

Unofficial English translation

To the Ministry of Finance

Recommendation Nov. 14th, 2008

Introduction

The Council on Ethics has received a letter from the Ministry of Finance dated October 3, 2008, in which an amendment in the ethical guidelines for the Government Pension Fund – Global is communicated.

The amendment implies that investments in companies which sell arms or military equipment to states which are on the list of countries whose government bonds are not investable, are to be avoided. It follows from this that the fund shall not invest in companies which sell weapons or military equipment to Burma.

As of December 31st, 2007, the Government Pension Fund – Global held equities issued by the Chinese company Dongfeng Motor Group Co Ltd. to the value of NOK 32 356 000.

The Council on Ethics recommends that Dongfeng Motor Group Ltd. be excluded from the Fund's investment universe because the company sells military equipment to the government of Burma.

The Council's understanding of the term "arms and military equipment"

The Ministry has decided that the Council on Ethics shall give advice on exclusion of companies that sell "arms and military equipment" to Burma. The Council must therefore consider which products should reasonably be considered "arms and military equipment".

Both the EU and the USA have imposed arms embargos on Burma. In the following, a short description of the criteria applied in the embargo regimes is provided:

EU's arms embargo on Burma

The EU introduced sanctions towards Burma in 1996. These have since been expanded several times. The current sanctions make any form of military equipment from EU countries to Burma illegal: "*The sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles, paramilitary equipment and spare parts for the aforementioned, as well as equipment which might be used for internal repression, to Burma / Myanmar by nationals of Member States or from the territories of Member States [...] shall be prohibited whether originating or not in their territories.*"¹

As it is stated, the EU's sanctions specifically mention military vehicles and spare parts for such. Furthermore, it is stated that any kind of technical assistance, transfer or financing in connection with sales of military equipment to Burma is illegal.²

USA's arms embargo on Burma

The USA introduced an arms embargo on Burma in 1993. A statement from the Department of State reads: "*Effective immediately, it is the policy of the US Government to deny all applications for licences and other approvals to export or otherwise transfer defense articles*

¹ Council Common Position 2006/318/CFSP, Article 1.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:116:0077:0097:EN:PDF>

² Ibid, Article 2

*and defense services to Burma.[...] This action has been taken in light of the human rights abuses committed by the current Government of Burma.”*³

The responsibility for upholding the US export control regimes is divided between several government departments. Export of products that may have both civilian and military applications, so called “dual use”, is regulated by the US Bureau of Industry and Security’s *Commerce Control List*⁴, which provides extensive definitions of products regulated by the export control regime. In general, any product that has significant military application or has been produced or modified for military purposes, is subject to the regulations.⁵

The Council on Ethics will, as a point of departure, use the same definitions as in the above mentioned sanction regimes, and finds that investments in companies that supply trucks or spare parts for trucks to the Burmese army, may constitute a breach in the fund’s ethical guidelines.

Contact with the company Dongfeng Motor Group Co Ltd.

The Council has been made aware that large numbers of military trucks produced by the Chinese company Dongfeng Motor Group Co Ltd. have been observed at border crossings between China and Burma. These are transfers of new military trucks which are driven in convoy across the border.

Based on the information at hand, Norges Bank wrote to the company on behalf of the Council in June 2008. In its letter, Norges Bank made the company aware that by an upcoming amendment in the Fund’s ethical guidelines, investments in companies which supply arms and military equipment to Burma are to be avoided. It was enquired whether the company, or any of its subsidiaries, supply vehicles to the Burmese military.

The company responded to Norges Bank in a letter dated July 22nd, 2008. In its letter, the company confirms that one of its subsidiaries, “DFL”, as of the first half of 2008, had supplied 900 trucks to Burma.

Council’s assessment

The Council finds that the trucks delivered by Dongfeng Motor Group Co Ltd. to the Burmese military are produced or adapted to military purposes and also have significant military application, e.g in transport of arms and personnel, and must therefore be considered to be military equipment. The Council also assumes that these supplies are ongoing, and that there will be future deliveries of spare parts for the already delivered vehicles.

³ 1993, US Department of State, Bureau of Political – Military Affairs, Public Notice 1829: <http://pmddtc.state.gov/docs/frnotices/58FR33293.pdf>

⁴ US Bureau of Industry and Security: <http://www.bis.doc.gov/policiesandregulations/index.htm>

⁵ Ibid, Category XXI – Miscellaneous Articles: “Any article not specifically enumerated in the other categories of the U.S. Munitions List which has substantial military applicability and which has been specifically designed, developed, configured, adapted, or modified for military purposes. The decision on whether any article may be included in this category shall be made by the Director, Office of Defense Trade Controls Policy.”

Recommendation

Based on the findings and statements above, the Council finds that the investment in Dongfeng Motor Group Co Ltd. constitutes a breach of the fund's ethical guidelines.

The Council recommends that Dongfeng Motor Group Co Ltd. be excluded from the investment universe of the Government Pension Fund – Global.

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