East in the Modi'in bloc is there for all to see and provides the obvious explanation for the wall."

- 17 Ibid, paragraph 16: “Even more grotesque is the suggestion that the wall around Abu Dis, Anata, Shuafat and Al-Eizariya is being constructed for security purposes when it separates Palestinian from Palestinian. Here the clear purpose of the wall is to reduce the number of Palestinians in East Jerusalem [...]”
- 18 Ibid, paragraph 26: “The construction of the wall, the de-Palestinization of the closed zone and the expansion and construction of settlements in the closed zone make it abundantly clear that the wall is designed to be the border of the State of Israel and that the land of the closed zone will be annexed. Already, members of the Israel Defense Forces inform international representatives visiting the closed zone that it is part of Israeli territory. This is understandable as, after all, Israelis have free access to the closed zone, whereas Palestinians require special permits to enter this zone. There is clear evidence of Israel’s intentions in this regard. Addressing a meeting of the Jewish community in Paris on 28 July 2005, Prime Minister Sharon stated that, thanks to the disengagement from Gaza, “Israel has gained unprecedented political achievements”, including “a guarantee that the major population centres in Judea and Samaria (that is, the West Bank) will remain part of Israel in any final status agreement; and there will be no return to the 1967 borders”. Then, on 30 November 2005, the Justice Minister, Tzipi Livni, acknowledged that the wall is a “political” rather than a “security” wall and that it would serve as “the future border of the State of Israel”.”
- 19 Israel’s Ministry of Defence: “Status Report, Legal aspects of the Security Fence”, 2007, <http://seamzone.mod.gov.il/Pages/ENG/news.htm#news49>
- 20 Beit Sourik Village Council vs. The Government of Israel, para. 27, http://www.unhcr.org/refworld/publisher,ISR_SC,,,4374ac594,o.html
- 21 See the unabridged ruling http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf
- 22 Israel’s Ministry of Defence, “Israel’s Security Fence – Operational Aspects” <http://seamzone.mod.gov.il/Pages/ENG/execution.htm>
- 23 See letter from the Council on Ethics to the Ministry of Finance dated 15 May 2006 regarding investments related to the Middle East <http://www.regjeringen.no/pages/1957953/Brev%20ofn%20dep%20vedr%20Midtosten%20maio6.pdf>

To the Ministry of Finance

Oslo, February 16, 2009
(Published November 19, 2009)

Recommendation to exclude MMC Norilsk Nickel

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1 Introduction

At its meeting on June 4, 2008, the Council on Ethics for the *Government Pension Fund – Global* decided to assess whether investments in the company MMC Norilsk Nickel¹ may imply a risk of the Fund contributing to severe environmental degradation, as per section 4.4 of the Fund's Ethical Guidelines. As of December 2008, the Norwegian Government Pension Fund – Global had investments in the company valued at around 312 million NOK.

The Russian metals and mining company Norilsk Nickel, along with its subsidiaries, is one of the world's largest producers of nickel and palladium. It has production facilities in six countries, with its main production sites on the Kola and Taimyr Peninsulas in the north of Russia. The Council has reviewed the company's operations at the company's Polar Division on the Taimyr Peninsula.

For many years, Norilsk Nickel's Polar Division has emitted large amounts of sulphur dioxide, SO₂, nickel and heavy metals, *including*, copper. Yearly atmospheric emissions of sulphur dioxide are around 2,000,000 tons, while emissions of heavy metals such as nickel and copper are around 450 tons and 500 tons, respectively. Emissions have caused

the death of, or significant damage to, vegetation up to 200 km from the operations. Atmospheric emissions have also caused the local population significant health problems. Respiratory diseases and various forms of cancer are more prevalent here than in other regions of Russia.

In accordance with section 4.5 of the Ethical Guidelines, the Council has contacted Norilsk Nickel through Norges Bank (Norwegian Central Bank) requesting the company to comment on the draft recommendation for exclusion. In their reply, the company presented its 2004–2007 results from its environmental program and highlighted, *inter alia*, that the company is aiming to fully reach the 2015 targets of its action plan on decreasing emissions of polluting substances. Norilsk Nickel's response did not specifically address the Council's questions relating to measures pertaining to the cleaning of heavy metals in soil/water body sediment, nor did it clarify which measures the company will implement in order to achieve its goal of reducing SO₂ emission levels by 70 percent by 2010.

It is the Council's view that the scale of environmental damage is extensive, long-term and partly irreversible, as well as causing serious damage to human health. The damage is a result of major emissions taking place over a long period of time. Even though the company has implemented measures in recent years to reduce metal emissions, current emission levels remain high. Additionally, SO₂ emission levels are nearly unchanged. In the Council's opinion, it seems that the company fails to comply with national environmental regulations and, moreover, does not seem to plan to clean up the affected areas. The company's plans to significantly reduce emissions have so far not been achieved and, as a result of this, environmental deterioration continues. The Council finds it unlikely that the company's plans will be implemented in the near future. The Council therefore recognises that there exists an unacceptable risk that harmful emissions from Norilsk Nickel, and thus the widespread contamination of soil, water and the atmosphere, will continue in the future.

The Council has reached the conclusion that the Ethical Guidelines, section 4.4, second clause, provide a basis for recommending the exclusion of MMC Norilsk Nickel from the *Government Pension Fund – Global* due to an unacceptable risk of complicity in current and future severe environmental damage.

2 Sources

This recommendation is based on information gathered from investigations and statements made by Russian authorities, scientific studies conducted for the United Nations and the World Bank, and scientific journals, both Russian and international. The Council has had access to reports from Russian governmental bodies and authorities, paying particular attention to investigations and reports conducted by the Russian Federal Service of Supervision of Natural Resources (*Rosprirodnadzor*) of the Russian Ministry of Natural Resources.

Other sources which have been consulted include scientific and technical assessments made by research institutes, government authorities, and organisations, particularly the Arctic Monitoring Assessment Program (AMAP)², the Russian Academy of Sciences² and the Blacksmith Institute⁴.

Moreover, the Council has conducted its own studies in order to further clarify the issues.

The Bellona Foundation⁵ was commissioned to collect information pertaining to emissions of pollutants into air and water at Norilsk, as well information on the company's current emissions reduction strategy.⁶ A Russian journalist was commissioned to conduct a survey of the local, regional and national press in Russia in the last three years, identifying news pieces concerning the company and statements made by company employees and Russian officials pertaining to environmental and health issues linked to Norilsk Nickel.

These sources are referred to in footnotes throughout the document.

3 The Council's Considerations

The Council on Ethics decided to assess Norilsk Nickel at a meeting on June 4, 2008, shortly after the company was included in the Fund's portfolio, as the Council was aware of how contaminating the company's operations in Russia are considered to be.

The Blacksmith Institute has described the area around Norilsk Nickel's operations on the Taimyr Peninsula as one of the ten most polluted places on earth.⁷ Russian environmental authorities have reported that the company's emission into air and water grossly exceed national permissible discharge and emissions standards.⁸

The Council's assessment concentrates on the company's Polar Division operations around the city of Norilsk, on the Taimyr Peninsula. The Council is aware that there have been criticisms in regard to the Kola Peninsula operations on the northern border of Norway, claiming that the company has been causing serious environmental damage over a long period of time without taking measures to reduce emissions from its smelter operations. The Council has not looked into these allegations in detail.

With reference to the Ethical Guidelines, section 4.4, second clause, the Council has considered whether the Fund's investment in Norilsk Nickel constitutes an unacceptable risk of the Fund contributing to severe environmental damage.⁹

In previous recommendations regarding environmental damage, the Council has put particular emphasis on whether:

- the damage is significant;
- the damage causes irreversible or long-term effects;
- the damage has considerable negative impact on human life and health;
- the damage is a result of violations of national laws or international norms;
- the company has neglected to act in order to prevent the damage;
- the company has not implemented adequate measures to rectify the damage;
- it is probable that the company's unacceptable practice will continue.

Based on an overall evaluation of the points listed above, the Council carries out specific assessments of what constitutes *severe environmental damage* in each individual case.

It is *existing* and *future* violations that are covered by the Guidelines. This implies that the Council must assess whether there is a risk that the company's unacceptable practice will continue in the future. The company's previous actions may give an indication as to how it will behave in the future, and thus form a basis for the assessment of whether there is an *unacceptable risk* that unethical actions will occur henceforth.

4 About Norilsk Nickel

Norilsk Nickel is a nickel and palladium mining and smelting operator which is also active in gold, platinum, copper and cobalt production. The company's operations cover the entire production chain, from the extraction of ores to the production of metals.¹⁰

The company is one of the world's largest producers of nickel and palladium, as well as Russia's leading gold producer. It is also ranked among the top four world platinum producers and among the top ten world copper producers measured by volume.¹¹ Domestically, Norilsk Nickel holds close to a 96 percent market share of nickel, 55 percent of copper and 95 percent of cobalt production; the company is accounting for some 4.3 percent of Russian exports.¹²

According to the company's annual report, total revenue for the company in 2007 was 17.1 billion USD and gross profit 5.3 billion USD.¹³ As of May 2008, there were two key shareholders in the company: Mr. Vladimir Potanin, with around 30 percent share capital, and United Company RUSAL, with about 25 percent of the company's share capital. Norilsk Nickel has production facilities in six countries: Russia, Finland, Australia, Botswana, South Africa, and the United States. In its mining branch, the company has 6 fully-owned and 5 majority-owned subsidiaries world-wide, while the rest of the company's business segments include some 24 fully-owned and 14 majority-owned subsidiaries.¹⁴

The company's most important production sites are in Russia: the Polar Division¹⁵, located on the Taimyr Peninsula in the Krasnoyarsk region of Siberia, and the OJSC Kola Mining and Metallurgical Company¹⁶, located in the Murmansk region on the Kola Peninsula.

Figure 1
Norilsk Nickel's
Geographical Location¹⁷



About Norilsk Nickel's Polar Division

Norilsk Nickel's Polar Division's operations are based on the copper-nickel sulphide ores reserves mined at *Oktyabrsky*, *Talnakh*, and *Norilsk-1* deposits in the Norilsk area.



Figure 2
Norilsk Nickel's
operations in the
Norilsk area²⁰

In 2006, the total production of copper and nickel at the Polar Division was 351,000 tons and 122,000 tons respectively.¹⁸ Ores are enriched at two enrichment plants, where they are processed to produce nickel, copper, and pyrrhotite concentrates. The concentrates are then processed at the Polar Division's four metallurgical plants in the Norilsk region (see Figure 2).

There are two cities in the direct vicinity of the operations: *Norilsk* and *Talnakh*. Around 200,000 people live in close vicinity to the smelters.¹⁹

5 Environmental damage and health impacts

Norilsk is one of the most polluted cities in Russia.²¹ Increased levels of air pollution above the maximum allowable levels are registered in the city of Norilsk 350 days a year.²² In around 80 percent of the cases, levels of harmful substances registered in the atmosphere are five times over the maximum allowable concentrations (MAC) in Russia²³, and in 20 percent of the cases, levels of pollutants in the air reach an equivalent of 10 MAC values or greater.²⁴ Emissions from Norilsk Nickel's operations in the Norilsk area have a severe impact on the environment and health of people living in the area.

5.1 Atmospheric Pollution

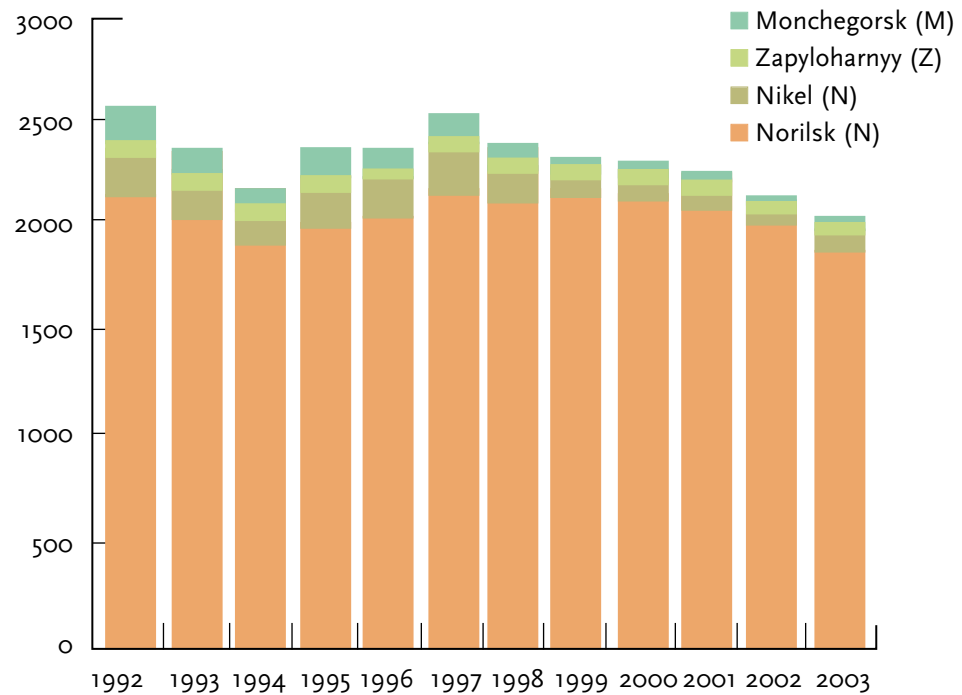
SO₂

The ore reserves found at mines in the Taimyr Peninsula are very rich in sulphur. Processing the ores in the smelter works creates, as a by-product, large amounts of atmospheric emissions including sulphur dioxide (SO₂) and heavy metals.

Figure 3 below shows SO₂ emissions from 1992 to 2003. Emissions have decreased somewhat since the late 1990s to 2003. Nevertheless, they seem to have stabilised in recent years to 2003 levels.

For the last five years, the company has reported SO₂ emissions of around 2,000,000 tons a year.²⁶ The most recent figures indicate some 1,940,000 tons of emissions a year in 2006 and 2007.²⁷ There has been a reduction of 60,900 tons (3 percent) of SO₂ emissions in the period from 2004 to 2007.²⁸ Emission of SO₂ leads to acid rain; levels of sulphuric content in atmospheric precipitation in the Norilsk area are amongst the highest in Russia.²⁹

Figure 3
Calculated emissions
of SO₂ (thousands
of tons) 1992–2003²⁵



The amount of SO₂ emissions by the company is significant in an international context. In 2005, emissions of SO₂ from Norilsk Nickel were 12 times greater than that of mineral and metal production in all 27 EU countries combined.³⁰

The company is required to track emission levels and reduce or even stop plant operations whenever the concentration of pollutants exceeds the maximum permitted levels. This is particularly the case on days where there is air stagnation, or when winds are blowing toward the city of Norilsk.³¹ In 2007 the company reported that “the duration of periods of contamination that exceeded the maximum permissible concentration five times or more was reduced by 20 percent”.³² This means that even though the duration of the periods of contamination exceeding maximum permissible concentration was reduced in 2006, periods of excessive contamination none-the-less seem to continue. The company does not report how long these periods lasted, nor how often they occurred.

Metals

Emissions from smelting operations contain large quantities of nickel and copper, while cobalt and vanadium also contribute significantly to contamination by metals.³³ Metals are released into the atmosphere attached to dust or particles.

According to the company, the amount of particles emitted into the atmosphere in 2007 was 22,280 tons, of which roughly half originated from its Polar Division.³⁴ The company does not specify what percentage of these are metals, nor does it mention which metals are emitted.

Based on the company’s Social Report from 2007, emissions into the air by the Polar Division can nevertheless be estimated at a total of around 450 tons of nickel oxide, 500 tons of copper oxide, and 50 tons of cobalt oxide.³⁵ These figures however do not seem to agree with independent measurements conducted by non-company sources. According to the AMAP, the area around Norilsk is one of the largest point sources of certain heavy metals in the northern Arctic. AMAP has assessed annual nickel emissions to be approximately 1,300 tons, and copper emissions to amount to 2,800 tons annually.³⁶ The Council

is unaware of other independent figures for atmospheric emissions.

Although most of the heavy metal emissions are deposited close to their smelter source, these emissions still constitute a major part of circumpolar contamination. Prevailing winds over the Arctic blow from Eurasia to North America, and models show that Eurasia contributes to more than half of the air pollution measured in the Arctic. The Russian sources, including the smelter complex on the Kola Peninsula and the industries in Norilsk, are the most important. This is partly because they are situated far north, within the Arctic air mass, and partly because the strong Siberian high-pressure system drives air northward during the winter.³⁷ Emissions from industrial operations in the Ural Mountains and Norilsk constitute the largest part of air concentrations of metals over Alaska and northern Canada.³⁸

5.2 Discharges into water

Norilsk Nickel discharges significant amounts of copper and nickel, as well as cobalt, vanadium and other metals, into water bodies in the Norilsk region³⁹, including the *Norili/Pyasinskaya* river system⁴⁰ and Lake Pyasino.⁴¹ Norilsk Nickel operates 86 wastewater discharging outlets, of which 73 are operated with no treatment systems (as per 2007).⁴² The company states that the wastewater discharged to the water bodies is based on permits provided by the environmental legislation.⁴³

Norilsk Nickel reports that in 2007, total discharges of pollutants to water for the entire company equalled 159,770 tons, of which 99,000 tons were from the Polar Division.⁴⁴ However the company does not specify which pollutants are constituted in this measurement, making it difficult to assess the figures provided.

2007 Inspections of Norilsk Nickel by the Russian environmental agency

In early 2007, some 12,000 Norilsk residents sent an appeal to members of the Russian parliament, the State Duma, and officials within federal environmental protection agencies to address the environmental situation at Norilsk.⁴⁵ In the open letter, the residents voiced their concern about the state of the environment and the health of the people living in the vicinity of Norilsk. Following the appeal, the Polar Division underwent an inspection which was carried out by the Russian environmental agency – *Rosprirodnadzor* between January and August 2007.⁴⁶

Among other things, inspectors investigated whether Norilsk Nickel was in compliance with environmental requirements on the use of water and the protection of surface water bodies. Inspections were unscheduled and concentrated on the three largest metallurgical enterprises. An independent laboratory was commissioned to take wastewater samples as well as photographic/video records throughout the entire duration of the inspection. Tests of samples taken during the inspection showed that concentrations of pollutants found in wastewaters dumped at various discharge outlets at all three enterprises were consistently over the allowable limits, with some measurements of copper and nickel found to be 2,400 times and 630 times over the permissible levels, respectively.⁴⁷ The investigations also found wastewater discharges being made without permission and pollution abatement programs not being complied with. Based on the result of these findings, the supervising agency calculated the environmental costs resulting from the violations of the water regulations.⁴⁸ A list of specific violations of the Water Code of the Russian Federation was also included in the agency's final report.⁴⁹ The agency concluded that the illegal discharge of unprocessed waste water harms the water bodies.

Norilsk Nickel disagreed with the Russian environmental agency's results and sent substantiated objections to the agency regarding its report.⁵⁰ Norilsk went on to say that it is modernizing existing industrial sites – most of which were built in the 1930s and 1940s with no regard for environmental safety – adding, “the environmental programme is timed for 2004–2015 and will cost an estimated 36 billion rubles.” Based on its findings, the environmental agency filed a lawsuit against Norilsk Nickel with the Arbitration Tribunal of the Krasnoyarsk Krai region in early 2008.⁵² The suit sought compensation to the amount of 4.3 billion rubles for environmental damages caused by the illegal disposal of wastewater by the company. Also raised in the suit was that the company had not been acting in compliance with a ruling by the court of *Novokuznetsk*, issued January 18, 2006, ordering a cessation of the discharge of unprocessed wastewater into the rivers *Aba* and *Konobenikha*. The tribunal turned down the environmental agency's suit in June of 2008.⁵³ Another suit regarding environmental damage has been filed with the Prosecutor General of the Russian Federation by Greenpeace; this suit is still pending.

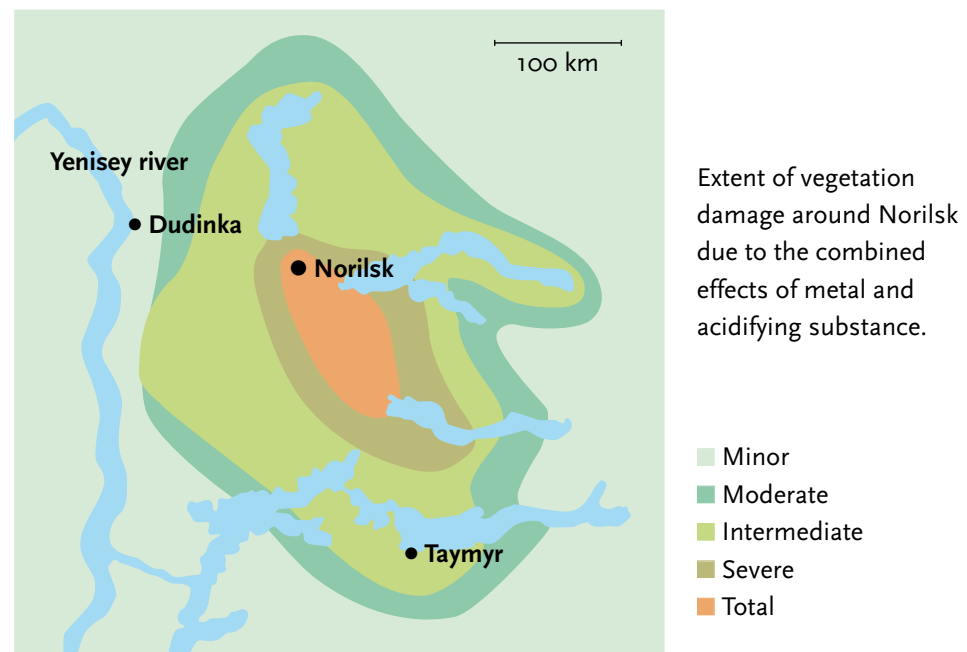
5.3 Environmental Impacts

The combined effect of the huge emissions of SO₂ and heavy metals has a severe and long-term impact on the environment around Norilsk, affecting vegetation, soil, lakes, rivers, flora and fauna.⁵⁴

AMAP, which has been monitoring pollutants in the Arctic since 1991, has reported for many years on how the deposition of copper and nickel, in combination with acidifying pollutants, has severely damaged the soil and ground vegetation, resulting in an industrial desert around the smelter.⁵⁵

The damaged areas around the smelters can be divided into three zones (see Figure 4 below).⁵⁶ First, there is the dead forest zone where vegetation is dead, where there is hardly

Figure 4
Vegetation Damage
Norilsk⁵⁹



any fauna at all, soil microbial activity is minimal and the organic layer of soil is absent. The dead forest zone extends for 8 km or more downwind from Norilsk. The town of Norilsk is located within this zone.

Beyond the dead forest zone is the visible-damage zone, which stretches up to 200 km around Norilsk. Here the vegetation is clearly affected and unhealthy. Trees defoliate, experience reduced growth, damaged needles and abnormal growth. There are no lichens growing on the trees; a clear indication of high pollution levels. The soil properties have clearly been changed and soil fertility has decreased as a result of high inputs of nickel and copper. The long-term cumulative effects of these impacts on the ecosystem are not fully understood.

Research shows that between 90–95 per cent of the heavy metals emitted from the smelters appear to stay within this zone. Elevated levels of lead and copper from the smelter complex are evident in a zone up to approximately 200 km from the source. Copper concentrations in the mosses have been found to be around 100 times higher than in an area further north of Norilsk.⁵⁷ Elevated levels of heavy metals have been found in surface soil and lake sediments.⁵⁸

In the third zone, where damage is not immediately visible, impacts are less obvious but can be observed through changes in the vegetation. This zone extends some 300 km around Norilsk.⁶⁰ Researchers are also concerned that the area affected by metals may be expanding. *“The accumulations of heavy metals are a significant problem, and their presence is likely to remain a barrier to recovery even if inputs from smelter emissions cease.”*⁶¹

As described above, the pollutants from the Norilsk smelters have clearly damaged terrestrial and aquatic ecosystems, also in the long-term. Regeneration of plants and trees is affected by heavy metals, which for instance prevent seedlings from growing. Birds and mammals are likely to avoid the most damaged zones, due to lack of food. In the visible-damage zone, the animals may survive, but their heavy metal levels will increase over time, possibly leading to toxic effects.⁶²

Pollutants discharged into the water and atmosphere also have adverse impacts on water bodies and rivers.⁶³ According to a report compiled by the State Inspection of the regional Yenisei River Board for Fishery Management and Protection of Fish Reserves, local rivers are no longer suitable for fishing due to the damage they have sustained from pollution.⁶⁴ The damage also has negative long-term effects. Wetland ecosystems can accumulate large loads of heavy metals and serve as sources to rivers, having a long-term impact on the ecosystem.⁶⁵

According to AMAP, the impacts of past and continuing pollution will probably remain for many decades, since arctic vegetation is both very sensitive to pollution and very slow to recover.⁶⁶ *“The cumulative effects of acidifying emissions and the deposition of toxic heavy metals can be disastrous for ecosystems which are already subject to extreme climatic conditions.”*⁶⁷

It has been demonstrated that emissions from Norilsk Nickel significantly contribute to so-called Arctic haze, which influences the climate in the Arctic. Arctic haze is a persistent and visible layer of pollutants (mostly sulfate aerosol and soot) which accumulate in the arctic atmosphere during winter and spring.⁶⁸ The long dark winter results in a cool, stable body of near-surface air that traps the incoming material for periods of up to months. The amount of soot within the haze directly affects the amount of solar energy passing through the haze. During winter, there is evidence that the soot has an insulating effect and reduces heat loss. During spring and summer, increased soot deposition

can influence the snow's ability to reflect radiation and therefore increase the effect of global warming.⁶⁹ The effects of the haze on the arctic climate are complicated and not fully understood. The effects, however, may be severe because the Arctic is thought to be particularly sensitive to changes in the overall heat balance.⁷⁰

5.4 Health Impacts

SO₂, nickel and heavy metals are substances which are harmful to human health and, *inter alia*, can lead to respiratory illness, cardiovascular illness, and various forms of cancer. Health data collected from the 1990s to the present confirms a wide range of health problems ailing the people living around the Norilsk operations. Studies also document the health impact of excessive and constant exposure to large amounts of such pollutants. In a 2008 research report conducted by the Russian Academy of Sciences for the World Bank, the issues of ambient air pollution and toxic pollutants in Russia are assessed in regard to human health.⁷¹ The Russian scientists show a clear positive correlation between an increase in atmospheric sulphur dioxide concentration and an increase in acute respiratory illnesses and mortality.⁷² It is apparent that residents in Norilsk have a higher prevalence of health complications and illnesses than elsewhere in the Krasnoyarsk Krai region.⁷³ According to a recent study conducted by Russian experts for the United Nations in the Russian Federation, air pollution accounts for 21.6 percent of newly identified illnesses among the adult population and 37 percent among children.⁷⁴

Cancer

Incidents of cancer, particularly lung cancer, have been found to be higher in the city of Norilsk than anywhere else in the Krasnoyarsk Krai region. According to the research conducted for the World Bank, *"a higher prevalence of oncological diseases has been clearly observed in Norilsk for many years...standardized indicators of lung cancer incidence among men in Norilsk are much higher than the [region]."*⁷⁵ The authors of the report state that *"[they] believe that the high indicators in Norilsk have no analogs [anywhere else] in Russia."*⁷⁶ There are indications that in recent years there has been an increase in cancer-related deaths, especially lung cancer.⁷⁷

Children's health

In 2007, a team from the BBC reported on the environmental and health situation in Norilsk and interviewed local residents and health practitioners. The report describes, *inter alia*, the health concerns raised by a local doctor who was worried about the impact the pollutants are having on the health of the population, particularly children. The doctor told the BBC that there was a clear trend vis-à-vis children's health: *"In the 1960s a lot of people came here and they were all healthy. But now there are very, very few healthy children being born here and that is all because of the environment."*⁷⁸

The doctor's concern is substantiated in several studies on how children are affected by the pollution. Previous research conducted by the Russian Academy of Sciences in the 1990s shows that the incidence of respiratory and neurological diseases was considerably higher among children in Norilsk than those living in arctic cities with clean air. Investigations looking at the prevalence of respiratory and ear, nose and throat diseases among school children found that children living near the company's operations are 1.5–2 times more likely to become ill than those living some kilometres further away.⁷⁹ Mortality from respiratory diseases, which at that time was nearly 16 per cent of all deaths among children in Norilsk, was also considerably higher than the average in Russia.⁸⁰

Reproductive health

Data concerning birth defects and low birth weight in babies (under 2,500 g) is widely used as indicators in environmental epidemiology and may be used to attribute the negative impact of environmental pollution. Studies in Russia found that there generally was a higher rate of illnesses among new-borns, as well as an increased number of low birth weight babies from cities with heavy environmental pollution. In particular, an increase in low birth weight babies was observed in the vicinity of the nickel plant in Norilsk.⁸¹

On the issue of the health status of pregnant women, statistics show that problems during the second half of pregnancy and premature delivery are much more frequent in Norilsk than in any other areas in the region.⁸² Higher levels of abortion, pregnancy toxicoses and premature births have also been observed.⁸³ The higher frequency can be explained by the exposure to pollutants, though it is unknown whether the working environment, for example the fact that women work within the smelters operations, is also a factor.⁸⁴

Health impacts as described by local citizens

Naturally, local people are worried about how their health and daily lives are affected by the pollution from the company's operations. In the open letter to Russian politicians and authorities referred to previously in the recommendation, locals express their concern that sulphur dioxide is found in excess quantities in the atmosphere, and that it contributes to *"the incidence and development of chronic lung diseases, causes irritation of the conjunctivae and airways, accelerates and exacerbates chronic gastritis, bronchitis, laryngitis, and can contribute to the development of lung cancer. As it binds with atmospheric precipitation, sulphur dioxide forms minuscule drops of sulphuric acid that daily burn our lungs and that fall out with rain, killing all plant growth in our city."*⁸⁵ Moreover, the locals express that:

- Heavy metals emitted with atmospheric pollution weaken the immune system, a prerequisite for living in the arctic climate.
- Increased immunodeficiency translates into higher susceptibility to frequent acute respiratory viral infections, recurrent pneumonia and bronchitis, and high prevalence of allergic disorders among children.
- There is an increased need for medical attention. In 1995, the number of requests for medical assistance was 1,369.8 per thousand patients. In 1999, that number was 1,591.8, and in 2001, 1,668.5. This tendency continues.
- It has become common practice for childcare centres to cancel daily outdoor activities on account of the high pollution levels in the air.
- Norilsk residents develop oncological diseases 1.65 times as frequently as the Russian average, and for residents of the city's central district these statistics are 2.7 times as high.

6 The Company's work to reduce emissions

6.1 The Company's Action Plan for the Reduction of Emissions

Norilsk Nickel's website states that environmentally safe production and protection of the environment are top priorities for the company. Its environmental policy highlights in particular: the gradual reduction of air emissions, including of sulphur dioxide and solid substances; the gradual reduction of wastewater discharge into rivers and lakes; as well as the establishment of waste disposal sites.⁸⁶

The company's Board of Directors has approved an environmental strategy for 2004

through to 2020 with the long-term goal of reducing emissions and complying with environmental regulations: *“The Company’s Production Development Strategy through 2015 (reconfirmed in its Strategy through 2020) sets environmental safety improvement, air emissions and wastewater discharge reduction aimed at environmental legislation compliance, as one of the long-term objective of the Company’s business.”*⁸⁷

Regarding air emissions, in 2004 the company started implementing an action plan for the reduction of emissions. Through the construction of sulphur-disposal facilities, the closure of part of the nickel plant as well as other measures, the company estimates that the atmospheric emissions of solid pollutants will be eliminated and emissions of sulphur dioxide reduced by 70 percent from current levels by 2010.⁸⁸ This would entail a reduction in SO₂ emissions down to some 580,000 tons in the next two years. The company’s goal is to gradually reduce emissions in order to achieve the maximum permissible emissions (MPE) levels by 2015.⁸⁹ The company does not specify its emission-reduction goals further, but in an interview with the Russian newspaper *Novosibis*, a Norilsk official details the intended reduction in SO₂ emissions, which *“are planned to be reduced to 915 thousand tons by 2009, to 647 thousand tons by 2011, and finally to 213 thousand tons by 2015.”*⁹⁰ Norilsk Nickel does not detail how much emissions will be reduced by 2020. However, in an interview with the BBC in April 2007, the company’s Deputy General Director, Tav Morgan, informs that the company expects to reduce SO₂ emissions by approximately two-thirds during the period 2015–2020.⁹¹ The company does not give any information about the base line for the reduction, or what the emission levels will be in 2020.

To the Council’s knowledge, no significant decrease in SO₂ emissions have so far been observed. On the contrary, the company reports that SO₂ emissions increased by some 11,000 tons in 2007. The company explains that this is due to planned modernisation upgrades at the copper plant aimed at increasing productivity and the volume of sulphur disposal at the plant, as per the Action Plan.⁹²

The company is open about the magnitude of the challenge it faces in following through on its environmental policies: *“The key problem the Company faces with respect to air pollution is the need to gradually reduce its emissions of sulphur dioxide, which is the main air pollutant.”*⁹³ Part of the problem, as the company claims, stems from the Soviet approach to industry, under which production facilities (still being used by the company) were built without due consideration for environmental protection.⁹⁴ Another problem the company points to is the inability to utilise SO₂ on account of the smelters’ location and inaccessibility: *“the problem is hard to resolve due to the unique geographical position of the Polar Division (its inaccessibility) and, therefore, ineffectiveness of applying the traditional technologies of sulphur dioxide utilization from the gas-dust emission to the atmosphere.”*⁹⁵

In the aforementioned 2007 interview with the BBC, Deputy General Director of Norilsk Nickel said that the pace at which Norilsk was resolving these environmental problems can be favourably compared to other facilities worldwide, however he also explained to the BBC that it would be hard to guarantee the pace of reduction since the company was still developing the necessary technology.⁹⁶

6.2 The Company's response

In accordance with the Ethical Guidelines, the Council's draft recommendation was sent to Norilsk Nickel, through Norges Bank, on November 20, 2008. Along with the draft, the Council sent a letter to the company requesting a reply to questions about:

- the current status of the "Action Plan for Reduced Emissions", particularly as it pertains to the company's target to reduce SO₂ emissions by 70 percent by 2010 and to eliminate the emission of solid particles,
- which measures the company is implementing to reduce emissions by 2010,
- whether the environmental measures include the clean-up of heavy metals contamination in soil and water bodies' sediments around Norilsk and, if so, which measures are being implemented and what are their current status and time frame.

The company replied to the Council's enquiry on December 18, 2008. No response was however given to the Council's specific questions. Norilsk acknowledges that the scale of the environmental damage is large, but states that the action plan for reduced emissions is being successfully implemented: *"understanding the depth and scale of environmental damage inherited by the company since the Soviet times, the management of Norilsk Nickel elaborated and has been successfully implementing the comprehensive ecological rehabilitation program – Action plan on decreasing emissions of polluting substances."*⁹⁷

According to the company, no fast and effective solutions to the environmental problems is possible without leading to significant social and economic consequences: *"any fast and efficient solution of environmental problems having been accumulated in Norilsk industrial region over half-century is impossible without total prolonged suspension of existing production operations, which would entail grave social and economic consequences for Krasnoyarsk region and would threaten the existence of the city of Norilsk itself."*

In its response to the Council, the company reported that in 2004–2007 recycling of industrial wastes more than doubled and that discharges to water decreased 37 percent. Furthermore, the company states that it has reduced emissions of solid particles by more than half in the last ten years, as well as decreased overall SO₂ emissions by 3.4 percent since 2004. According to the company however, most worthy of mentioning has been the reduction of metal emissions, particularly copper oxide (by approximately 15 percent), nickel oxide (by approximately 24 percent), and cobalt oxide (by approximately 28 percent). This information, along with other data pertaining to emissions, is also provided in the company's CSR and annual reports. The Council was already aware of this information, having used it as a basis for the draft recommendation submitted to Norilsk Nickel. Therefore, the Council finds the company's letter to provide little new information.

On the issue of 2015 emission targets, the company assures that they understand the importance of the action plan's implementation: *"[they] would like to assure [the Council] that the management of the company understands the importance of continuing the realization of the Action plan and is aiming to fully reach the targets by 2015, within initial deadline set by the Action Plan."*

Nevertheless, the Council finds it difficult to evaluate emission targets and percentages of emission reductions as long as the company does not provide information on its current level of emissions. From the company's letter it is neither clear how large emissions for Norilsk Nickel will be in 2015, nor what milestones the company has set for its

emission levels. The clearest stated emission targets are found in the company's original action plan from 2004, in which it is written that SO₂ emissions will be reduced by 70 percent, while emissions of solid particles will be eliminated by 2010.⁹⁸ This implies that SO₂ emissions will have to decrease from 1.9 million tonnes to 580 000 tonnes within the next one to two years.

In order to evaluate the progress of the company's action plan the Council requested information from Norilsk Nickel on the status of the plan as pertaining to 2010 targets, which were the original milestones set for the action plan. The Council notes that in the company's response letter there is no reference to the 2010 targets. There is only reference to the 2015 goals, thereby indicating that the company has changed the time plan for reductions of emissions.

7 The Council's Assessment

Based on the information presented above, the Council has assessed whether the environmental damage caused by Norilsk Nickel is so serious that the company ought to be excluded from the Fund in accordance with the Ethical Guidelines, section 4.4.

The Council has assessed the *scale of the damage* and *the extent to which it has irreversible or long-term effects*. In the Council's view, years of excessive emissions of SO₂ and heavy metals have inflicted far-reaching and long term environmental damage, as clearly observed in the forests, vegetation and water bodies around the Polar Division's operation in the Taimyr Peninsula. The company's SO₂ emission levels are among the highest from any single source in Russia or Europe; heavy metal emissions and nickel, are also significant. The Council accepts it as a fact that the company's emissions have directly caused the "dead forest zone," as well as other serious and visible damages to nature in the vicinity of Norilsk. Considering this situation, and in light of the sensitive nature in the arctic environment, the Council assumes that long-term environmental damage will continue to persist even if emissions were to be significantly reduced. The Council also notes that emissions from Norilsk Nickel are a major contributor to regional environmental problems in the Arctic through the long-range trans-boundary pollution and causing arctic haze and the accumulation of heavy metals in the north. Based on these considerations, the Council finds the past and ongoing environmental damage caused by Norilsk Nickel to be extensive, long-term and lasting.

The next element in the assessment pertains to *whether the damage has considerable negative impact on human life and health*. Over 200,000 people living in the vicinity of the company's industrial operations are constantly exposed to large concentrations of pollutants in the atmosphere, soil and water. The human health effects of excessive exposure to pollutants such as sulphur dioxide, nickel and heavy metals are well established. The Council has little reason to doubt the overall results of the medical studies documenting the negative health effects caused by the smelters' emissions. Of particular concern to the Council are health risks facing children and infants, which have shown to be particularly vulnerable to exposure to excessive air pollution. Taking into consideration the information at hand, the Council finds it most likely that the emissions from Norilsk Nickel have inflicted, and continue to inflict, serious health problems on the local population around Norilsk.

The Council has also assessed whether the environmental damage is a result of breaches of national laws or international norms. The 2007 findings from inspections carried out

by the Russian environmental authority, Rosprirodnadzor, demonstrate that the company has not complied with national water discharge standards and that the company has failed to implement previous requirements. The company denies the environmental agency's conclusions. At the same time, the company itself states that in regard to air emissions, the goal is to be in compliance with domestic regulatory requirements by 2015. The Council is not aware whether Norilsk has been granted an exemption from this requirement. Nevertheless, the Council finds it likely that the company has exceeded both the maximum permissible levels of emissions to air and water and, moreover, that this appears to have been going on for many years.

The subsequent element of the evaluation assesses whether *the company has neglected to act in order to prevent the damage, or not implemented adequate measures to rectify the damage*. The Council has taken note of the point that many of the current environmental problems at the company's installations have been inherited from the Soviet era. Even though the company has implemented measures to reduce the level of metal emissions in the last years, the current level remains high while SO₂ emission levels remain virtually unchanged. Since 1992, SO₂ emissions have for the most part been around 2,000,000 tons per year. The company's ambitious emission-reduction targets, which were approved in 2003, seem to be far from realised. Moreover, the company does not appear to have a plan for the clean up of heavy metal contamination of soil around Norilsk. In the Council's opinion, it is clear that the company has not done enough to prevent or mitigate environmental damage.

The final consideration in the Council's assessment is *the probability that the company's unacceptable practice will continue*. The Council views it unlikely that Norilsk Nickel will achieve its target of 70 percent reduction of SO₂ at the Polar Division by 2010, and has doubts as to whether such large emission reductions can even be implemented by 2015. It is the Council's opinion that the lack of emission reduction in the last four years, coupled with the company's own statement that it cannot guarantee the pace of emission reduction, indicate an unacceptable risk that high levels of pollution will continue to be emitted by the company. The Council therefore finds it unlikely that the significant emission reductions required to mitigate severe damage to the environment and human health will occur in the near future.

Recommendation

The Council recommends that MMC Norilsk Nickel be excluded from the investment universe of the *Government Pension Fund Global*.

Gro Nystuen Andreas Føllesdal Anne Lill Gade Ola Mestad Bjørn Østbø
(Chair)

Notes

- 1 Hereafter, Norilsk Nickel.
- 2 The Arctic Monitoring and Assessment Programme is one of five Working Groups of the Arctic Council. The primary function of AMAP is to provide "reliable and sufficient information on the status of, and threats to, the Arctic environment, and providing scientific advice on actions to be taken in order to support Arctic governments in their efforts to take remedial and preventive actions relating to contaminants". AMAP was established in 1991. AMAP has produced a series of science-based assessments of the pollution status of the Arctic. See: <http://www.amap.no/>
- 3 The Russian Academy of Sciences (RAS) is a self-governed, non-commercial organization (institution). Its principle aim is "the organization and performance of fundamental research for the purpose of obtaining further knowledge of the natural, social and human development principles that promote technological, economic, social and cultural development in Russia". See: <http://www.ras.ru/about.aspx>
- 4 The Blacksmith Institute is an independent, American organization supporting pollution-related environmental projects with particular interest in point-source pollutants that have significantly adverse health affects on local populations and that are not currently the focus of major clean-up efforts. One of its main projects is the Polluted Places Initiative, which identifies polluted sites throughout the world. See: <http://www.blacksmithinstitute.org/>
- 5 The Bellona Foundation is an international non-profit organisations working on numerous environmental issues such as, nuclear contamination in Russia and climate change; <http://www.bellona.org/>
- 6 Bellona Report, Commissioned by Council on Ethics (here after "Bellona Report"), October, 2008, on file with the Council.
- 7 Blacksmith Institute, "Top 10 Most Polluted Places 2007," www.worstpolluted.org/projects_reports/display/43
- 8 Inspection report by the Federal Service for Supervision in the Area of Utilization of Natural Resources (Rosprirodnadzor) under the Russian Ministry of Natural Resources, on file with the Council.
- 9 In previous recommendations, the Council has elaborated on – and specified – the criteria for severe environmental damage. See recommendations regarding Freeport McMoRan Inc., DRD Gold Ltd. and Vedanta Plc., available at <http://www.etikkradet.no>
- 10 See Norilsk Nickel's company website; <http://www.nornik.ru/en/about/> and 2007 MMC Norilsk Nickel Annual Report, "Management Structure," p. 27; http://www.nornik.ru/upload/report2007_eng.pdf
- 11 See Norilsk Nickel's company website; <http://www.nornik.ru/en/about/> and <http://www.nornik.ru/en/investor/fact/>
- 12 Sokhatskaya, Julia, "Norilsk Nickel," [RussiaProfile.org](http://www.russiaprofile.org/resources/business/russiancompanies/norilsk.wbp), February 21, 2006; <http://www.russiaprofile.org/resources/business/russiancompanies/norilsk.wbp>
- 13 Norilsk Nickel 2007 Annual Report, p. 211. see http://www.nornik.ru/_upload/editor_files/file1082.pdf
- 14 By year end December 31, 2007. MMC Norilsk Nickel Annual Report, "Investments in significant subsidiaries and associates," p. 318-319 and "Business combinations: Acquisitions of controlling interest in subsidiaries," p. 267; http://www.nornik.ru/upload/report2007_eng.pdf
- 15 Directly owned and operated by MMC Norilsk Nickel.
- 16 Wholly owned by MMC Norilsk Nickel.
- 17 Myers, Lee Steven, "Siberians Tell Moscow: Like It or Not, It's Home," *New York Times*, Jan. 28, 2004; <http://www.nytimes.com/2004/01/28/international/europe/28RUSS.html?pagewanted=1&ei=5007&en=38095807ecefed69&ex=1390626000&partner=USERLANDn>
- 18 Company website, "Polar Division;" http://www.nornik.ru/en/our_products/polar_divisions/
- 19 Of these some. 135,000 live in the city of Norilsk, 60,000 in the city of Talnakh, and a further 30,000 in the city of Kayerkan (20 km away from Norilsk). The near-by port city of Dudinka, where cargo from Norilsk Nickel is processed and sent, has a population of ca. 25,000. Based on figures from most recent Russian Census; <http://www.perepis2002.ru/index.html?id=87>
- 20 2007 MMC Norilsk Nickel Annual Report, p. 89; http://www.nornik.ru/upload/report2007_eng.pdf
- 21 Revich, B., "Heated Spots" In the Chemical Pollution or the Surrounding Environment and Health in the Population of Russia,," *The Public Chamber of the Russian Federation - The Committee of the Public Chamber RF for Ecological Policy and Defense of the Surrounding Environment*, Editor, Zakharov,

- B.M. Moscow, 2007, p. 72. Translation from Russian, on file with the Council.
- 22 “Norilsk and its Environmental Concerns in 2007 and 2008,” Open letter to the Russian parliament, the State Duma, and officials within federal environmental protection agencies signed by 15,000 residents of Norilsk. On file with the Council.
- 23 In Russia the Rospotrebnadzor, or the Russian Federal Service for Supervision within Protection of Consumers’ Rights and Human Welfare, is responsible for determining the maximum allowable concentration (MAC) level for various industrial pollutants. It is the responsibility of another body, Rosprirodnadzor, or the Federal Service for Supervision in the Area of Utilization of Natural Resources, to ensure compliance with MAC provisions.
- 24 See footnote 22, and footnote 6, Bellona Report, “Pollution Data,” p. 4 -5.
- 25 Note: Monchegorsk (M), Zapolyamy (Z) and Nikel (Ni) are part of the operations at Kola, while Norilsk (NO) refers to the Polar Division operations. Arctic Monitoring and Assessment Programme (AMAP), Arctic Pollution 2006: Acidification and Arctic Haze, AMAP, Oslo, 2006, p. 3.
- 26 Norilsk Nickel 2007 Social Report, Annex 4, available at <http://www.nornik.ru/en/investor/report/social/>
- 27 Norilsk Nickel 2007 Social Report, Annex 4.
- 28 Norilsk company website, “MMC Norilsk Nickel environmental performance in 2007,” <http://www.nornik.ru/en/press/news/2290/>
- 29 See footnote 22 and Bellona Report, “Pollution Data,” p. 4 -5.
- 30 According to official figures from the European Environment Agency, EU emissions were approximately 162,159 tons in 2005. European Environment Agency, “EEA air pollutant emissions data viewer (Long Rang Transboundary Air Pollution Convention) - comparing countries;” see: <http://www.eea.europa.eu/>
- 31 The most unfavourable conditions for the build-up of pollutants in the atmosphere occur during winter time, see footnote 21.
- 32 Norilsk Nickel 2007: Social Report, p. 99.
- 33 AMAP 2002: Arctic Pollution report, p. 56.
- 34 Norilsk 2007 Social Report, Annex 4, p. 162.
- 35 See footnote 34, p. 99 and Norilsk company website, “Protecting environment and conserving natural resources;” <http://www.nornik.ru/en/development/protectionwildlife/>. In its 2007 Social Report, the company writes that “aggregate emissions of solid substances by the Polar Division after purification fell 5.6% in 2007 compared to 2006; including emission of nickel oxide – by 11.7 tons (by 2.68%), of copper oxide – by 19.16 tons (by 3.89 %), cobalt oxide – by 7.87 tons (19.42%).”
- 36 AMAP 2006: Acidifying pollutants, Arctic Haze, and Acidification in the Arctic, Chapter 5.1.2: Acidification and the acidity status of soils in the Norilsk area,” AMAP, Oslo, 2006, p. 48.
- 37 AMAP 1997: Arctic Pollution Issues: A State of the Arctic Environmental Report, “Heavy Metals,” p. 97-98. se <http://www.amap.no/>
- 38 See footnote 37, p. 109.
- 39 Bellona Report, p. 5.
- 40 Norilsk Nickel 2007 Social Report, p. 100.
- 41 Several rivers fall into Lake Pyasino, including the Ambarnaya, Koyeva, Bucheko-Yurekh, Shchuchya and Samoyedskaya Rechka,. The lake’s main tribute is the river Norilskaya (Talaya), which gathers its waters from across a large mountainous area that has a number of lakes as well. The river Pyasina flows out of the northern part of Lake Pyasino, from where it runs north and empties into the Pyasin-sky Gulf of the Kara Sea.
- 42 Inspections report by the Federal Service for Supervision in the Area of Utilization of Natural Resources (Rosprirodnadzor), 2007, on file with the Council, and Bellona Report. p. 11.
- 43 Norilsk Nickel 2007 Social Report, p. 100.
- 44 See footnote 34, Appendix 4, p. 162.
- 45 Open Letter form the residents of Norilsk 2007, see footnote 22.
- 46 Inspections report by the Federal Service for Supervision in the Area of Utilization of Natural Resources (Rosprirodnadzor) 2007.
- 47 See footnote 46.
- 48 In accordance with a protocol called “Methods for assessing damages incurred to water bodies as a result of violations of the legislation on water use,” an assessment was made by Rosprirodnadzor as to the damage incurred to the water bodies as a result of discharges of pollutants over allowable limits at

the for all three sites during the period of inspections in 2007. Damage to water bodies was calculated to be RUB 2.7 billion (ca. EUR 78 million). The calculation pertained to the seven sites (of 86) assessed during the period between January and August 2007.

- 49 The inspection report lists the following violations of sections of the Water Code of the Russian Federation No 74-FZ, issued June 3, 2006 (revision of the Federal Law N201-03, issued December 4, 2006): Article 35, Section 4: Developing and Deploying the Norms for the Maximum Allowable Impact on Water Bodies and Water Quality Indices of Water Bodies; Article 39, Section 2, Subsection 1.5.: Rights and Responsibilities of Proprietors of Water Bodies and Water Consumers Utilizing Water Bodies; Article 56, Section 6: Preservation of Water Bodies from Pollution and Soiling; Article 60, Section 1, Section 5, Subsection 1: Preservation of Water Bodies during Design, Deployment, Construction, Reconstruction, Launch, and Operation of Water Utilization and Supply Systems.
- 50 New Europe Weekly, "Norilsk disputes environmental watchdog` findings,," no. 747, 15. Sept. 2007; <http://www.neurope.eu/articles/77731.php>
- 51 See footnote 50. In its letter, Norilsk Nickel describes a series of measures that the company has implemented in order to reduce discharges to water between 2005 and 2007. According to the letter, these measures seem to have been implemented before the environmental agency's inspection. See Norilsk letter to the Council, 18 December 2008, on file with the Council.
- 52 Lawsuit on file with the Council.
- 53 While not arguing on the fact of illegal dumping of wastewater and polluting the water bodies, the Arbitration Tribunal of the Krasnoyarsk Krai ruled against the environmental agency - Rosprirodnadzor, finding that the auditing carried out by Rosprirodnadzor was illegitimate, since it failed to meet the scheduled auditing deadlines.
- 54 AMAP 2006: Arctic Pollution 2006, p. 41.
- 55 AMAP 1997: Arctic Pollution Issues: A State of the Arctic Environmental Report, p 109. Average yearly depositions of sulphur for instance, are estimated to 450-4000 kg/km2.
- 56 AMAP 2006: Arctic Pollution 2006, p. 57.
- 57 See footnote 55, p. 102.
- 58 Allen-Gil, S.M., J. Ford, B.K. Lasora, M. Monetti, T. Vlasova, D.H. Landers 2003: Heavy metal contamination in the Taimyr Peninsula, Siberian Arctic; in the Science of the Total Environment 301 (2003), pp 119-138, and Blais, J.M., K. E. Duff, T.E. Laing, J.P. Smol 1999: Regional contamination in lakes from the Norilsk region in Siberia, Russia, in Water, Air and Soil Pollution 110 (1999), pp 389-404.
- 59 AMAP 2002: Arctic Pollution 2002, p. 56-58.
- 60 At Norilsk's smelters at Nikel and Monchegorsk on the Kola peninsula the observed impacts are mainly changes in the physiological functioning and microscopic structure of plant tissues. It is likely that similar effects occur in the Norilsk area as well. See footnote 59, p. 56.
- 61 See footnote 59, p. 56.
- 62 See footnote 59, p. 56.
- 63 AMAP 1997: Arctic Pollution Issues: A State of the Arctic Environmental Report, "Heavy Metals," p. 98-99.
- 64 The State Inspection of the region Yenisei River Board for Fishery Management and Protection of Fish Reserves, see Bellona Report, p. 5.
- 65 AMAP, 1997: Arctic Pollution Issues: A State of the Arctic Environmental Report, "Heavy Metals," p. 103.
- 66 As the company itself states, "[a] feature of the region is the vulnerability of its environment; the reproductive ability of the region environment is several times lower than in middle latitudes due to unfavourable physiogeographical and climatic conditions." Power-point presentation by Norilsk Nickel, on file with the Council.
- 67 AMAP 2006: Arctic Pollution, p. 41.
- 68 AMAP 2006: Arctic Pollution 2006, p. 11.
- 69 NILU 2007: Prosjektrapport. Areosoler, stråler og skyer i polhavet, available at: <http://noracia.npolar.no/noracia-prosjekter-2/aerosoler-skyer-og-straling-i-polhavet>
- 70 AMAP 2006: Arctic Pollution, "Executive Summary."
- 71 Russian Academy of Science 2008: Environmental Health in Russia. Information for World Bank Project "Russia Environmental policy and institutions." On file with the Council.

- 72 See footnote 71, p. 11. "An increase of [sulphur dioxide's] mean [daily] atmospheric concentration by 10 µg/m³ (µg/m³ = microgram per cubic meter) leads to general mortality growth by 0.6% and a still larger growth of cardiovascular mortality and respiratory morbidity (up to 0.9% per 10 µg/m³ SO₂). Increase in the number of referrals to hospital or requests for urgent medical help due to respiratory diseases among people aged 65+ is estimated as 0.5% per 10 µg/m³ SO₂... based on the aforementioned criteria for assessing acute effects of sulphur dioxide, one can expect, for instance, mortality growth of 2–3 % above the background in cities where sulphur dioxide concentrations in ambient air exceed the established standards."
- 73 United Nations in the Russian Federation, "Chapter 2: The Russian Arctic Environment and Human Health," *Climate Change Impact on Public Health in the Russian Arctic*, 2008, p. 5- 6, <http://www.unrussia.ru/doc/Arctic-eng.pdf>.
- 74 See footnote 73.
- 75 See footnote 71, p. 18.
- 76 See footnote 71, p. 18.
- 77 Interview with Russian medical researcher, on file with the Council.
- 78 Galpin, Richard, BBC, "Toxic Truth of secretive Siberian city," and "Exclusive BBC report from inside the city of Norilsk – Video and Audio news," April 5, 2007; <http://news.bbc.co.uk/2/hi/europe/6528853.stm>.
- 79 See Kagirov, V.N., Revich, B., Institute of Forecasting – Russian Academy of Sciences, "Public health and ambient air pollution in Arctic and Subarctic cities in Russia," in *The Science of the Total Environment*, Issue 160/161, 1995, p. 587-588.
- 80 Revich, B., Institute of Forecasting – Russian Academy of Sciences, "Public health and ambient air pollution in Arctic and Subarctic cities in Russia," in *The Science of the Total Environment*, Issue 160/161, 1995, p. 588.
- 81 See footnote 71.
- 82 See footnote 80 p. 588. Statistical data was compiled by the Institute of Medical Problems of the North.
- 83 See footnote 77.
- 84 See footnote 80, p. 588.
- 85 Open letter from the residents of Norilsk 2007, see footnote 22. Also see footnote 45.
- 86 Norilsk company website, "Protecting environment and conserving natural resources," <http://www.nornik.ru/en/development/protectionwildlife/>.
- 87 See footnote 86.
- 88 Norilsk company website, "The Board of Directors of MMC Norilsk Nickel approved the Production Plan to 2015 for its operations in the Taimyr and Kola Peninsulas on the 18th of March 2003," <http://www.nornik.ru/en/press/news/1143/>
- 89 See footnote 86.
- 90 Interview with Norilsk official, Maxim Schur, Deputy head of prospective development office of OAO MMC Norilsk Nickel Polar Division, Translated article from Russian newspaper Novosibirsk, (Expert Sibir), "Through Thick and Thin and Smoking Chimneys," No. 38 038, Oct.16, 2006. on file with the Council.
- 91 Galpin, Richard 2007: Toxic Truth of secretive Siberian city, BBC 5. april 2007. <http://news.bbc.co.uk/2/hi/europe/6528853.stm>
- 92 Norilsk Nickel 2007: Social Report, "Chapter 5.2: Environmental Impacts and Performance," p. 98.
- 93 See footnote 92.
- 94 Norilsk company website, "Protecting environment and conserving natural resources," <http://www.nornik.ru/en/development/protectionwildlife/> and BBC, "Toxic Truth of secretive Siberian city," April 5, 2007; <http://news.bbc.co.uk/2/hi/europe/6528853.stm>
- 95 Norilsk 2007 Social Report, "Chapter 5.2: Environmental Impacts and Performance," p. 98.
- 96 See footnote 91.
- 97 Norilsk letter to the Council, 18.12.2008, on file in the Council.
- 98 Norilsk Nickel's company website : "The Board of Directors of MMC Norilsk Nickel approved the Production Plan to 2015 for its operations in the Taimyr and Kola Peninsulas on the 18th of March 2003," see <http://www.nornik.ru/en/press/news/1143/>.

To the Ministry of Finance

Oslo, February 13, 2009
(Published September 3, 2009)

Recommendation to reverse the exclusion of DRD Gold Limited

1 Background

On 24 August 2006, the Council on Ethics submitted a recommendation concerning the exclusion of the South African company DRD Gold Limited (“DRD Gold”) from the investment universe of the Norwegian Government Pension Fund – Global, owing to an unacceptable risk of contributing to present and future severe environmental damage.

DRD Gold is a mining company based in South Africa. At the time the recommendation was submitted, the company had mining operations in South Africa, Papua New Guinea and Fiji.¹ The gold mines in Papua New Guinea and Fiji were operated by DRD Gold’s subsidiary, Emperor Mines Limited, in which DRD Gold had an 88 percent share which was later reduced to 79 percent.²

The Council’s recommendation discussed the conditions at the Tolukuma Mine in Papua New Guinea and the Vatukoula Mine in Fiji. The Council deemed it probable that the riverine tailings disposal near Tolukuma Mine leads to considerable and lasting environmental damage, and that the pollution from the mining operations at both Tolukuma and Vatukoula may have substantial effects on human life and health. The Council emphasised that riverine tailings disposal is inconsistent with international norms. The Council found that the company had been aware of the serious health and environmental damage its operations have caused for many years, but had failed to put measures into effect aimed at reducing the damage.

The Ministry of Finance accepted the Council’s recommendation, which was published on 11 April 2007. Having submitted its recommendation 24 August 2006, the Council was later informed that DRD Gold had decided to close down its mine in Fiji.³ In the Council’s view, this did not amount to a change in the basis for recommending exclusion as the operations at the Tolukuma Mine alone represent an unacceptable risk of contributing to severe environmental damage and thus provide grounds for exclusion.

According to DRD Gold’s filings to the SEC, DRD Gold sold all of its interests in Emperor Mines in October 2007. The company now has all of its operations in South Africa. Furthermore, Emperor Mines announced in March 2008 that the company had sold the Tolukuma Mine to Petromin PNG Holdings, owned by the State of Papua New Guinea.⁴

2 The Council's assessment

According to section 4.6 of the Ethical Guidelines, the Council "shall review on a regular basis whether the reasons for exclusion still apply and may in light of new information recommend that the Ministry of Finance reverse a decision to exclude a company."

The Council finds that DRD Gold no longer is involved in the activity which the recommendation for exclusion was based on. The Council therefore considers that the basis for the exclusion of DRD Gold from the Norwegian Government Pension Fund's investment universe no longer exists.

3 Recommendation

The Council on Ethics recommends that the decision to exclude DRD Gold Limited from the Norwegian Government Pension Fund's investment universe is reversed, as the reason for exclusion no longer applies.

Gro Nystuen Andreas Føllesdal Anne Lill Gade Ola Mestad Bjørn Østbø
(Chair)

Notes

- 1 See the Council on Ethics' recommendation on the exclusion of DRD Gold Limited 24 August 2006, available at <http://www.etikkradet.no>
- 2 DRD Golds SEC Filings Form 20 -F, filed 14 December 2007, p. 18, available at <http://www.secinfo.com/d14pb2.u59.k.htm>
- 3 On December 5 2006, DRD Gold decided to close down the mine because it was unprofitable, SEC Filings 14 December 2007, Form 20 -F p.8.
- 4 http://www.emperor.com.au/index.php?option=com_content&view=article&id=76&Itemid=112. According to Petromin PNG Holdings Limited the company is "an independent company created by the State of Papua New Guinea to hold the State's assets and to maximise indigenous ownership and revenue gains in the mineral and petroleum sectors," see <http://www.petrominpng.com.pg/index.html>

To the Ministry of Finance

Oslo, February 13, 2009
(Published September 3, 2009)

Recommendation to reverse the exclusion of Thales SA

1 Introduction

The Council on Ethics submitted a recommendation on 16 June 2005, on exclusion from the Government Pension Fund – Global of companies involved in production of cluster munitions.

Among the companies recommended for exclusion was the French company Thales SA (“Thales”).

The Council now finds that the grounds for excluding Thales are no longer valid. The Council therefore recommends that the company no longer be excluded from the investment universe of the Government Pension Fund – Global.

2 Background

The Fund’s Ethical Guidelines section 4.4 states that the Council shall issue recommendations on exclusion of companies which produce weapons that through their normal use violate fundamental humanitarian principles. In the Government White Paper on Ethical Guidelines (NOU 22: 2003) and through the subsequent discussion of the Guidelines in the Storting (Parliament), production of cluster munitions were considered to fall within this category of weapons. The Guidelines section 4.6 states that the Council shall review on a regular basis whether the reasons for exclusion still apply and may in light of new information recommend that the Ministry of Finance reverse a decision to exclude a company.

When the Council issued its recommendation in 2005 on exclusion of Thales, there was no commonly accepted definition of which types of munitions should be considered as cluster munitions. The Council therefore applied its own definition of which types of munitions that should fall within the scope of the Guidelines. In 2008, an international convention to ban cluster munitions was negotiated. The Convention’s definition of cluster munitions is for the most parts overlapping with the Council’s definition from 2005. The Council now bases its recommendations on exclusions of companies that produce cluster munitions as defined in the Convention on cluster munitions.

The Convention on cluster munitions commits its state parties to i.a. ban production of cluster munitions on their own territory. It would not necessarily constitute a violation of the Convention if a company registered in one state which is party to the Convention, is involved in production of cluster munitions on the territory of a state which is not party to the Convention.

In Thales' report on Corporate Responsibility for 2007, the following is stated (p. 12):
"The Group is no longer involved in the manufacture of cluster munitions, and has removed these products from its catalogue. In this respect, the Group has taken a proactive stance by anticipating the principles and definitions of the future Convention of cluster munitions, also known as the Oslo convention."

3 The Council's communication with the company

The Council wrote to the company in October 2008 to enquire whether the above given statement also applies to Thales' subsidiaries, and if the statement applies to all production, regardless of where it may take place.

The Council received a reply from Thales in a letter dated 27 November 2008. In its letter, the company states the following: *"Concerning the production and sales of cluster munitions, I confirm that Thales and its subsidiaries no longer has any involvement whatsoever, and whatever the country, in the production of this type of arms."*

4 Recommendation

Based on the information provided above, the Council finds that the grounds for exclusion of Thales from the Fund are no longer valid.

The Council recommends that Thales SA no longer be excluded from the investment universe of the Government Pension Fund – Global.

Gro Nystuen Andreas Føllesdal Anne Lill Gade Ola Mestad Bjørn Østbø
(Chair)

To the Ministry of Finance

Oslo, November 16, 2009
(Published 2 March, 2010)

Recommendation to reverse the exclusion of the company United Technologies Corp.

1 Recommendation

On 19 September 2005, the Council on Ethics for the Norwegian Government Pension Fund Global submitted a recommendation on exclusion of companies which produce components for nuclear weapons. The recommendation outlines how such components should be defined. It was considered that i.a. production of missiles which have no function other than to carry nuclear warheads could form the basis for exclusion from the Fund. Likewise, upgrades, testing and replacement of components on such missiles could form the basis for exclusion from the Fund.

The company United Technologies Corp. was recommended for exclusion from the Fund because of the company's involvement in upgrades and testing of engines for the US' MX ICBM system. Following disarmament of the US nuclear arsenal, this weapons system has been dismantled and upgrades of the system no longer take place.¹

The Council has contacted the company to get confirmation that the activity which formed the basis for exclusion has been terminated. The company has not confirmed this, but in any case the Council finds that the grounds for exclusion of United Technologies Corp. are no longer valid.

The Council recommends that the company United Technologies Corp. no longer be excluded from the investment universe of the Government Pension Fund Global.

Gro Nystuen
(Chair)

Andreas Føllesdal

Anne Lill Gade

Ola Mestad

Notes

¹ US Air Force: <http://www.af.mil/news/story.asp?storyID=123011845>

Summary of the recommendations on excluded companies

Recommendations to exclude companies that produce cluster munitions

16.06.2005 Companies producing Cluster Munitions

The companies General Dynamics Corp., L3 Communications Holding Inc., Raytheon Co., Lockheed Martin Corp., and Alliant Techsystems Inc. are excluded on the basis of production of components for cluster munitions.
(Published 2 September 2005)

06.09.2006 Poongsan Corp. – New

The South-Korean company Poongsan Corp. – New is excluded on the basis of production of cluster munitions.
(Published 6 September 2006)

15.05.2007 Hanwha Corp.

The South-Korean company Hanwha Corp. is excluded on the basis of production of cluster munitions.
(Published 11 January 2008)

26.08.2008 Textron Inc.

The US company Textron Inc. is excluded on the basis of production of cluster munitions.
(Published 30 January 2009)

Recommendations to exclude companies that produce key components to nuclear weapons

19.09.2005 Companies developing and producing key components for nuclear weapons

The companies BAE Systems Plc., Boeing Co., Finmeccanica Sp. A., Honeywell International Inc., Northrop Grumman Corp., and Safran SA are excluded on the basis of the development and production of key components for nuclear weapons.
(Published 5 January 2006)

18.04.2006 EADS Co.

The Dutch company EADS Co. (European Aeronautic Defence and Space Company) is excluded in 2005 on the basis of production of cluster munitions. In 2006, this was no longer the case, but as the company was producing key components for nuclear weapons, the decision to exclude the company was upheld.
(Published 18 April 2006)

15.11.2007 GenCorp Inc.

The US-company GenCorp Inc. is excluded on the basis of the production of key components for nuclear weapons.
(Published 11 January 2008)

15.11.2007 Serco Group Plc.

The British company Serco Group is excluded on the basis of the production of key components for nuclear weapons.

(Published 11 January 2008)

*Recommendations to exclude companies that produce anti personnel landmines***22.03.2002 Singapore Technologies Engineering Ltd.**

The company Singapore Technologies Engineering Ltd. is excluded because of production of antipersonnel landmines based on a recommendation from the Council on International Law, which preceded the Council on Ethics.

*Recommendations to exclude companies that supply weapons and military equipment to Burma***14.11.2008 Dongfeng Motor Group Co. Ltd.**

The Chinese company Dongfeng Motor Group Co. Ltd. is excluded because it supplies military trucks to the Burmese Government.

(Published 13 March 2009)

*Recommendations to exclude companies that produce tobacco***22.10.2009 Companies producing tobacco**

The companies Alliance One International Inc., Altria Group Inc., British American Tobacco BHD, British American Tobacco Plc., Gudang Garam Tbk pt., Imperial Tobacco Group Plc., ITC Ltd., Japan Tobacco Inc., KT&G Corp, Lorillard Inc., Philip Morris International Inc., Philip Morris Cr AS., Reynolds American Inc., Souza Cruz SA, Swedish Match AB, Universal Corp VA, and Vector Ltd Group are excluded due to production of tobacco.

(Published 19 January 2010)

*Recommendations to exclude companies that contribute to violations of human rights***15.11.2005 Wal-Mart Stores Inc.**

The US-retailer Wal-Mart Stores Inc. and its subsidiary Wal-Mart de Mexico are excluded because of unacceptable working conditions both in some of the company's own stores and among its global suppliers.

(Published 6 June 2006)

*Recommendations to exclude companies that cause environmental damage***15.02.2006 Freeport McMoRan Copper & Gold Inc.**

The US mining company Freeport McMoRan Copper & Gold Plc. is excluded due to severe environmental damage caused by the company's practice of riverine tailings disposal at the Grasberg Mine in Indonesia.

(Published 6 June 2006)

15.05.2007 Vedanta Resources Plc.

The British metals and mining company Vedanta Resources Ltd., including its subsidiaries Sterlite Industries Ltd. and Madras Aluminium Company Ltd. are excluded on the grounds of causing severe environmental damage associated with pollution and irresponsible waste disposal at the companies' copper and aluminium works in India, as well as human rights violations, including the abuse and forced displacement of tribal peoples.

(Published 6 November 2007)

15.02.2008 Rio Tinto Plc. and Rio Tinto Ltd.

The British/ Australian mining group Rio Tinto is a joint venture partner to the Grasberg mine operated by Freeport McMoRan in Indonesia. Freeport McMoRan is excluded from the Fund in 2006 owing to severe environmental damage caused by the company's riverine tailings disposal. Rio Tinto was excluded because the company is regarded to be directly involved in the severe environmental damage caused by the mining operation.

(Published 9 September 2008)

15.08.2008 Barrick Gold Corp.

The Canadian mining company Barrick Gold Corp. is excluded on the grounds of severe environmental damage caused by the company's riverine tailings disposal from the Porgera Mine in Papua New Guinea.

(Published 30 January 2009)

Recommendations to exclude companies which violate fundamental ethical norms**15.05.2009 Elbit systems Ltd.**

The Israeli company Elbit Systems Ltd. is excluded because it supplies surveillance systems to the separation barrier on the West Bank.

(Published 3 September 2009)



Ethical Guidelines for the Government Pension Fund Global

Ethical Guidelines for the Government Pension Fund Global

This translation is for information purposes only. Legal authenticity remains with the original Norwegian version

Issued 22 December 2005 pursuant to regulation on the management of the Government Pension Fund – Global. Clause 4.4 of the Guidelines was revised September 2008, according to the Report to the Storting No. 16 (2007–2008), and again September 2009, according to the Report to the Storting No. 20 (2008–2009).

1 Basis

The Ethical Guidelines for the Government Pension Fund – Global are based on two premises:

- The Government Pension Fund Global is an instrument for ensuring that a reasonable portion of the country's petroleum wealth benefits future generations. The financial wealth must be managed so as to generate a sound return in the long term, which is contingent on sustainable development in the economic, environmental and social sense. The financial interests of the Fund shall be strengthened by using the Fund's ownership interests to promote such sustainable development.
- The Government Pension Fund Global should not make investments which constitute an unacceptable risk that the Fund may contribute to unethical acts or omissions, such as violations of fundamental humanitarian principles, serious violations of human rights, gross corruption or severe environmental damages.

2 Mechanisms

The ethical basis for the Government Pension Fund Global shall be promoted through the following three measures:

- Exercise of ownership rights in order to promote long-term financial returns, based on the UN Global Compact and the OECD Guidelines for Corporate Governance and for Multinational Enterprises.
- Negative screening of companies from the investment universe that either themselves, or through entities they control:
 - produce weapons that through normal use may violate fundamental humanitarian principles,
 - produce tobacco, or
 - sell weapons or military materiel to states mentioned in Clause 3.2 of the supplementary guidelines for the management of the Fund.
- Exclusion of companies from the investment universe where there is considered to be an unacceptable risk of contributing to:
 - Serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other child exploitation
 - Serious violations of individuals' rights in situations of war or conflict
 - Severe environmental damages
 - Gross corruption
 - Other particularly serious violations of fundamental ethical norms

3 The exercise of ownership rights

- 3.1** The overall objective of Norges Bank's exercise of ownership rights for the Government Pension Fund – Global is to safeguard the Fund's financial interests. The exercise of ownership rights shall be based on a long-term horizon for the Fund's investments and broad investment diversification in the markets that are included in the investment universe. The exercise of ownership rights shall mainly be based on the UN's Global Compact and the OECD Guidelines for Corporate Governance and for Multinational Enterprises. Norges Bank's internal guidelines for the exercise of ownership rights shall stipulate how these principles are integrated in the ownership strategy.
- 3.2** Norges Bank shall report on its exercise of ownership rights in connection with its ordinary annual reporting. An account shall be provided of how the Bank has acted as owner representative – including a description of the work to promote special interests relating to the long-term horizon and diversification of investments in accordance with Section 3.1.
- 3.3** Norges Bank may delegate the exercise of ownership rights pursuant to these guidelines to external managers.

4 Negative screening and exclusion

- 4.1** The Ministry of Finance shall, based on recommendations of the Council on Ethics for the Government Pension Fund Global, make decisions on negative screening and exclusion of companies from the investment universe.
- The recommendations and decisions shall be made public. The Ministry may, in certain cases, postpone the time of public disclosure if this is deemed necessary in order to ensure a financially sound implementation of the exclusion of the company concerned.
- 4.2** The Council on Ethics for the Government Pension Fund Global shall consist of five members. The Council shall have its own secretariat. The Council shall submit an annual report on its activities to the Ministry of Finance.
- 4.3** Upon request of the Ministry of Finance, the Council issues recommendations on whether an investment may constitute a violation of Norway's obligations under international law.
- 4.4** The Council shall issue recommendations on negative screening of companies that:
- produce weapons that through their normal use violate fundamental humanitarian principles,
 - produce tobacco; or
 - sell weapons or military materiel to states mentioned in Clause 3.2 of the supplementary guidelines for the management of the Fund.

The Council shall issue recommendations on the exclusion of companies from the investment universe because of acts or omissions that constitute an unacceptable risk of the Fund contributing to:

- serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other forms of child exploitation,
- serious violations of individuals' rights in situations of war or conflict,
- severe environmental damages,
- gross corruption; or
- other particularly serious violations of fundamental ethical norms.

The Council shall raise issues under this provision on its own initiative or at the request of the Ministry of Finance.

4.5 The Council shall gather all necessary information at its own discretion and shall ensure that the matter is documented as fully as possible before making a recommendation regarding negative screening or exclusion from the investment universe. The Council may request Norges Bank to provide information as to how specific companies are dealt with in the exercise of ownership rights. Enquiries to such companies shall be channelled through Norges Bank. If the Council is considering recommending exclusion of a company, the company in question shall receive the draft recommendation and the reasons for it, for comment.

4.6 The Council shall review on a regular basis whether the reasons for exclusion still apply and may against the background of new information recommend that the Ministry of Finance revoke a decision to exclude a company.

4.7 Norges Bank shall receive immediate notification of the decisions made by the Ministry of Finance in connection with the Council's recommendations. The Ministry of Finance may request that Norges Bank inform the companies concerned of the decisions taken by the Ministry and the reasons for the decision.



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