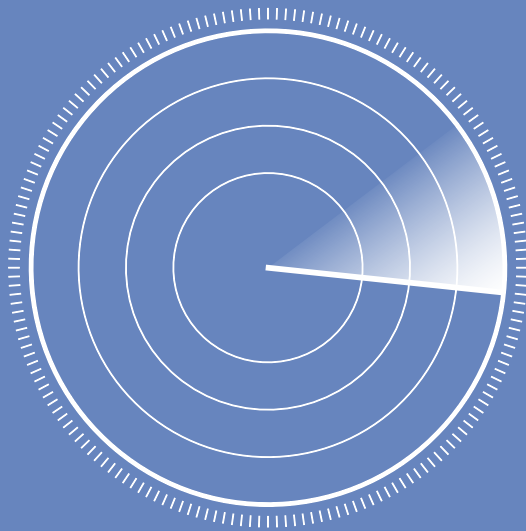


Council on Ethics

for the Norwegian Government Pension Fund Global



Annual Report 2021





**The Council on Ethics advises
Norges Bank on the observation and exclusion
of companies from the Norwegian Government
Pension Fund Global (GPFG)**

etikkradet.no



Index

Foreword by the Council's chair	6
Members of the Council and the Secretariat	8
The work of the Council on Ethics	9
Product-based criteria	18
Human rights, war and conflict	20
Serious or systematic human rights violations	21
Serious violation of the rights of individuals in situations of war or conflict	22
Requirement for due care in areas of war and conflict	23
The Council's investigations into textiles companies	24
Company's sale of arms to certain states	27
Environment and climate	30
Severe environmental damage	31
Climate criterion	31
Use of endangered animals in traditional Chinese medicine	33
Shipbreaking in Bangladesh, Pakistan and India	35
Gross corruption and other serious financial crime	38
The Council's approach to corruption cases	40
Other gross financial crime	41
Letter: Evaluation of the climate criterion	42
List of excluded companies by 31. desember 2021	46
List of companies placed under observation	47



Published recommendations	48
Summaries of recommendations published in 2021	51
Ashtrom Group Ltd	51
Atal SA/Poland	51
Beijing Tong Ren Tang Chinese Medicine Co Ltd og Tong Ren Tang Technologies Co Ltd	52
China Grand Pharmaceutical and Healthcare Holdings Ltd	53
China Traditional Chinese Medicine Holdings Co Ltd	53
Elco Ltd og Electra Ltd/Israel	54
Hanwha Corp	55
Honeys Holdings Co Ltd	55
Hyundai Engineering & Construction Co Ltd	56
Kirin Holdings Co Ltd	57
Marfrig Global Foods SA	58
Mivne Real Estate KD Ltd	59
Oil & Natural Gas Corp Ltd	59
Precious Shipping PCL	61
Shapir Engineering and Industry Ltd	61
thyssenkrupp AG	61
Yunnan Baiyao Group Co Ltd	63
Observation	64
Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global	66



Foreword by the Council's chair

Technological development throw up challenges while also offering new opportunities. In 2021, the pandemic restricted the Council on Ethics' ability to perform physical investigations. Despite this, we have been able to continue our work in large part through extensive online inquiries.

In the year that has passed, the Council issued several recommendations with respect to companies that contribute to a decline in biodiversity. These companies produce and sell traditional Chinese medicines whose ingredients include body parts from globally endangered animal species. This is the first time that companies have been excluded from the Norwegian Government Pension Fund Global (GPF) on such grounds.

The Council also devoted much time to the criterion concerning serious infringement of the rights of individuals in situations of war and conflict. This applies particularly to companies operating in Myanmar and the West Bank. On these issues, we have benefited greatly from input from civil society actors. In Myanmar, NGOs have revealed companies' links to the armed forces, while in the West Bank they have illuminated companies' involvement in activities supporting the establishment and continued viability of illegal Israeli settlements.

Most of the recommendations proposed in the official report from the Ethics Commission, "Values and Responsibilities" were followed up by the government and endorsed by the Norwegian parliament (Storting). The Council is well underway with implementing the changes in the GPF's ethical guidelines. For example, the Council has embarked on an effort to identify conflicts that should be encompassed by the new weapons criterion, which allows companies to be excluded if they sell weapons to states engaged in conflicts where weapons are used in violation of international humanitarian law.

The expansion of the ethical guidelines to encompass other forms of serious financial crime in addition to corruption may prove challenging. Here, the Council will depend on financial crimes being uncovered by the authorities, at the same time as we must assess the risk of companies' continued involvement in such norm violations. These assessments are further complicated by the fact that financial crime, such as money laundering, often involves financial institutions that are already highly regulated. The Ethics Commission also proposed that the Council consider project financing as a form of contribution to serious norm violations. The Council is currently recruiting additional staff to make it better equipped to handle such issues.



One proposal from the Ethics Commission that the government chose not to pursue at this time was the inclusion of autonomous weapons in the list of weapons that the GPFG is prohibited from investing in. The proposal was not taken on board because the government is waiting for clarification of a potential internationally recognised definition or a more uniform understanding of what constitutes an autonomous weapon. The Council notes that the Storting has requested a status update on this matter as early as this spring's report on the management of the GPFG. The Council will rapidly be able to start identifying such companies if autonomous weapons are included in the guidelines.

Investors urgently need to encourage companies to implement measures to cut their carbon footprints. The Council's role in this effort is to operationalise the climate criterion. However, developments in this field are moving so fast, and are so data-intensive and demanding, that an investor like the GPFG should be able to apply a broad combination of measures in order to make a positive contribution. The Council has therefore proposed that Norges Bank assume primary responsibility for the climate criterion, in the same way as the coal criterion. This view was prompted by a letter from the Norwegian Ministry of Finance, which asked for an assessment of the Council's experience with the climate criterion. However, until a new political decision is taken on this matter, the Council will continue to be responsible for providing advice on the exclusion and observation of companies under this criterion.

Technology creates huge opportunities, but also worrying trends in companies' business developments. Artificial intelligence, based on advanced algorithms, can be used for good – but it can also be used to enable violations of human rights. Companies and investors should therefore perform due diligence assessments with the utmost care. The Council is tracking this trend closely, and has begun to assess several companies which could contribute to norm violations through the development and sale of advanced technologies, with a particular focus on surveillance technology.

The Council has a unique position among advisors to major investors, and we know that many people follow us. This gives us a particular responsibility, which we are fully conscious of.

Johan H. Andresen
Chair of the Council on Ethics



Members of the Council and the Secretariat

The Council on Ethics



Johan H. Andresen (Chair)

Andresen holds an MBA from Rotterdam School of Management, Erasmus University. He owns and chairs the board of Ferd, where he was CEO for 14 years. He has previously been employed as Product Manager at International Paper Co in the USA and served as a partner at the Tiedemann Group. He is a member of various boards, presently NMI – Norwegian Microfinance Initiative, Junior Achievement Europe and Oslo Science City.



Svein Richard Brandtzæg (Vice Chair)

Brandtzæg has a doctorate in engineering from the Norwegian University of Science and Technology (NTNU) and a diploma in business administration from BI Norwegian Business School. Over the course of 34 years, he occupied a variety of positions at Norsk Hydro ASA, both in Norway and abroad. For 10 years up until 2019, he was the company's CEO. Brandtzæg has served on boards of directors of numerous enterprises and industry associations. He currently chairs the board of Veidekke ASA, is vice chair of DNB ASA and a member of the board of Swiss Steel Holding AG, Mondi PLC (UK) and Eramet Norge.



Cecilie Hellestveit

Hellestveit is a lawyer, with a doctorate in humanitarian law. She also holds a MPhil in Middle Eastern Studies. Hellestveit has worked at various research institutions, including PRIO, SMR, NUPI, IKOS and ILPI. She has been a non-resident fellow at the Atlantic Council in Washington DC. She is currently affiliated to the Norwegian Academy of International Law and a special advisor at the Norwegian National Human Rights Institution. Hellestveit has authored a textbook on the international law of war and several books on the Middle East.



Trude Myklebust

Myklebust is a lawyer, with a doctorate in financial market law and an MSc from the University of Oxford. Myklebust spent many years at the Ministry of Finance, where she worked with financial market law and the management of Norway's Government Pension Fund, among other matters. Myklebust has previously served as a deputy judge and as a senior advisor for the Director of the Supreme Court of Norway. She has also authored a textbook on financial market law.



Siv Helen Rygh Torstensen

Torstensen is a lawyer, who is currently EVP Legal & Compliance at Equinor ASA. She has worked for Equinor in various roles since 1998, mostly in the Legal & Compliance Department. She has previously served as the company's Chief Compliance Officer. Torstensen also headed the CEO's Office for three years until August 2019. Before joining Equinor, she worked as a lawyer with the law firm Cappelen & Krefting DA and in Stavanger City Council's Legal Services Department.

Secretariat

The Council has a Secretariat that investigates and prepares cases for the Council. At the close of the year, the Secretariat had the following employees:

- Eli Lund, Executive Head of Secretariat (MEcon)
- Lone Fedders Dybdal (MPhil)
- Kjell Kristian Dørum (Cand. Polit.)
- Erik Forberg (Cand. Scient.)
- Hilde Jervan (Cand. Agric.)
- Svein Erik Hårklau (Cand. Agric.)
- Aslak Skancke (MSc Engineering)
- Ingrid Thorsnes (LLM)



The work of the Council on Ethics

The Council on Ethics for the Norwegian Government Pension Fund Global (GPFG) is an independent body that makes recommendations to Norges Bank to either exclude companies from the GPFG or place them under observation. The Council's assessments are based on ethical guidelines determined by the Norwegian Ministry of Finance. The guidelines contain both productbased exclusion criteria, targeting the production of tobacco, cannabis, coal or certain types of weapons, and conductbased exclusion criteria, such as corruption, the sale of weapons to certain states, human rights abuses, environmental damage and unacceptably high greenhouse gas emissions. The threshold for exclusion is intentionally high, and companies may be excluded only if they represent an unacceptable future ethical risk to the GPFG. The Council's recommendations are published on its website as soon as Norges Bank has announced its decision.

New guidelines for the observation and exclusion of companies from the Norwegian Government Pension Fund Global

As a consequence of the Ethics Commission's 2020 report *Values and Responsibilities*, new guidelines for observation and exclusion from investment by the GPFG were adopted in September 2021. A new paragraph has been inserted, which states that the purpose of the guidelines is "to avoid that the Government Pension Fund Global (GPFG) is invested in companies that cause or contribute to serious violations of fundamental ethical norms, as set out in these guidelines' sections 3 and 4." This objective has also previously underpinned the Council's endeavours. The new paragraph is nevertheless useful because it clarifies the Council's role in the responsible management of the GPFG.

Two new exclusion criteria have been introduced – one product-based and one conduct-based – while the area of application of others has been extended. These changes are described later in this annual report.

The new guidelines also prescribe a close cooperation between the Council and Norges Bank in several areas. The Council has begun discussing the changes in the guidelines with Norges Bank. This dialogue, which covers both administrative routines and the introduction of new criteria, will continue in 2022. Given that major changes may be made in

the portfolio's composition as a result of changes in the reference index, particular attention will also be paid to this topic in the organisations' collaboration going forward.

Portfolio monitoring and information gathering

Companies are identified by means of portfolio monitoring, inquiries from external actors and systematic reviews of areas with a high ethical risk.

The Council constantly monitors the media and other information sources to discover whether companies in which the GPFG is invested fall within the guidelines for observation and exclusion. In 2021, the Council put both its portfolio monitoring contracts out to tender, and has signed agreements with two different firms. One of these produces a quarterly report on companies in the GPFG's portfolio that may contravene the product-based criteria or sell weapons or military equipment to certain states. The other performs daily searches of news sources in multiple languages for items relating to serious norm violations that could be linked to companies in the GPFG portfolio. The Council receives reports from the consultant every two months. In addition, the Council monitors information from other sources and investigates relevant companies on an ongoing basis.

The Council is also approached by organisations and individuals who call on it to consider specific cases.

These contacts may be made directly to the Council or forwarded from Norges Bank. While all relevant product-based cases are investigated, the Council must prioritise which cases to examine in more detail under the conduct-based criteria. In this context, the Council gives weight to the violation's scope and seriousness, its consequences, the company's responsibility for or contribution to the matter concerned, what the company is doing to prevent or mitigate the harm caused, and the risk of similar incidents occurring in the future.

Access to information varies significantly from country to country. The Council may, to a certain extent, be able to offset this by undertaking its own investigations. Such investigations often follow a long-term plan. For example, the Council has worked with companies that dispose of ships to be broken up for scrap on the beaches of

Bangladesh and Pakistan since 2017, while it has focused on deforestation and loss of biodiversity since 2010.

The Council obtains information from research environments as well as national and international organisations, and often commissions third-party consultants to investigate indications of norm violations covered by its guidelines. The Council frequently engages in dialogues with company officials during the assessment process. In the past two years, due to the Covid-19 pandemic, conducting field studies and physical meetings with company representatives has been a challenge. Some of this activity has been replaced by digital investigations and meetings. Field studies and physical meetings will be resumed as soon as the situation permits.

Table 1: The Council on Ethics' activities 2019–2021

Year	2019	2020	2021
No. of limited companies in the GPFG at year-end (approx.)	9200	9150	9340
No. of companies excluded at the recommendation of the Council on Ethics at year-end	65	71	80
No. of companies placed under observation at the recommendation of the Council on Ethics	7	6	9
No. of companies on which the Council on Ethics has issued a recommendation during the year	17	12	21
No. of companies excluded during the year at the recommendation of the Council on Ethics	3	10	12
No. of companies placed under observation during the year	0	0	3
No. of observations concluded during the year	0	1	0
No. of exclusions revoked during the year	7	2	3
No. of companies the Council has been in contact with	50	77	66
No. of companies the Council has met with	14	16	12
No. of new cases the Council has begun assessing during the year	100	120	91
No. of cases concluded during the year	87	104	86
Total no. of companies under assessment during the year	180	206	195
No. of Council meetings	9	10	14
Secretariat (no. of staff)	8	8	8
Budget (NOK million)	18,7	18,7	18

The table summarises the scope of the Council's investigations in 2021, compared with 2020 and 2019. Companies excluded by Norges Bank under the coal criterion, without the Council's recommendation, are not included in the table. Companies that have been delisted from a stock exchange are removed from the list of excluded companies as and when delisting occurs.



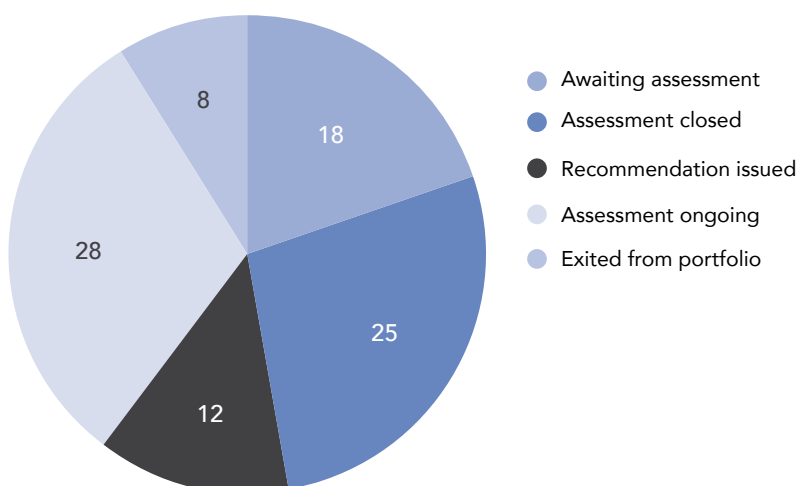
Overview of activities undertaken by the Council on Ethics in 2021

In 2021, the Council recommended that 10 companies be excluded and three companies should have their exclusion revoked. The Council further recommended that five companies be placed under observation, while the observation of three companies should be revoked. Not all of the Council's recommendations have yet been published. Many months may pass between the Council issuing its recommendation and Norges Bank taking a decision on the matter. On the basis of recommendations issued by the Council in 2020 and 2021, Norges Bank announced the exclusion of 12 companies during the year. A further three companies were placed under observation, while the exclusion of three companies was revoked. Norges Bank decided to exercise its influence as a shareholder on one company that the Council had recommended be placed under observation.

As at 31 December 2021, 80 companies were excluded from the GPFG, while nine were under observation on the basis of the Council's recommendations. In addition, Norges Bank has, on its own initiative, excluded 72 companies and placed 13 companies under observation with reference to the coal criterion.

The Council has worked on a total of 198 cases at various stages in the assessment process in 2021. Of this number, 91 cases were opened during the year, while 60 were opened in 2020. The assessment of 86 cases was concluded. This includes companies about which a recommendation was given to Norges Bank, companies where there were no grounds to exclude or observe, and companies in which the GPFG is no longer invested. In 2021, 25 companies which the Council was assessing left the fund before any recommendation was issued.

Figur 1: What happened to the 91 cases that were opened in 2021?

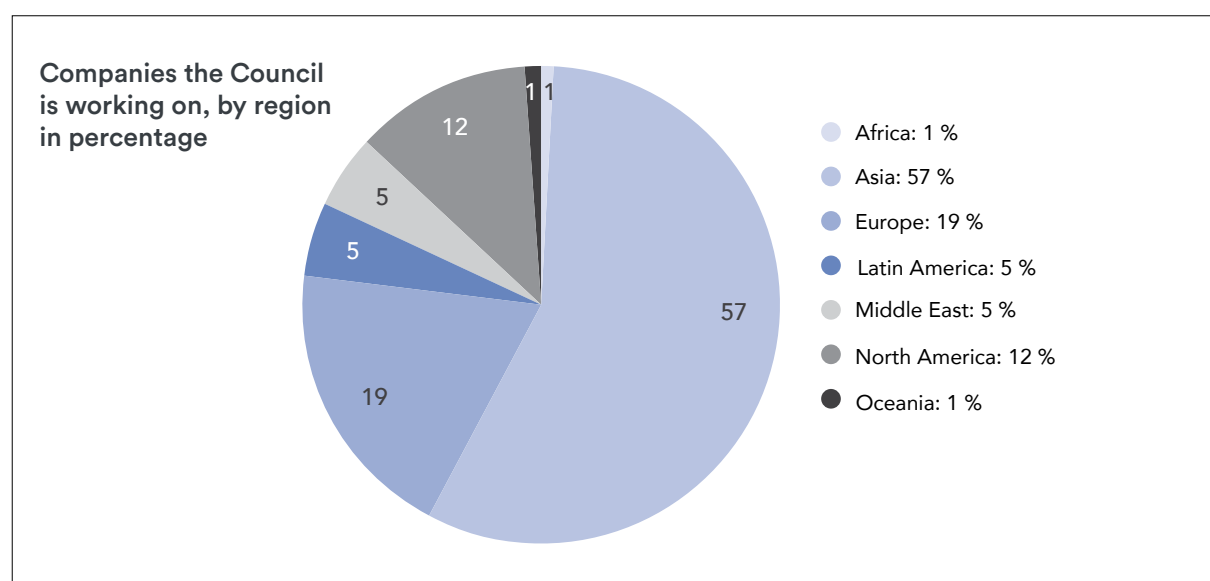
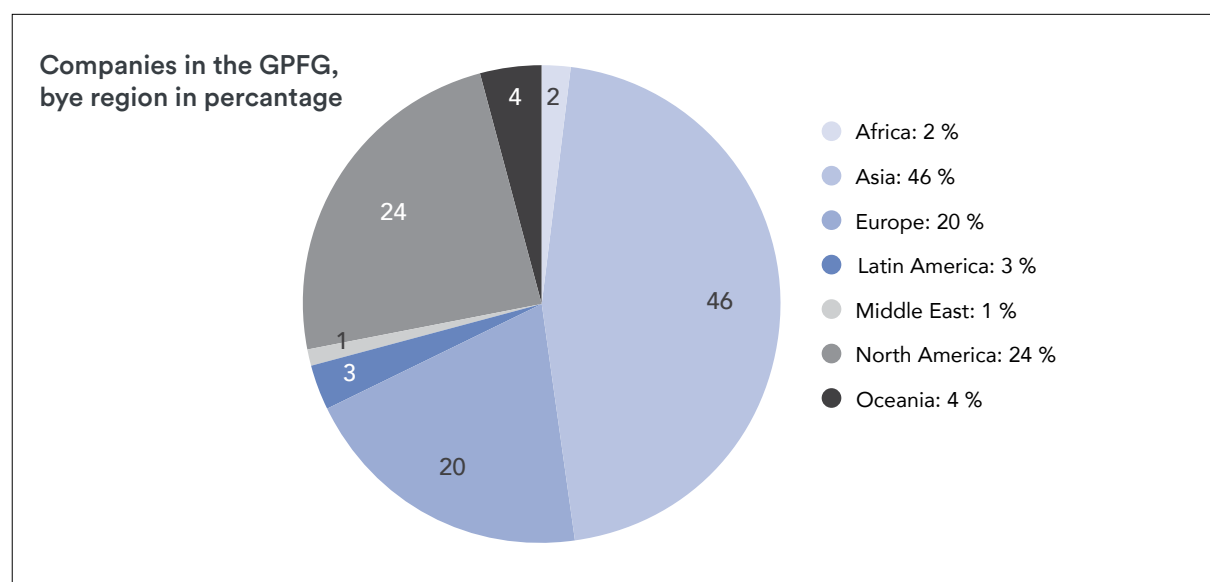


The figure shows the status of the 91 new cases the Council opened in 2021.

Recommendations to exclude or place under observe, or to revoke an exclusion or terminate a period of observation were issued in 12 of the 91 new cases, while no further action was taken in 25 cases. The assessment of eight of the new cases was terminated because the company had exited the portfolio. 28 of the cases are still being assessed, while 18 cases have not yet undergone a full preliminary assessment.

The risk of gross corruption was the topic for 12 of the new cases opened for assessment in 2021, while the risk of forced labour in China's Xinjiang Uyghur Autonomous Region (Xinjiang) was the topic in 19 cases. Other issues that emerge repeatedly include financial collaboration with the armed forces in Myanmar, loss of biodiversity and beaching.

Fig. 2 shows the regional breakdown of the GPFG's investments compared to the companies that the Council has assessed.

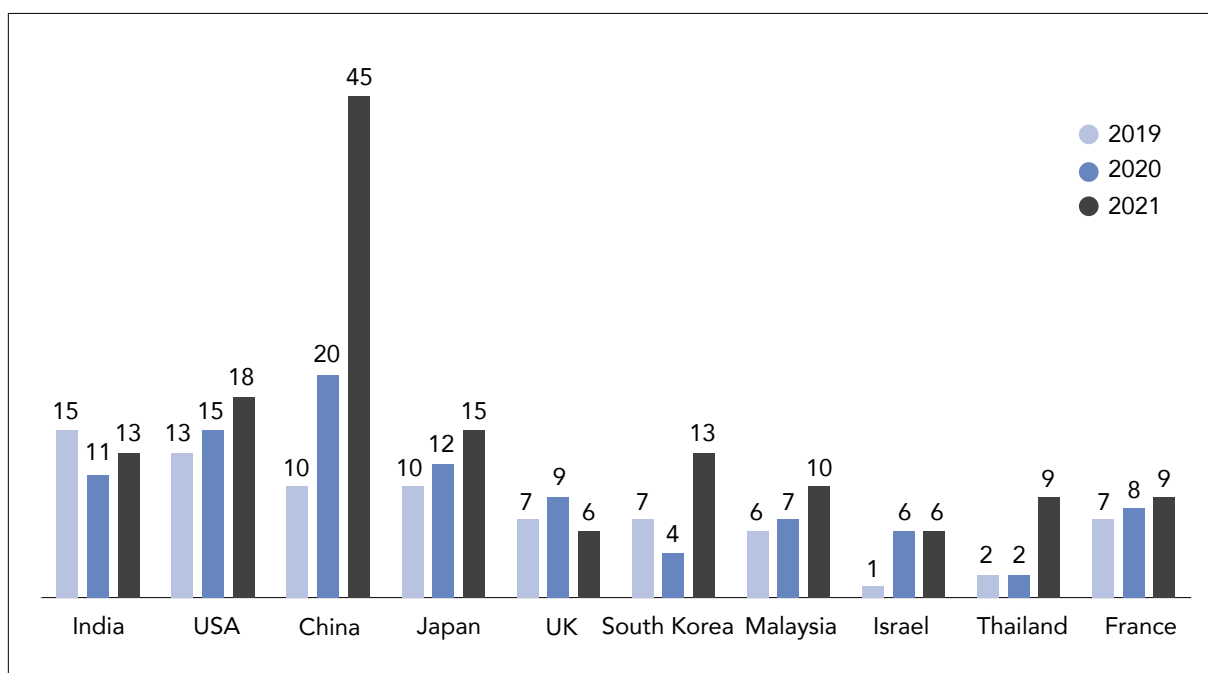




At the close of 2021, the GPFG had investments in approx. 9,340 companies in more than 70 countries. The geographic breakdown of the companies assessed by the Council varies from year to year. Certain regions are, however, overrepresented in 2021, such as Asia and the Middle East. Compared with 2020, for example, there has been a sharp increase in the number of cases relating to China. This is due, in part, to the fact that the Council has carried out investigations into human rights abuses in connection with the internment of Uighurs in China's Xinjiang region and has

assessed companies that produce traditional Chinese medicines containing body parts from endangered animal species. Some of the Council's other ongoing thematic investigations also encompass numerous Asian companies. This applies particularly to the rubber glove industry in Malaysia, beaching in some Asian countries and companies with links to the military regime in Myanmar. Although the Asian companies are often investigated as part of a review of areas with a high ethical risk, some are also identified through the general portfolio monitoring process.

Fig. 3: The 10 countries with the most companies under investigation in 2021



The figure shows the 10 countries with the most companies under investigation in 2021, with a specification of the number of cases per year in 2019, 2020 and 2021. In 2020, Canada, Saudi Arabia and Brazil were included in the corresponding graph.

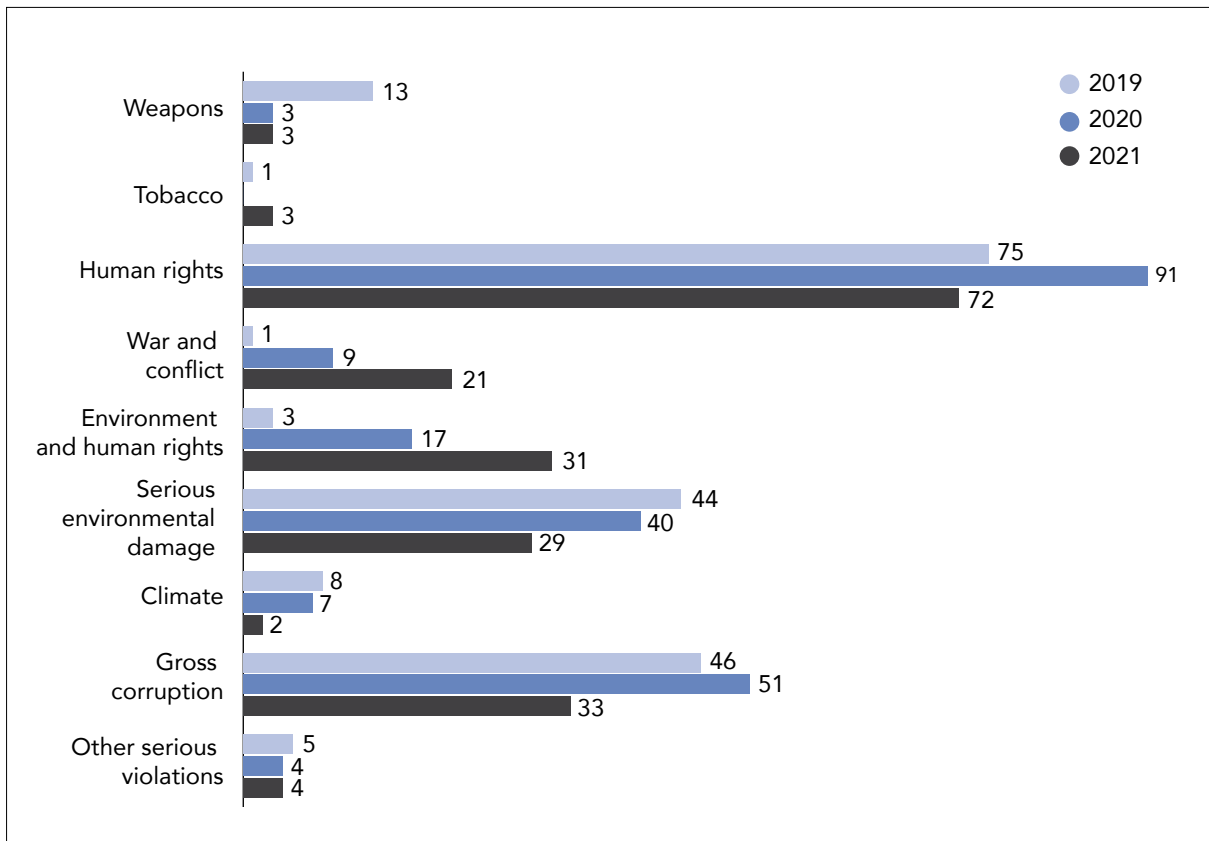
In 2021, the Council has worked on companies from 12 European countries. Most of these cases related to the risk of gross corruption and human rights abuses.

The Council's work on companies domiciled in North and South America is spread somewhat more evenly over the criteria, though here, too, corruption and human rights cases dominate. In the past couple

of years, there has been an increase in USA-based companies being assessed under the human rights criterion. Examples include cases of human rights abuses made possible by surveillance technology, and forced relocation in connection with mining operations. Assessments of USA-based companies account for a smaller proportion of the cases than their overall number in the portfolio would indicate.



Fig. 4: Cases on which the Council has worked, by criterion



The figure shows the 198 cases on which the Council worked, distributed across the various criteria, compared with the years before. The figure includes cases that have recently emerged, those that have been thoroughly assessed and those that were closed after an initial investigation.

Work under the various criteria

The human rights criterion continues to account for the bulk of the cases assessed by the Council. Such cases are often prompted by investigations the Council has itself initiated on the basis of assumptions concerning the general risk of labour rights violations in a business sector or area. A large number of companies therefore undergo a preliminary investigation. The Council first identifies all enterprises engaging in a certain business activity and contacts relevant companies to obtain information that could confirm or refute the Council's assumptions. Based on their answers and information received from other sources, the Council then decides which companies should be investigated in more detail. Cases assessed under the human rights criterion may also spring from news bulletins or NGO reports. Such cases may, for

example, be linked to the infringement of indigenous peoples' rights or forced relocation, which accounted for some of the cases dealt with in 2021.

In 2021, the Council continued to work with companies that use labour linked to internment camps in China's Xinjian region and companies that make use of migrant workers. Information on these cases has come from both the Council's own inquiries, news reports and NGO reports.

The Council has considered several cases under the war and conflict criterion involving companies' collaboration with military or security forces. Other forms of contribution to the violation of the rights of the individual in war and conflict have been linked to business operations in the West Bank.



Under the environment criterion, the Council continues to work on mining and industrial pollution, damage to conservation areas and loss of biodiversity. Several of the cases assessed under the environment criterion also have a human rights aspect. In cases where a company may be under investigation with respect to several criteria, the Council will normally attach decisive weight to just one of them. Beaching cases form an exception to this rule, with the Council's recommendations resting on both an unacceptable risk of environmental damage and human rights abuses. Of the 31 companies that have been under investigation with respect to both the environmental and human rights criteria in 2021, 22 related to beaching.

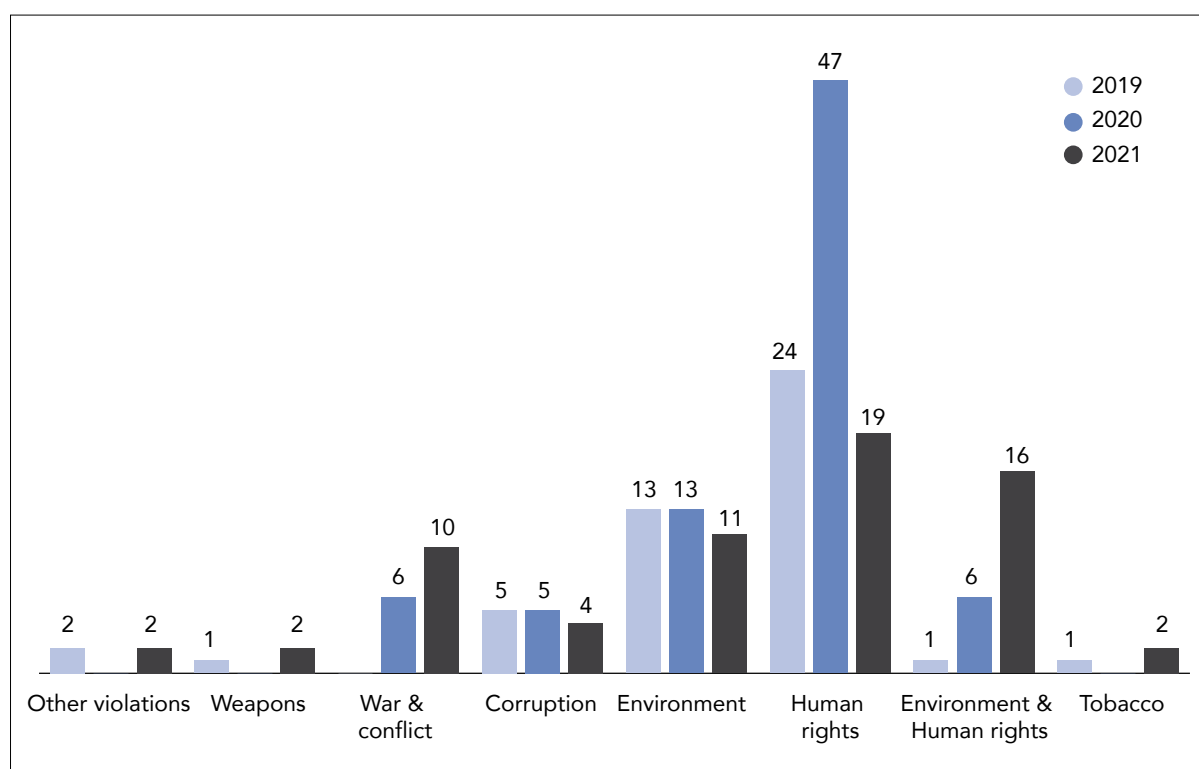
In 2021, much of the effort relating to the corruption criterion was devoted to the investigation of two companies, which resulted in recommendations to place them under observation. Of the 12 new cases

under the corruption criterion assessed in 2021, 10 were concluded at an early stage. Several of the cases are part of a sectoral study of state-controlled oil and gas companies.

Contact with companies in 2021

In 2021, the Council was in contact with 66 companies and had meetings with 12 of them. The Council contacts companies which, after a preliminary investigation, it wishes to look into more closely. The Council first writes a letter to the company concerned, asking for information that could provide a better foundation for an assessment of its operations. All the companies assessed under the conduct-related criteria are also given the opportunity to comment on a draft recommendation before the Council makes its final recommendation to Norges Bank.

Fig. 5: Contact with companies, by criterion



This figure shows how many companies the Council has been in contact with in relation to the various criteria in 2019, 2020 and 2021.



In 2021, the grounds for the Council's contacts with companies were more evenly distributed across the criteria than in recent years. The human rights criterion had previously accounted for the bulk of the cases assessed. This change may be due to the conclusion of the Council's textiles industry project, under which the Council contacted all the companies with factories in certain countries. The sectoral studies currently underway involve fewer companies.

The Council attaches importance to the information it receives from the companies concerned. In line with the Ethics Commission's report, a lack of response from a company could indicate a heightened ethical risk.

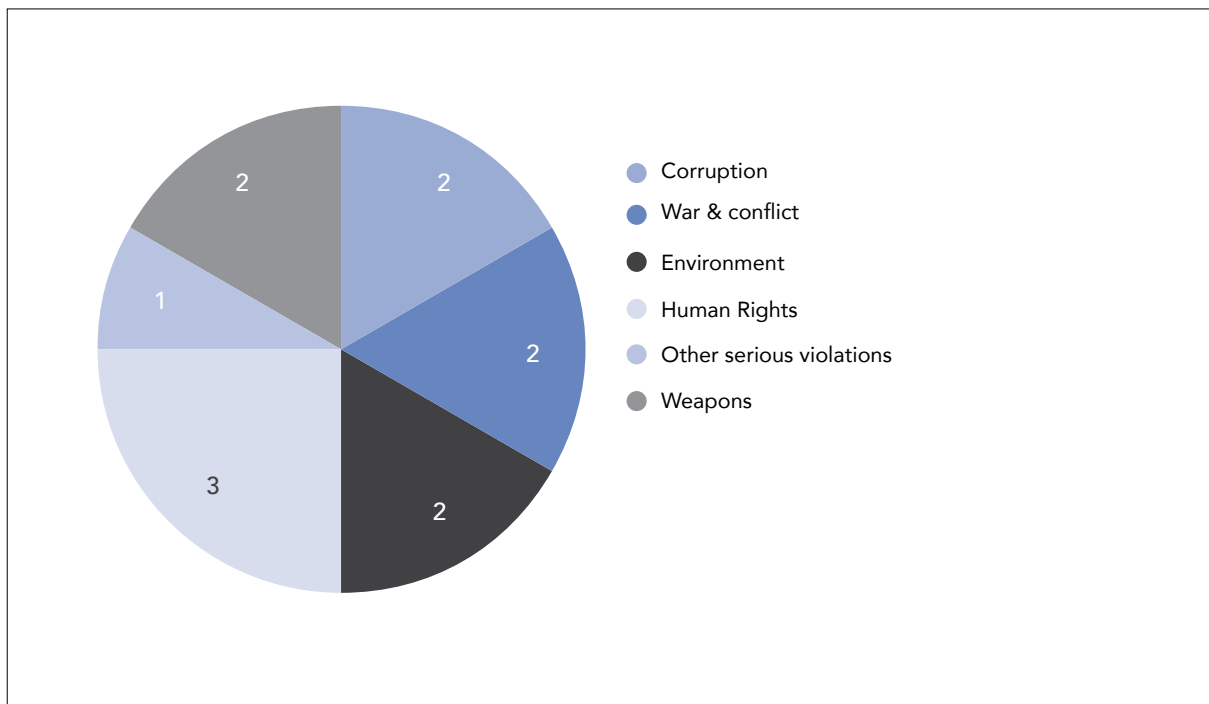
Most of the companies that the Council contacts for information reply to its queries, though there are exceptions. Of the 66 companies the Council contacted in 2021, 16 did not reply. In 2021, the Council issued recommendations to exclude six companies

that failed to respond to its queries. Five of these were Israeli, while one was Chinese.

Generally, the Council meets with companies late in the assessment process, often on the basis of a draft recommendation to exclude. The Council recommended that Norges Bank place three of the companies it met with in 2021 under observation. One company meeting in 2021 led to the Council terminating the assessment process, while three of the companies it met with are still under investigation.

The fact that companies are under observation creates a need for meetings in order to obtain information for the Council's observation reports. From time to time, the Council also meets with excluded companies, either because the Council wishes to assess whether the grounds for exclusion continue to exist or because the companies themselves request a meeting with the Council.

Fig. 6: Meetings with companies, by criterion





Reassessment of excluded companies

Companies are not excluded for a specific period of time, and their exclusion may be revoked as soon as the grounds therefor no longer exist. Each year, the Council performs a superficial investigation of all excluded companies to check whether or not they still engage in the activity for which they were excluded. For some companies, a more in-depth investigation is carried out, at a company's request, for example, or if there are indications of a major change in its operations. If a company has implemented measures that have led to sufficient improvement in the conditions on which exclusion was based, the Council issues a recommendation to revoke its exclusion. Such improvements must be observable in practice and not simply be stated in the company's plans and strategies. One common reason for a recommendation to revoke an exclusion is that the company has discontinued or disposed of that part of its business that constituted the grounds on which it was based.

In 2021, the Council recommended that the exclusion of three companies be revoked. During the year, Norges Bank revoked the exclusion of two of these companies and a further company based on a recommendation from 2020. Companies that have been delisted from a stock exchange, are removed from the list of excluded companies without the Council's recommendation being rescinded.



Product-based criteria

Section 3 of the guidelines sets out the criteria for the “product-based observation and exclusion of companies” as follows:

- (1) The GPFG shall not be invested in companies which themselves or through entities they control:
 - a. develop or produce weapons or key components of weapons that violate fundamental humanitarian principles through their normal use. Such weapons include biological weapons, chemical weapons, nuclear weapons, non-detectable fragments, incendiary weapons, blinding laser weapons, antipersonnel mines and cluster munitions
 - b. produce tobacco or tobacco-products
 - c. produce cannabis for recreational use.



(2) Observation or exclusion may be decided for mining companies and power producers which themselves, or consolidated through entities they control, either:

- a. derive 30 per cent or more of their income from thermal coal,
- b. base 30 per cent or more of their operations on thermal coal,
- c. extract more than 20 million tonnes of thermal coal per year, or
- d. have the capacity to generate more than 10,000 MW of electricity from thermal coal.

Several changes affecting the Council's work under the product-based criteria were made to the guidelines in 2021. In accordance with the Norwegian parliament's deliberations, the weapons criterion now also includes delivery platforms for nuclear weapons. The Council is in the process of identifying the makers of such platforms.

The production of cannabis for recreational use was included as a new exclusion criterion in September 2021. Relevant companies in the GPFG will be identified through the regular portfolio monitoring process.

Under the new guidelines, the Council may perform a product-based assessment of companies which are included in the reference portfolio but in which Norges Bank has not invested. In practice, such companies will only be assessed if Norges Bank explicitly asks the Council to do so.

In general, work under the product-based criteria involves decisions on cases alerted to by the portfolio monitoring process. In 2021, the Council signed a new agreement with the consultancy ISS-Ethix AB, which reports quarterly on companies that sell weapons to certain states, or produce specific weapons types, tobacco or cannabis. The agreement is for a term of two years, with the option to extend for up to two years.

Since 2005, 26 companies have been excluded because of their involvement in the production of cluster munitions, nuclear weapons, antipersonnel mines and key components thereof. Each year, the Council identifies a number of cases relating to companies that have either stopped producing the

specific types of weapons for which they have been excluded or have started production of new types of weapons that must be assessed against the guidelines' provisions. Since few companies still produce cluster munitions, the number of exclusions on this basis has fallen significantly since the guidelines were introduced. The exclusion of one company that used to produce cluster munitions was revoked in 2021.

The tobacco criterion encompasses products made from the tobacco plant and used for smoking or as snuff tobacco. Most of the companies excluded under this criterion engage solely in the manufacture of tobacco products. For some companies, however, tobacco production accounts for only a small portion of their business operations. A company may be excluded from investment by the GPFG no matter how small a percentage of its overall business is made up of tobacco production. A new product group that may be included under the tobacco criterion is e-liquid intended for vaping, which may contain nicotine derived from the tobacco plant.

Under the guidelines, Norges Bank may, at its own initiative, decide to exclude or place under observation companies engaged in the extraction or use of thermal coal. The Council and Norges Bank have agreed on a division of labour, whereby the Bank identifies companies that fall within the scope of this criterion. Still, the Council's monitors companies which produce coal or coal-fired electricity, and the Council's product-screening consultant reports quarterly on companies that may be encompassed by the criterion. Human rights, war and conflict



Photo: Unsplash, Pyae Sone Htun

Human rights, war and conflict

Section 4 of the guidelines states that “Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for:

- e. serious or systematic human rights violations
- f. serious violations of the rights of individuals in situations of war or conflict.”



In the field of human rights, the Council in 2021 focused its work on forced labour and other labour rights infringements, the violation of the rights of Indigenous peoples, and human rights abuses relating to the use of surveillance technology and forced relocation. In 2021, as in 2020, the pandemic restricted the Council's endeavours, particularly because it precluded the performance of field studies.

The military coup in Myanmar in February 2021 made it necessary for the Council to devote time and resources to assessing companies that engage in business partnerships with the country's armed forces. These assessments are made under the war and conflict criterion. In addition, the Council continued its assessment of companies with operations in the West Bank.

Serious or systematic human rights violations

When the guidelines were amended in September 2021, the examples, "murder, torture, arbitrary detention, forced labour, the worst forms of child labour" were removed from the wording of the human rights criterion at the suggestion of the Ethics Commission. The Commission considered that this change would emphasise the fact that all types of serious or systematic human rights abuses are covered by the criterion. This was also underlined by the Norwegian Ministry of Finance and the Norwegian parliament's Finance Committee during their deliberations on the Ethics Commission's report.¹ The Finance Committee also underlined that fact that the criterion covers "the rights of workers, Indigenous people and children, as well as equality". Several of the cases assessed by the Council during the year related to these rights.

Another change that may be significant for the Council's endeavours pursuant to the human rights criterion is the Ethics Commission's proposal relating to companies operating in countries whose fundamental values diverge from those on which the GPFG's ethical guidelines rest. The Commission states that all companies must be assessed to the same ethical standards, and points out that the norms underpinning the guidelines have broad popular support in Norway and internationally. At the same time, the GPFG invests in countries whose governments espouse norms that diverge

from this consensus. The Commission points out that companies domiciled in such countries may have little leeway to influence or reduce the risk of norm violations.

The Commission recommended that the Council and Norges Bank should have a particularly effective information sharing process in cases of this kind. The Commission also said the Council's recommendations may have a slightly different form and length in these cases. Because information will often be less readily available in such cases, the Commission took the view that the Council's recommendations could therefore attach greater importance to risk assessments at the country and business sector level. This notwithstanding, the Council's recommendations must still contain specific assessments of the companies concerned. The Ministry of Finance endorsed this new, risk-based approach.² Although this approach may be used for companies being assessed under all the guidelines' criteria, the Council expects that it will have the greatest impact on its work under the human rights criterion. In 2021, the Council issued one recommendation based on this risk-based approach. Here, the Council also took account of the fact that the company failed to provide any information, as several reports to the Norwegian parliament have advocated.

The Council prioritises cases in part on the basis of the norm violations' consequences. Since Indigenous people often depend on nature for their livelihoods and often have a strong cultural connection with the natural surroundings in which they live, projects that change environmental conditions or lead to forced relocation will have a major impact on them. Economic activity in indigenous areas can also lead to an influx of other groups which will put pressure on the Indigenous people's territories and weaken their ability to make a living or threaten their very existence. In 2021, the Council focused on activity in areas where Indigenous people live in voluntary isolation. Isolated Indigenous people are particularly vulnerable to outside intervention, partly because they have not built up immunity to diseases that are otherwise common in society. Economic activity in their areas can therefore have extremely serious consequences.

Relocation is another type of case to which the Council gives priority. Mining projects, hydropower schemes or the construction of infrastructure depends on a

¹ Report to the Storting (white paper) Meld. St. 24 (2020–2021) (regjeringen.no), section 7.5.2.4 Recommendation to the Storting Innst. 556 S (2020–2021) (stortinget.no), section 7.2

² Report to the Storting (white paper) Meld. St. 24 (2020–2021) p. 139



specific location. Even though the companies have been granted permits to build, and licences have been formally obtained, the areas concerned may, in reality, be populated by groups who lack formal land rights. In such situations, violent conflicts may arise, and forced relocation may lead to people losing both their homes and their livelihoods. In 2021, the Council has been in contact with several companies engaged in mining operations that have led to forced relocation.

Companies have a particular responsibility for human rights abuses within their own operations. For this reason, many of the cases assessed by the Council relate to the infringement of labour rights. The Council is in the process of concluding its examination of working conditions at textiles factories, which started in 2015. As a result of its investigations, six companies have been excluded, while three have been placed under observation. The textiles industry project is also described later in this annual report.

One of the four main categories in the ILO's core conventions is the ban on forced labour. Since 2015, the Council has focused on migrant workers subjected to working conditions akin to forced labour. The norm violations in these cases relate typically to the use of recruitment fees, poor working and living conditions, illegal overtime, restrictions on workers' freedom of movement, etc. The Council's investigations in 2021 have focused primarily on the rubber glove industry in Malaysia. Although it has not been possible to study conditions at the factories, due to the pandemic, the Council has reviewed the publicly available information. The Council's own investigations will be resumed in 2022. These will to a greater extent be conducted online.

In addition to its work with migrant workers, in 2021 the Council has investigated serious accusations of forced labour in China's Xinjiang region.³ Xinjiang is located in northwest China and around 45 per cent of its population belong to the Uighur ethnic minority. According to reports published in the media and by researchers and civil society organisations, Uighur and other ethnic minority people have been put to work against their will, either directly in government-organised internment camps or elsewhere as part of government programmes. It has been reported that companies, including listed companies, have taken on such workers both inside and outside of Xinjiang.

On this foundation, the Council has examined whether GPFG companies could have been involved in such norm violations. While many media and research reports focus on Western companies' links to forced labour through their supply chains, the Council has focused primarily on GPFG companies which make direct use of this type of labour. Access to information in these cases is a particular challenge. On several occasions, the United Nations High Commissioner for Human Rights has requested access to Xinjiang to investigate the situation there, but this has so far not been granted. Nor has it been possible for the Council to undertake its own investigations in the region. The Council must therefore base its assessment on the information that is publicly available. The Council's investigations into publicly available sources, including webpages and company filings, showed that some companies report on their own participation in government programmes in Xinjiang. From a Chinese perspective, participation in such programmes may be considered a positive contribution to reaching national anti-poverty goals. From the Council's perspective, the same information could indicate that the companies make use of forced labour. The Council's investigations also revealed that GPFG companies may have purchased goods from a supplier with production inside an internment camp. On the basis of these investigations, the Council recommended that one company be excluded in 2021. The Council will continue to follow up this issue.

In 2021, the Council continued to investigate GPFG companies that may contribute to human rights abuses through the development or sale of surveillance equipment. The Council has obtained several reports on companies that have been involved in serious norm violations enabled by surveillance technology. In 2021, the Council has assessed one specific company. The outcome of this case will be of significance for the Council's further work in this area.

Serious violation of the rights of individuals in situations of war or conflict

In 2021, the Council assessed several companies with operations in the West Bank. The Council's objective is to assess whether companies, through their operations, have contributed to the violation of international

³ New York Times, *China's Detention Camps for Muslims Turn to Forced Labor*, 16 December 2018 <https://www.nytimes.com/2018/12/16/world/asia/xinjiang-china-forced-labor-camps-uighurs.html>



law. During the year, five companies were excluded because of their involvement in the construction of settlements or road infrastructure, or the leasing of industrial premises in the West Bank. The Council is monitoring developments in the area. To follow up the outcome of the Ethics Commission's report, companies that fund such operations through project financing may also be assessed.

The Council has also assessed cases where GPFG companies operate in areas in which non-international armed conflicts are underway and where companies have entered into business partnerships with actors responsible for extremely serious abuses. In 2021, one company, operating in South Sudan, was excluded on these grounds, while one company with operations in Myanmar has been placed under observation. Following the military coup in Myanmar on 1 February 2021, a great deal of information has emerged on companies engaged in business partnerships with the country's armed forces. So far, the Council has prioritised companies working directly with the military and military-owned companies. Examples include joint ventures or so-called "build operate and transfer" contracts. In 2021, the Council issued a recommendation to place one such company under observation. The Council will also assess whether sale of weapons to Myanmar may lead to exclusion under the war or conflict criterion. The Council's assessments of companies with business ties to the military regime in Myanmar will continue in 2022.

Requirement for due care in areas of war and conflict

Due to the high risk of contributing to extremely serious norm violations in particular areas where war or conflict are ongoing, the Council has found that companies operating in such areas should carry out especially thorough due diligence assessments. This approach is in line with a number of international guidelines, for example, the report "Business, human rights and conflict-affected regions: towards heightened action", published in 2020 by the UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Enterprises.⁴ In light of this heightened due diligence requirement, the Council has recommended that companies be placed under

observation or excluded, even though their association with the norm violations was somewhat weaker than would qualify for exclusion or observation in other cases. This approach is reserved for companies operating in conflict areas where they risk contributing to extremely serious norm violations.

In three cases the Council has used this approach. Two of the companies concerned, Kirin Holdings Co Ltd and Adani Ports & Special Economic Zone Ltd, operate in Myanmar, where armed conflicts have intensified since the military coup. Kirin is co-owner of a joint venture with a military-owned conglomerate, while Adani has signed a contract to build and operate a port in Yangon with another military-owned conglomerate. Although the Kirin recommendation was issued before the military coup, the Myanmar armed forces had already committed extremely serious abuses of the country's civilian population, particularly the Rohingya minority in 2016 and 2017. In the Council's opinion, Kirin Holdings Co Ltd and Adani should have demonstrated greater care before entering into a business partnership with military-owned entities. However, both companies have started the process of withdrawing from these business partnerships. The Council has therefore recommended that they be placed under observation.

The third case related to Oil & Natural Gas Corp Ltd (ONGC), which engages in oil production in South Sudan, where armed confrontations have taken place over many years and where the civilian population has been subjected to extremely serious abuses. Control of oil resources has been an important driver in the conflict. ONGC engages in oil production in partnership with South Sudan's national oil company Nilepet. The Council attached importance to the fact that actors directly or indirectly responsible for grave abuses, including murder and rape, perform services for these joint ventures and are responsible for the security of the oil fields operated thereby.

In all these three cases, government entities have carried out extremely serious abuses of their respective countries' civilian populations. The Council considers that there are few geographic areas and conflicts where there is a risk that companies are contributing to such atrocities. Whenever the Council becomes aware of such cases, it will give them a high priority.

⁴ Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, *Business, human rights and conflict-affected regions: towards heightened action*, <https://undocs.org/en/A/75/212>



The Council's investigations into textiles companies

The Council is in the process of concluding the textiles industry project that has been underway since 2015.



When the Council decided to investigate working conditions at textiles companies in the GPFG, there had been numerous news reports of appalling working conditions at garment factories, particularly in Asia.

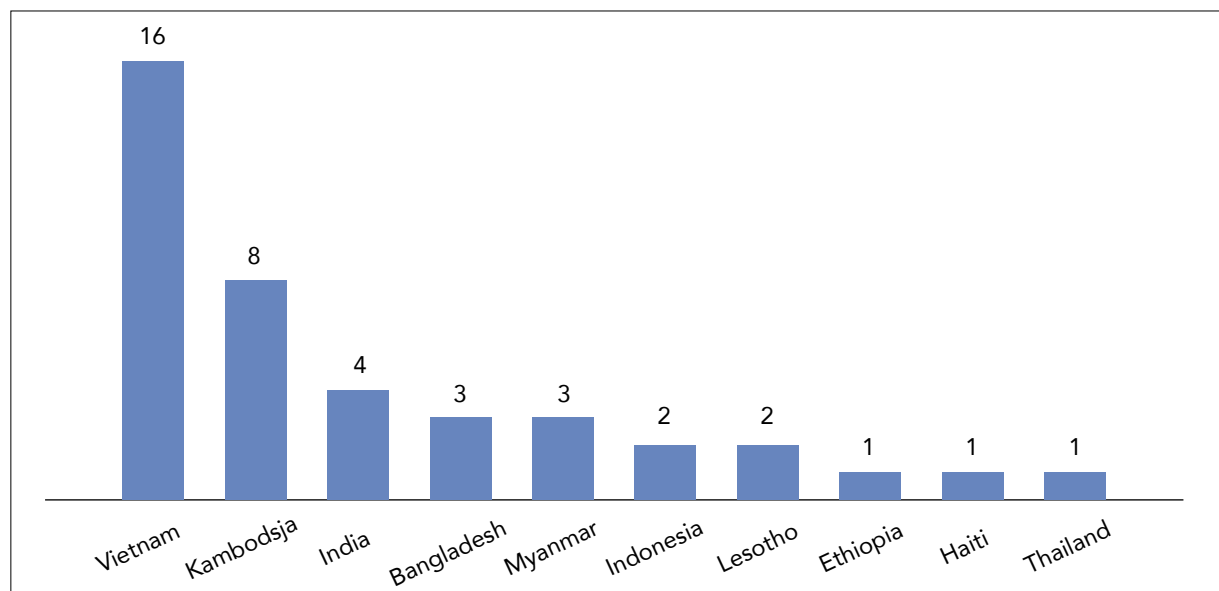
There were reports of extremely long working hours, unsafe working conditions, the harassment of workers by supervisors and the non-payment of wages that workers were due. The focus was on international brands, which were criticised for not doing enough to ensure good working conditions at their suppliers. A review of the portfolio threw up three challenges::

1. There were a great many textiles and garment companies (approx. 400).
2. Most of the companies had published guidelines to ensure good working conditions in the supply chain (impossible to distinguish between good and bad).
3. The GPFG was invested in several companies in the same supply chain.

The Council decided to investigate the GPFG companies that actually produce the garments and textiles. For the Council, it was important that these companies, in their capacity as employers, had direct responsibility for the working conditions and for preventing the abuse of labour rights. All the companies are listed on a stock exchange and many are multinational, with factories in many countries and with thousands of employees. Japanese, Chinese and Taiwanese textiles producers dominate, accounting for around half of the producers in the GPFG's portfolio. The companies that were selected have their own factories in countries where working conditions in the textiles industry are known to be censurable.

So far, the Council has assessed 26 companies and performed 41 factory investigations in 10 countries, primarily in Asia. Together, the factories studied employed in excess of 100,000 people.

Fig. 7: The Council's investigations into textiles factories, by country



What did we discover? The most serious norm violations uncovered by our investigations relate to sexual and physical harassment; working conditions that are harmful to health due to intense work pressure and heat; poor fire safety precautions; and minors obliged to work under the same conditions as adults. More common abuses involve excessive and involuntary overtime, illegal short-term employment contracts, illegal docking of wages, non-payment of severance pay, discrimination linked to pregnancy, restrictions

on bathroom breaks and efforts by management to prevent unionisation. Working conditions at the factories studied differed considerably. It is perfectly possible to provide good working conditions at a textiles factory in Vietnam or India, for example. Much depends on the extent to which the companies prioritise labour rights, how they communicate this to factory managements and employees, and how this is followed up in the factories.



Many of the companies we have studied are important suppliers to international brands. These customers perform regular factory inspections, often several times a year, to check whether their own requirements with respect to working conditions are being complied with. It is therefore a paradox that our investigations have uncovered extensive infringements of labour rights in these factories as well. All of our investigations include interviews with workers, carried out in safe spaces off site the factory where they can speak freely and without fear of reprisal. Without knowing how the workers themselves perceive their working conditions, it is impossible to understand the reality of the factory floor.

What did we emphasise? The ethical guidelines state that companies may be excluded as a result of serious or systematic human rights abuses. Not all the abuses uncovered can be characterised as serious. In the textiles industry cases, the Council has emphasised the systematic aspect – that such abuses do not appear to be isolated incidents, but constitute a pattern of behaviour, and that the company concerned operates on or beyond the boundary of acceptable norms for the working environment.

What was the outcome? So far, six textiles companies have been excluded. Working conditions at the factories studied were extremely poor, at the same time as the companies demonstrated little interest in dialogue or in making tangible improvements. The exclusion of one company was subsequently revoked following the closure of the factories on which the recommendation was based.⁵

For the Council, however, the most interesting cases were those in which we had the opportunity to influence company practice. We have engaged in extensive dialogues with companies which, after receiving a draft recommendation to exclude them, have shown considerable willingness to make changes and implement measures to improve working conditions at their factories. Up until recently, three of these were under observation. Observation has now been terminated because they have taken steps to improve working conditions at their factories.

At one of these companies, our investigations uncovered serious and widespread harassment of female employees, which led it to enter into agreements with trade unions, women's rights organisations and its three largest customers for the establishment of a programme to combat gender-based violence and harassment. At this company, accusations of sexual harassment are now investigated by an independent body. The company has committed to sanctioning abusers and provide extensive training on rights, rules and principles relating to gender-based violence and harassment to managers and employees at its factories. Through their agreements with the company, the brand customers have pledged to ensure that the company complies with these requirements and, if necessary, reduce their order volume if it fails to do so. A new survey that the Council had done towards the end of 2021 shows that the level of harassment is significantly lower, that the complaints mechanism is trusted by most employees and that the company's corporate culture has changed.

The Council has found that a draft recommendation to exclude a company is often a good starting point for a dialogue about change. The recommendation describes the labour rights abuses that have been uncovered and provides a tangible foundation for improvement. The Council is concerned to ensure that improvements are lasting and that they are implemented at all the factories owned by the company, not just those that have been specifically investigated. In this respect, the Council attaches importance to the "tone from the top". In other words, management must take overall responsibility for working conditions throughout the company, through changes in its corporate governance, for example, in order to ensure that improvements last. We see that in those companies with which we have had a good dialogue, such changes have occurred.

⁵ All recommendations are available from the Council on Ethics' website, <https://etikkradet.no/tilradninger/>



Company's sale of arms to certain states

Section 4 of the guidelines states that: "Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for: [...]"

- g. the sale of weapons to states engaged in armed conflict that use the weapons in ways that constitute serious and systematic violations of the international rules on the conduct of hostilities
- h. the sale of weapons or military materiel to states that are subject to investment restrictions on government bonds as described in section 2-1(2)(c) of the Management mandate for the Government Pension Fund Global."



The contents of section 4(d) are not new. However, in connection with the amendment of the guidelines in 2022, it was changed from a product-based to a conduct-based criterion. The actual government bond exception, to which this provision refers, is administered by the Norwegian Ministry of Finance. Its object is to prevent the GPFG from investing in government bonds issued by certain states. The exception currently applies to Syria and North Korea. Previously, it also applied to Iran and Myanmar. The Ministry of Finance decides which states fall under this rule.⁶ Section 4(d) of the guidelines means that the GPFG shall not invest in companies that sell weapons or military equipment to those states to which the government bond exception applies. The Council's task under section 4(d) is therefore to identify and recommend the exclusion of companies that sell weapons or military equipment to the governments of those states which the Ministry of Finance has already proscribed.

The Council has commissioned the service provider contracted to monitor the portfolio for companies covered by the product-based criteria to also find companies that sell weapons or military equipment to states covered by the government bond exception. Other information sources are also used. For example, the Council subscribes to regular updates from the US authorities who monitor weapons sales to certain states. This activity will be maintained. The change of section 4(d) from a product-based to a conduct-based criterion has no bearing on the gathering of relevant information.

No companies are currently excluded under section 4(d) of the guidelines. Previously, one company was excluded under this criterion.

Section 4(c) is a new criterion. Its objective is to prevent the GPFG from investing in companies that sell weapons to states that use them in ways that violate humanitarian law. The issue has been made relevant following criticism of the GPFG's investment in companies that sell weapons to the warring parties in the ongoing conflict in Yemen.

This new criterion is discussed in great detail in the Ethics Commission's report (NOU 2020:7), which sets

out clear guidance on its application. Among other things, it is stated that:

- There should be no restrictions on the conflicts to which the criterion shall apply, the size of the companies or deliverables, or the size of specific deliverables as a percentage of a company's total revenues.
- The criterion should encompass military materiel that may be used in combat and that *directly* impacts civilians. Here, the Ethics Commission highlights powerful weapons, including high-tech weapons, whose consequences are particularly extensive for civilians when they are consistently used in ways that violate the rules of combat set out in international law.
- The criterion is intended to target companies' sales to parties whose poor target selection, proportionality assessments and precautionary procedures constitute a *consistent characteristic*.
- The term *serious and systematic violation of the provisions of international law* means repeated incidents where weapons are used in violation of humanitarian law, particularly those provisions intended to protect civilians. The term *systematic violation* means that the violations must be enduring and reflect a systematic failure to comply with procedures due to an inability or unwillingness to do so.
- The criterion is *not* meant to target companies' sales to warring states that have established necessary systems to apply the principle of distinction.
- Before the exclusion of a company may be recommended under this criterion, it must be substantiated to a reasonable degree of certainty that the company knew about or should have foreseen that the use of its products would result in the violation of humanitarian law. Any company assessment should commence with current deliveries or sales that have taken place in the previous 1–2 years.

⁶ Section 2-1(2) of the Management Mandate for the Government Pension Fund Global states that: "The Bank may not invest the investment portfolio in: [...] c. Interest-bearing instruments issued by governments or government-related issuers in the exceptional cases in which the Ministry has barred such investments based on the adoption of particularly large-scale UN sanctions or other international initiatives of a particularly large scale that target a specific country and where Norway has supported the initiatives."



In its Report to the Storting (white paper) (Meld St 24 (2020-2021)), the Norwegian Ministry of Finance endorsed the Ethics Commission's recommendations.

To date, the Council's task, pursuant to the guidelines, has been restricted to assessing *companies'* behaviour. The Council has not previously adopted a position on *states'* responsibility for serious norm violations, whether they be human rights violations or violations of other kinds. With the introduction of section 4(c), this is no longer the case. It is up to the Council to assess which states shall be the starting point for the application of section 4(c), based on the specific state's serious and systematic violation of the rules of combat set out in international law. Although the criterion shall be applied only to *companies* for their sales to certain states, the Council must first determine which states this refers to. This is something new for the Council and is completely different from assessing the behaviour of companies.

Since the assessment criteria will be very different, it will be necessary to keep the assessment of states separate from the assessment of companies. The Council will therefore operationalise section 4(c) through three stepwise assessments:

Step 1) Assess which conflicts the criterion shall be applied to.

Step 2) Identify states participating in the conflicts determined in Step 1.

Step 3) Identify companies in the GPFG portfolio that sell relevant weapons types to states identified in Steps 1 and 2.

In connection with the introduction of this criterion, the Council will, in 2022, perform an initial assessment of ongoing armed conflicts to see whether the criterion should be applied to any of them. On the basis of this assessment, the Council will consider whether there are grounds to recommend the exclusion of companies that sell weapons to states engaged in any of these conflicts. The preparatory works make it clear that the threshold for exclusion under section 4(c) of the guidelines is intended to be high. A large number of exclusions under this criterion are therefore not expected.



Environment and climate

Section 4 of the guidelines states that: “Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for: [...]

- i. severe environmental damage
- j. acts or omissions that on an aggregate company level lead to unacceptable greenhouse gas emissions.”



Severe environmental damage

In 2021, the Council's work under the environment criterion has focused on cases relating to the loss of important biodiversity, deforestation, serious industrial pollution and mine-related pollution. This is a continuation of the issues and topics that the Council has worked on previously.

The basis for many of the Council's recommendations to exclude companies under the environment criterion has been the loss of globally endangered species or the loss of important ecosystems. In 2021, the Council extended its endeavours to pharmaceutical companies that produce traditional Chinese medicines containing body parts from animals threatened with global extinction and subject to an international trade ban. This work is described in more detail later in the annual report.

The Council has, moreover, taken a closer look at certain hydropower projects, where the risk of harm to biodiversity is considerable. The environmental consequences are associated with both the inundation and the operation of the hydropower plants.

In 2021, the Council's work on deforestation consisted of following up one company that was under observation, as well as assessing companies that contribute to deforestation through their suppliers. Following a recommendation from the Council, one of Brazil's largest meat producers has recently been placed under observation. The company purchases cattle from suppliers whose properties are at very considerable risk of deforestation. The company has announced new and wide-ranging measures and a goal of eliminating deforestation in its supply chain. As a result, the Council recommended observation rather than exclusion.

Unacceptable practices of shipbreaking continued to be an important topic for the Council in 2021, as it has been since 2017. During the year, the Council established a framework for assessing shipbreaking in India. This included a consultancy for surveying conditions at Indian shipbreaking yards. During the

autumn, assessments were initiated on companies that have disposed of ships for break-up in India, in line with the established framework. This work will continue through 2022. The exclusion of one company was revoked in 2021. The Council's work relating to unacceptable shipbreaking practices is described later in this annual report.

In 2021, the Council embarked on the study of two areas where the risk of environmental damage is considerable, and which could involve many GPFG companies. One area is damage to protected areas. For several years, the Council has assessed companies with operations that could harm areas inscribed on UNESCO's World Heritage List. These are areas which are considered to be of outstanding and irreplaceable natural value. The Council has recommended the exclusion of several companies on this basis. In 2021, the Council commissioned a project to identify GPFG companies whose operations could risk harming other internationally important protected areas or areas with a particularly important biodiversity. Unsurprisingly, the biggest risks relate to mining, agriculture, energy production and infrastructure projects. Around 80 companies have been identified by the survey. The assessment of these companies will continue in 2022.

The Council has also embarked on a systematic review of mining companies in the GPFG portfolio, with the aim of identifying particularly polluting operations. The environmental issues relate primarily to tailings dams and the runoff therefrom, as well as emissions from enrichment. Around 300 companies in the GPFG portfolio are either pure mining companies or integrated metals producers with some mining operations. The companies have been reviewed and sorted geographically. Companies operating in areas where the enforcement of environmental legislation is deemed weak will be examined in more detail. The investigation will be divided into several sub-studies. So far, a consulting project has been commissioned to survey environmental conditions at gold mining companies. In total, there are 58 such companies in the GPFG, half of which could be worth studying in more detail.



Climate criterion

The climate criterion distinguishes itself from the other criteria in the guidelines because there are no established norms that individual companies' operations can be measured against. Furthermore, the criterion states that companies must be assessed at the aggregate company level. With regard to the other criteria, the Council normally assesses whether norm violations in a single part of a company's operations are so serious that the company should be excluded from the GPFG. To determine whether a company's emissions can be characterised as grossly unethical under the climate criterion, a great many companies must be compared. The assessment of companies under the climate criterion is therefore particularly resource intensive. The criterion also differs from the other conduct-based criteria in that normally only the company itself possesses the information we need in climate-related cases.

In its policy platform, the government has said that the GPFG shall adopt a long-term goal of zero emissions from the companies in which it invests. So far, it is not entirely clear what this means in practical terms. However, it is obvious that such a step could affect both the composition of the GPFG and the priorities guiding the exercise of its influence as a shareholder.

The Ministry of Finance has asked the Council on Ethics to report on its experience of implementing the climate criterion. Our response, which is included in this annual report, is based on the Council's experience to date, and an assessment of developments going forward. The Council's assessment may be summed up as follows: The government's goals for the GPFG's climate profile, the attention being paid to anthropogenic climate change, the world's opinion of companies responsible therefor, and reporting and monitoring systems to document the companies' role in a climate perspective have changed radically since 2016, when the climate criterion came into effect. The

changes are so great that the Council considers the focus and organisation of its work under the climate criterion should be reassessed.

The Council presumes that a goal of climate neutrality for the GPFG will probably lead to significant changes in the fund's climate profile over time, both in that companies change their behaviour and that the portfolio changes its composition. It is not given that the existing 'pegs' should form the grounds for exclusion if one is working towards such a long-term goal. It should be possible to reformulate the climate criterion to support this process.

Such a change in the investment mandate will, moreover, require a further build-up of activity and competence on the part of Norges Bank. Due to the way the climate criterion is framed, the Council and Norges Bank will to an even greater extent than today request information from the same companies and establish dialogues with the companies on the same issues. This will not be a particularly efficient use of resources, nor is it likely to instil confidence in the companies concerned.

The Council on Ethics is therefore of the opinion that the Ministry of Finance should consider solutions to give Norges Bank responsibility in the climate field, which also includes the assessment of companies under the climate criterion. Today, Norges Bank can exclude companies under the coal criterion without a recommendation from the Council on Ethics. Nevertheless, a brief explanation is still given for why the company is being excluded or placed under observation. Under this arrangement, responsibility for the coal criterion is, in principle, divided between Norges Bank and the Council, with the primary responsibility lying with Norges Bank. However, the Council may, at its own initiative, recommend exclusion or observation under the criterion. Such an arrangement should also be workable for the climate criterion.



Use of endangered animals in traditional Chinese medicine

“As extinction spreads, some of the lost forms prove to be keystone species, whose disappearance brings down other species and triggers a ripple effect. The loss of a keystone species is like a drill accidentally striking a power line. It causes lights to go out all over.”

E.O. Wilson, *The Diversity of Life* (1992).

According to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES), loss of biodiversity is as much a threat to the world as climate change, while biodiversity itself is one of the most important tools to slow it down. In its 2019 report, IPBES estimated that 1 million out of 8 million species are endangered, and that many are at risk of extinction in the coming decades. The International Union for Conservation of Nature (IUCN) states that 28 per cent of all the species it has assessed are endangered and that the risk of extinction is accelerating.

With this as the backdrop, the Council started work on a new topic in 2020 – the use of globally endangered animal species in the production of traditional Chinese medicines (TCM). These are species that the IUCN has assessed as being critically endangered, endangered or vulnerable,⁷ or that are included on the CITES list of species subject to an international trade ban.⁸ All these species are threatened with global extinction.

TCM covers many types of treatment, such as acupuncture, massage, the use of herbal medicines and medicines containing ingredients made from the body parts of wild animals. Examples include pangolin scales, saiga antelope horns or the bones of tigers and leopards. Even though animal parts constitute a small proportion of the ingredients used in TCM, the growing demand for TCM could contribute to species loss. TCM is the greatest threat to the pangolin, often described as the world's most trafficked mammal. Despite the ban on international trade in animal parts and live, endangered animals, it is growing substantially, in part because the market for TCM products is growing, according to the UN Office on Drugs and Crime (UNODC).

The use of animal parts from endangered animals in the production of medicines is not prohibited in China if the ingredients come from legal stockpiles. Many years ago, the Chinese authorities established stockpiles of body parts from certain endangered species, but there is no updated information about the size of these publicly owned stockpiles, how they are replenished, where the animals come from or how much of them has been used to date. According to UNODC, there are indications that the demand is increasingly being met through illegal trading.

The GPFG has invested in many Chinese pharmaceutical companies, but not all of these produce TCM. With the help of consultants, the Council first found out which endangered species are used in the production of TCM. It then identified products containing such ingredients. The identification of species used in TCM formulations is based on various editions of the *Pharmacopoeia of the People's Republic of China*,⁹ a compendium of officially approved TCM ingredients, as well as an overview compiled by the State Forestry Administration in 2004, describing which species are considered medicinal and which are protected in China.

The companies were identified by means of information they themselves publish. Companies producing such products market them on their websites, where a list of ingredients is given. All these companies were contacted and asked to provide information about their use of endangered animals in their production of medicines. Most of the companies replied, but they provided few details about their use of endangered animals and emphasised that their practice was legal. Only one company disclosed that it would cease using such ingredients. Work with this company was discontinued after it took down the pages on its website relating to TCM products.

So far, five pharmaceutical companies have been excluded from the GPFG. A lack of information prevents any quantification of the individual company's contribution to the environmental damage caused. When nothing is known of the extent to which a company uses threatened species, where the animal parts originate from, which stockpiles of animal parts exist or how they are replenished, the Council considers that the issue of companies' contribution to serious environmental damage boils down to whether or not they include endangered animal species in their production. As long as the companies cannot point to a firm goal of ceasing to use body parts from endangered species in their production and a timebound plan for when use of such species will cease, the Council presumes that there is an unacceptable risk of the companies contributing to serious environmental damage in the meaning of the ethical guidelines.

7 IUCN 2020. The IUCN Red List of Threatened Species. Version 2020-2. <https://www.iucnredlist.org>.

8 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), particularly Appendix 1.

9 The term "formulation" means TCM treatments combined with standardised amounts of specific ingredients as defined in standards by the authorities. One part of the *Pharmacopoeia of the People's Republic of China* covers such standards for a large number of TCM formulations, some of which contain body parts from endangered animal species.



Photo: NGO Shipbreaking Platform

Shipbreaking in Bangladesh, Pakistan and India

Large ships generally have a service life of 20–30 years. After this, a vessel's residual value lies in the amount of scrap metal (primarily steel) that can be recovered after it is broken up.

Each year, some 800–1,200 large ships are broken up worldwide. Bangladesh, Pakistan and India dominate the shipbreaking market. Measured in tonnage, around 80 per cent of the world's ships are broken up in these three countries.

The Council has investigated companies that dispose of ships to be broken up by means of beaching since 2017. Beaching is the term given to the break-up of decommissioned ships on beaches. This shipbreaking method is problematic because of the environmental pollution and poor working conditions associated with it. Beaching takes place in Bangladesh, Pakistan and India. The Council is not aware of any companies in the GPFG portfolio that engage directly in this method of shipbreaking. The link to the GPFG arises when companies in its portfolio dispose of obsolete vessels for the purpose of beaching.

At the recommendation of the Council, four companies have been excluded from the GPFG on the grounds of beaching in Bangladesh and Pakistan. A further company has been placed under observation. The companies were excluded under both the human rights and environmental criteria in the guidelines. The Council considered that the threshold for exclusion under both criteria had been exceeded.

Working conditions in the shipbreaking industry in Bangladesh and Pakistan are uniformly dire. In its assessment of the working conditions, the Council has pointed to the ongoing, innumerable and egregious violations of the ILO conventions intended to establish minimum standards for health and safety in the workplace. The Council's assessment was underpinned by the fact that the reported conditions demonstrated an almost complete lack of compliance with conventions or the practice of minimum standards, which results in widespread accidents and considerable harm to health.

Extensive and serious environmental damage as a result of shipbreaking in Bangladesh and Pakistan has also been reported. One characteristic of beaching as practised in these countries is a lack of fixed installations and infrastructure at the shipbreaking sites. Because the ships being broken up rest in loose sand and mud, there is little opportunity to use cranes or heavy machinery. This affects both environmental and working conditions during the process. Parts of the ships are cut loose and fall to the ground in the intertidal zone. These parts are dragged or carried by hand to land, where they are cut into smaller pieces and sold for scrap. Shipbreaking without any form of

fixed installations results in environmentally harmful substances leaching into the surroundings, since it is not possible to collect up waste and pollution that ends up in the sand and is subsequently washed out with the tide.

It is general knowledge in the shipping industry that environmental and working conditions at shipbreakers in Pakistan and Bangladesh are extremely poor. The Council presumes that ship owners who dispose of their ships to be broken up there are familiar with the conditions under which this will take place. Shipbreaking can be carried out at a low cost there in part because minimal resources are devoted to providing safe working conditions and preventing environmental damage. That ships are nevertheless sent there to be broken up is the result of the company that owned the vessel making an active choice to maximise its profit. The Council has therefore taken the view that ship-owning companies must bear an independent responsibility for the conditions under which the vessel is broken up. There are safer ways to break up decommissioned vessels, but they cost more.

The Council has not examined the conditions prevailing at the shipbreakers in Bangladesh and Pakistan used specifically by each relevant company in the GPFG portfolio. The Council concluded in 2017 that nowhere in the region was shipbreaking undertaken in an acceptable manner. The Council will therefore recommend that all companies which now dispose of vessels to be broken up in these countries be excluded from the GPFG.

Experience shows that the conditions in India cannot be assessed in the same way. Here, there is too great a variation in the different shipbreakers' practices for the Council to apply a blanket assessment. The Council has therefore signed a framework agreement with a firm of consultants with representation on the ground in Alang, India, which can investigate conditions at the individual shipbreakers. In 2021, several of the shipbreakers in Alang were examined. Experience so far indicates a wide variation between the shipbreakers with respect to environmental and working conditions. A practice has developed whereby recognised ship classification companies



issue so-called 'Statements of Compliance with the Hong Kong Convention' to shipbreakers in Alang. However, the Council's investigations show that most of these shipbreakers can produce such statements even though their technical equipment does not comply with the International Maritime Organisation's technical guidelines to which the Convention refers. This is in part because shipbreaking does not take place on a impermeable flooring, with hazardous waste being

drained off and collected. In the Council's opinion, the fact that shipbreakers can produce a Statement of Compliance with the Hong Kong Convention is not in and of itself sufficient to ensure that vessels are broken up in an acceptable manner. In 2022, the Council will continue working to investigate and assess companies that dispose of decommissioned vessels to be broken up in Bangladesh, Pakistan and India.



Gross corruption and other serious financial crime

In connection with the amendment of the GPFG's ethical guidelines in the autumn of 2021, the scope of section 4(g) of the guidelines was expanded from "gross corruption" to "gross corruption or other serious financial crime". Section 4 now reads:

"Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for: [...]"

k. gross corruption or other serious financial crime."



In addition to its normal endeavours under the corruption criterion in 2021, the Council has devoted considerable resources to preparing for the inclusion of other serious financial crime as part of the criterion.

In 2021, the Council recommended that two companies be placed under observation due to an unacceptable risk that they are contributing to or are themselves responsible for gross corruption. The Council recommends observation in relation to corruption cases more frequently than in other cases. This is because, as a rule, the norm violations took place some time before they became public knowledge and the companies involved in corruption will often make changes that sow doubts on developments going forward.

In March, Norges Bank decided to follow up on the risk of corruption in its ownership dialogue with the German industrial company Thyssenkrupp AG following the Council's recommendation in December 2020 that it be placed under observation. Norges Bank is responsible for following up companies through ownership dialogue, while the Council follows up companies that have been placed under observation.

Thyssenkrupp may be linked to allegations or suspicions of corruption in a total of eight countries over a period of more than 20 years. The Council's review of the company's anti-corruption systems gave the impression that Thyssenkrupp has done much to put in place a comprehensive and effective anti-corruption apparatus. At the same time, the Council noted that in one corruption case there was a significant discrepancy between what the company itself had stated and the information the Council had obtained from other sources. The Council also considered that Thyssenkrupp had not provided sufficient assurance that it would always be able to adequately manage the corruption risk associated with the use of third parties.

In July, the South Korean construction company Hyundai Engineering & Construction Co Ltd (HDEC) was placed under observation. HDEC may be linked to allegations or suspicions of corruption in three countries from 2008 to 2018. In addition, HDEC has been involved in 13 different bid-rigging cases in the period 2005–2013. In the Council's opinion, the company had treated the various allegations too

lightly. Furthermore, the Council's review of the company's systems and procedures to prevent and detect corruption gave the impression that much remained to be developed and implemented. However, the company expressed the aim of intensifying its efforts to secure compliance with regulations relating to the prevention of financial crime.

At the very end of the year, Norges Bank decided to place Bombardier Inc, a Canadian producer of private aircraft, under observation. This decision was published in March 2022. Bombardier or its subsidiaries may be linked to allegations or suspicions of corruption in six countries over a period of more than 10 years. The Council's review of the company's systems and procedures for the prevention and identification of corruption gave the impression that some elements are in place. However, the discrepancy between what the company itself has stated and the information the Council has obtained from other sources makes the Council question the efficacy with which the company handles third-party risk and reports of potential irregularities. As Bombardier divested that part of its operations to which the majority of the allegations and suspicions of corruption have been linked (the transport division), the Council still considered there were grounds to observe developments going forward.

In 2021, the Council also continued to observe the Italian defence contractor Leonardo SpA, which has been under observation since 2017.

The Council follows up allegations linked to companies in which the GPF is invested on an ongoing basis. The most serious allegations identified through the portfolio monitoring process are investigated further. In addition to the two recommendations issued during the year, the Council has focused particularly on one company in the industrial services sector and one in the oil service sector. Furthermore, the Council's review of state-controlled oil and gas companies, which began in 2020, was concluded. Work with respect to one of these companies will continue in 2022.

The Council's approach to corruption cases

In 2012, the Council reviewed its experience with corruption-related cases since its establishment in 2005. This resulted in a sharper focus on risk and less emphasis on legal processes than before. In connection with the Ethics Commission's report, and in light of the fact that almost a decade had passed since the last assessment of the Council's approach to corruption cases, it decided to review its work under this criterion once again.

The Council reviewed key provisions from laws and regulations, and their preparatory works, the methods used to consider and assess corruption cases, companies' responsibility to document their anti-corruption activities, the weighting of various types of risk, the framing of the actual recommendation text and the scope of the information available to the Council in each individual case.

The preparatory work to the guidelines for observation and exclusion provides important guidance for the Council's work.¹⁰ This applies in particular to the Ethics Commission's report and its further treatment. This preparatory work makes it clear that the Council makes no evaluation with respect to criminal liability and therefore does not need to find it proved that a company is responsible for an illegal practice. For the Council, the issue at hand is the future risk of corruption. The Council assesses this risk partly on the basis of information about the company's previous actions and what the company is doing to prevent similar incidents in the future.

Nevertheless, the Council's decision to assess a company always springs from allegations or suspicions of corruption. In some corruption cases, it is possible to find information about allegations in court documents. But this is not always the case. Such documents may also be hard to obtain and difficult to analyse. Media reports also constitute an important source of information – both those covering the actual legal processes and those resulting from in-depth

investigative journalism. For the Council, the key is to have sufficient credible documentation to link the company to actions that qualify as corruption or that imply a high risk of corruption, irrespective of whether this documentation comes from sentences or other credible sources. In addition to information from court documents and media reports, the Council also draws on other relevant sources, such as the World Bank, other public authorities, civil society organisations etc., where such sources exist.

With respect to future corruption risk, the company's anti-corruption/compliance systems lie at the core of the Council's assessment. The company's anti-corruption systems are assessed against key principles in international guidelines and standards for such systems. The Council also attaches considerable importance to the company's corporate governance and business structure, and any changes that have been made after the company became linked to corruption allegations.

The Ethics Commission pointed out that companies devote considerable energy to concealing any corrupt activity, since corruption is a criminal offence. The Commission therefore recommended that the threshold for the likelihood of future corrupt acts be lowered in connection with forthcoming assessments under this criterion. The Norwegian parliament supported this proposal. In this connection, the Council has also reassessed its expectations with respect to companies' assistance in clarifying the case. The Council will continue to take the position that the company in question must substantiate that it is working effectively to prevent corruption if the Council is to deem the risk to the GPFG to be acceptable. If a company cannot document that it is, in key areas, actually complying with its own guidelines, other risk factors and information from other sources may be accorded greater weight in the Council's assessment.

With respect to risk factors other than the company's own anti-corruption endeavours, it seems clear that the extent of criminal investigation, charges and convictions in corruption cases in the countries in which the companies are domiciled, and where they

¹⁰ See the Graver Commission's report NOU 2003: 22, *Management for the Future*, <https://www.regjeringen.no/contentassets/d8124659de-12416dbe2a942b5461be93/no/pdfs/nou200320030022000dddpdfs.pdf> and the Ethics Commission's report NOU 2020: 7, *Values and Responsibility*, <https://www.regjeringen.no/contentassets/86dac65c22384dda9584dc2b1a052a91/no/pdfs/nou202020200007000dddpdfs.pdf>.



operate, could affect the companies' risk tolerance. This also applies to the degree of transparency and access to information more generally in the countries concerned. The Ethics Commission is in favour of a heavier weighting of such information – from indices and other relevant sources – but makes it clear that it cannot be used as independent grounds for exclusion or observation. It must be used as a supplement to the information that the Council obtains on the individual company.

Other gross financial crime

In connection with the expansion of the corruption criterion to encompass other serious financial crime, the Council has focused primarily on clarifying the meaning of this concept and establishing an appropriate set of priorities and methodological approach. The Council has also recruited a new employee to work on this issue.

In principle, financial crime covers a wide range of offences in addition to corruption. These include fraud; money laundering; bankruptcy fraud, accounting and tax offences; price fixing, bid rigging and other forms of collusion; embezzlement; market manipulation; and deception/breach of trust. Given the scale and complexity of all these different forms of financial crime, the Council will initially build up its competence within a more narrowly delimited area before gradually expanding its focus to other types of offences as time goes on.

The preparatory work to the new guidelines explicitly mentions money laundering and tax evasion in discussions concerning the expansion of the corruption criterion. The Council's own statistics also show that these are among the types of crime that can be linked to the largest number of companies in the GPFG. Money laundering and tax offences could therefore be a natural starting point for the acquisition of expertise in the area of financial crime.

The Ethics Commission pointed out that there may be "individual cases where companies have been involved in various forms of serious financial crime which, taken together, may establish a pattern of behaviour that makes the risk of further financial offences unacceptable".¹¹ This accords with the Council's own experience. In the Council's opinion, therefore, it should take a cumulative approach when assessing whether a company's previous norm violations cross the threshold into the unacceptable. The Council has already created a certain amount of precedence for such a practice through the HDEC recommendation, which attached importance to illegal collusion (bid rigging) in addition to the explicit corruption cases to which the company could also be linked.

The Ethics Commission has proposed an assessment process for cases relating to other serious financial crime that corresponds to today's practice with respect to corruption cases. As far as is possible and expedient, the Council will strive to follow this guidance. However, the Council's practice must evolve as more experience is acquired. It is also important for the Council and Norges Bank to have a shared understanding of how the criterion is to be applied. We will therefore keep the Bank apprised as our work on this criterion gradually takes shape.

11 NOU 2020: 7, p. 198.

Letter sent to the Ministry of Finance 14 December 2021
Government pension fund global - Evaluation of the climate criterion

Letter: Evaluation of the climate criterion

The Ministry of Finance has embarked on an effort to strengthen its understanding of how climate risk should be handled in the management of Norway's Government Pension Fund Global (GPFG). In this connection, the ministry has asked a panel of experts to examine the significance of financial climate risk and climate-related investment opportunities for a fund like the GPFG. The panel's report, *Climate Risk and the GPFG*, was published in the third quarter of 2021. The ministry has given notice that it will include an assessment of the climate and climate risk in the management of the GPFG in its 2022 Government Pension Fund Report. The report will also describe how the coal and climate criteria in the Guidelines for Observation and Exclusion from the GPFG have been applied. In this connection, the ministry has asked the Council on Ethics to report on its experience of practising the climate criterion.

The climate criterion was introduced in 2016. In the 2019 Government Pension Fund Report, certain ambiguities in the criterion's underlying premises were clarified. In line with the expectations described, *inter alia*, in Meld. St. 21 (2014-2015) Report to the Storting (white paper), the Council has reviewed the GPFG's investments in several of the business sectors which produce large volumes of greenhouse gas emissions. Following the clarifications in 2019, the Council has issued a total of four recommendations that have led to the exclusion of companies engaged primarily in oil sand extraction. In its assessments, the Council has attached importance to whether the companies produce substantial greenhouse gas emissions both in absolute terms and compared with companies producing similar goods. Furthermore, the Council has attached importance to whether the companies have credible plans for reducing their emission levels to the industry average within a reasonable period of time, and, finally, to whether they are subject to the EU's regulatory framework on climate change or other similarly stringent systems.

In the Council's view, the climate criterion has had a major impact on the development of thinking about the responsibility that companies and the GPFG have in the climate field and the fund's need to manage climate risk. In recent years, Norges Bank has increasingly tended to manage climate-related issues through the exercise of shareholder influence or risk-based divestment. Norges Bank and the Council on Ethics often focus on the same companies. The situation is that the Council has devoted significant resources to assessing companies under the climate criterion without this leading to a corresponding body of recommendations to exclude companies or place them under observation. The Council therefore considers that there is reason to re-evaluate the purpose and organisation of its endeavours with respect to the climate criterion.

The ethical guidelines and the climate criterion

The original criteria for exclusion from investment by the GPFG were put forward in the Graver Commission's report NOU 2003:22 *Management for the Future*. It was emphasised that the basis for the criteria was that grossly unethical behaviour could lead to exclusion and that there had to be an overlapping consensus in the population about the contents of the criteria. In other words, there had to be a shared understanding and acceptance of what could lead to exclusion. In the Council's further work with respect to these criteria, it has attached considerable importance to the use of internationally accepted norms and conventions to underpin its recommendations.



In the same way as for the other criteria, it was decided that companies may be excluded from the GPFG under the climate criterion only on the grounds of grossly unethical behaviour. At the same time, no internationally recognised and generally accepted norms for companies' climate-related behaviour existed. Nor was there any overlapping consensus in the population to indicate that relatively normal industrial activities were grossly unethical and should therefore be excluded from the GPFG, even though they also resulted in greenhouse gas emissions.

Application of the climate criterion otherwise differed from the other criteria in that the companies were to be assessed at the aggregate level. This is not explicitly specified for the other criteria in the guidelines. In practice, however, a company may be excluded on the grounds of serious norm violations in an individual part of the business. The good and bad consequences of a company's operations are therefore not normally set off against each other.

Another peculiarity of the climate criterion is that almost all the information must come from the companies being assessed. The starting point for cases being assessed under other criteria is normally a censurable incident or a situation about which there is publicly available information, or which may be investigated without the company contributing all the relevant details.

International climate agreements as a guide for companies' operations

The Paris Agreement is an international agreement under the United Nations Framework Convention on Climate Change. It regulates to some extent states' overall greenhouse gas emissions, while permitting significant differences between states, which are in reality left to decide for themselves how much they will reduce their emissions. The Paris Agreement also allows the individual states to distribute the burden of emission reductions unequally between different emission sources and business sectors operating within them and thereby make different strategic choices.

As a result, an assessment of companies' behaviour does not rest on any unified standard or norm. Business sectors and companies in which certain states wish to make major emission reductions may in other states be granted concessions because the state wishes them to expand their production and emission output. It is therefore not in keeping with the Paris Agreement that all sectors and all companies must make cuts of equal size. On the contrary, it may be in keeping with the Paris Agreement for e.g. solar and hydropower producers to increase their emissions, if necessary also per kilowatt hour produced, if this simultaneously leads to significantly greater reductions in the coal-power industry.

The nature of the Climate Convention and the Paris Agreement also means that the international agreements will change over time. In the period ahead, this could make it challenging to apply the criterion as it is currently formulated and delimited.

These are issues which help to make it difficult for the Council to deduce a norm for what makes an enterprise's emissions grossly unethical.

The Council's review of selected business sectors

The Council on Ethics has assessed companies in several of the sectors with the greatest greenhouse gas emissions, such as the production of oil, steel and cement, and to some extent international shipping. For all these sectors, we have also commissioned sectoral analyses and assessments from consultants with considerable expertise in the field. On the whole, the challenges are the same: it is difficult to obtain data that is representative for the company's operations and easily comparable between companies.

For example, it is possible to compare emissions per tonne produced by two different steelworks, but if they use different raw materials in different processes and produce different qualities of steel based on the input of energy from different sources, the matter becomes significantly more complicated. Even though it is possible to find that one of the companies is apparently systematically better than the other at using the latest and most climate-friendly technology, the absence of behavioural norms nevertheless makes it difficult to determine what is unacceptable in any case. The lack of norms can also cause the Council's investigations to focus on companies capable of comparison rather than the companies that are potentially the 'worst offenders'.

Another experience has been that the Council on Ethics and Norges Bank have to some extent focused on the same sectors. This is to be expected if both the exercise of shareholder influence and the act of exclusion are intended to address companies' contribution to climate change. In that case, both institutions will focus on major emissions and emissions that are unnecessarily large. An example of this is that several of the companies which the Council has worked with have disappeared from the GPFG before the Council has finished its assessment. At the same time, climate risk is the reason given by Norges Bank for many risk-based divestments.

Possible changes in the GPFG's management of climate risk

In its political platform, the government has said that the GPFG shall work on the basis of a long-term goal of zero emissions from the companies in which it has invested.

The panel of experts which advised on the GPFG's management of risk relating to climate change and the green transition found that climate risk is a relevant and potentially material risk for the fund. The panel of experts considers that the exercise of shareholder influence should be a key tool in the management of climate risk, and points out that a framework for companies' reporting of climate-related risks has been developed and is steadily expanding in scope.

Such a focus on the exercise of shareholder influence, climate risk and reporting will make it easier for Norges Bank to establish a dialogue with companies whose climate-related behaviour is non-conformant and, if appropriate, facilitate the divestment of investments therein.

EU's activities with respect to sustainable finance

The EU is continuing to work on a taxonomy for economic activity, which has been described as the fundament on which the EU's action plan for sustainable finance is built. The taxonomy is a classification system for economic activities that are sustainable in relation to defined environmental goals and in accordance with defined requirements for economic sectors and underlying activities.

This system encompasses significantly more than company emissions alone, and could provide a broader and more detailed picture of where a company stands in relation to the climate and sustainability in general. Going forward, such systems will probably be a useful tool for banks and financial institutions when they wish to assess companies' climate and sustainability behaviour more broadly than simply looking at their greenhouse gas emissions. The actual action plan involves a requirement to report on sustainability, regulations concerning the banking and finance sector's sustainability-related fund and risk management, and the above-mentioned system for the classification of what constitutes sustainability (taxonomy). The objective has thus primarily been to ensure that banks and financial institutions gain access to companies' climate and sustainability data and not to separate out or identify companies that are lagging behind.

The Council's assessment

The government's goals for the GPFG's climate profile, the attention paid to anthropogenic climate change and the world's views on companies' responsibility for it, as well as data collection and reporting systems to document the role of companies in a climate context, have changed substantially since 2016 when the climate criterion came into effect. The changes are so substantial that the Council considers that the purpose and organisation of its endeavours relating to the climate criterion should be re-evaluated.

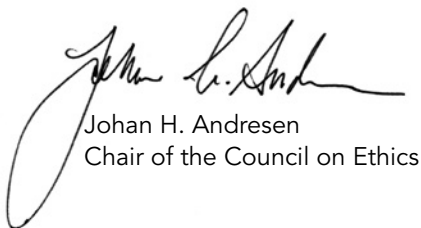
Firstly, setting a goal of climate neutrality will over time probably lead to significant changes in the GPFG's climate profile, both because companies change their behaviour and because the portfolio changes its composition. It should be possible to formulate the climate criterion so that it contributes to this process. It is therefore not given that the currently established 'pegs' should form the basis for exclusion if we are working towards such a long-term objective. The criterion's formulation should reflect this new situation and that future need.

Secondly, such a change in the investment mandate will require a further build-up of activity and competence on the part of Norges Bank. Due to the way the climate criterion is framed, the Council and Norges Bank will to an even greater extent than today request information from the same companies and establish dialogues with the companies on the same issues. This will not be a particularly efficient use of resources, nor is it likely to instil confidence in the companies concerned.

With the resources the Council has at its disposal, combined with the build-up of capacity on the part of Norges Bank, it is not very likely that the Council's work under the climate criterion going forward will produce significant results in the form of the exclusion or observation of companies. Norges Bank will probably pick up on the same companies as the Council and deal with them through the exercise of shareholder influence or risk-based divestment.

The Council on Ethics is therefore of the opinion that the Ministry of Finance should consider solutions to give Norges Bank responsibility in the climate field, which also includes the assessment of companies under the climate criterion. Today, Norges Bank can exclude companies under the coal criterion without a recommendation from the Council on Ethics. Nevertheless, a brief explanation is still given for why the company is being excluded or placed under observation. Under this arrangement, responsibility for the coal criterion is, in principle, divided between Norges Bank and the Council, with the primary responsibility lying with Norges Bank. The Council may, at its own initiative, recommend exclusion or observation under the criterion. Such an arrangement should also be workable for the climate criterion.

Yours sincerely,



Johan H. Andresen
Chair of the Council on Ethics

List of excluded companies by 31. desember 2021

Severe environmental damage

- Barrick Gold Corp
- Beijing Tong Ren Tang Chinese Medicine Co Ltd
- Bharat Heavy Electricals Ltd
- China Grand Pharmaceutical and Healthcare Holdings Ltd
- China Traditional Chinese Medicine Holdings Co Ltd
- Duke Energy Corp (inkludert heleide datterselskaper nevnt nedenfor)
 - Duke Energy Carolinas LLC
 - Duke Energy Progress LLC
 - Progress Energy Inc
- ElSewedy Electric Co
- Freeport-McMoRan Inc
- Genting Bhd
- Halcyon Agri Corp Ltd
- IJM Corp Bhd
- MMC Norilsk Nickel PJSC
- POSCO
- Posco International Corp
- Ta Ann Holdings Bhd
- Tong Ren Tang Technologies Co Ltd
- Vale SA
- Volcan Cia Minera SAA
- WTK Holdings Bhd
- Yunnan Baiyao Group Co Ltd
- Zijin Mining Group Co Ltd

Severe environmental damage | Serious or systematic human rights violations

- Evergreen Marine Corp Taiwan Ltd
- Korea Line Corp
- Thoresen Thai Agencies PCL
- Vedanta Ltd

Serious violations of the rights of individuals in situations of war or conflict

- Ashtrom Group Ltd
- Danya Cebus Ltd

- Elco Ltd
- Electra Ltd
- Mivne Real Estate KD Ltd
- Oil & Natural Gas Corp Ltd
- Shapir Engineering and Industry Ltd
- Shikun & Binui Ltd

Other particularly serious violations of fundamental ethical norms

- Elbit Systems Ltd
- San Leon Energy Plc

Gross corruption

- JBS SA
- ZTE Corp

Serious or systematic human rights violations

- Centrais Eletricas Brasileiras SA (Eletrobras)
- Formosa Chemicals & Fibre Corp
- Formosa Taffeta Co Ltd
- Honeys Holdings Co Ltd
- Luthai Textile Co Ltd
- Page Industries Ltd
- Zuari Agro Chemicals Ltd

Unacceptable greenhouse gas emissions

- Canadian Natural Resources Limited
- Cenovus Energy Inc
- Imperial Oil Limited
- Suncor Energy Inc

Production of nuclear weapons

- Aerojet Rocketdyne Holdings Inc
- Airbus Finance BV
- Airbus SE
- BAE Systems Plc
- Boeing Co
- BWX Technologies Inc

- Fluor Corp
- Honeywell International Inc
- Huntington Ingalls Industries Inc
- Jacobs Engineering Group Inc
- Lockheed Martin Corp
- Northrop Grumman Corp
- Safran SA
- Serco Group Plc

Production of cluster munitions

- Poongsan Corp
- Textron Inc

Production of tobacco

- Altria Group Inc
- British American Tobacco Malaysia Bhd
- British American Tobacco Plc
- Gudang Garam tbk pt
- Huabao International Holdings Ltd
- Imperial Brands Plc
- ITC Ltd
- Japan Tobacco Inc
- KT&G Corp
- Philip Morris Cr AS
- Philip Morris International Inc
- Schweitzer-Mauduit International Inc
- Shanghai Industrial Holdings Ltd
- Swedish Match AB
- Universal Corp/VA
- Vector Group Ltd

Production of coal or coal-based energy

- Aboitiz Power Corp
- AES Corp
- AES Gener SA
- AGL Energy Ltd
- ALLETE Inc
- Alliant Energy Corp
- Ameren Corp
- American Electric Power Co Inc



- Capital Power Corp
- CESC Ltd
- CEZ AS
- China Coal Energy Co Ltd
- China Power International Development Ltd
- China Resources Power Holdings Co Ltd
- China Shenhua Energy Co Ltd
- Chugoku Electric Power Co Inc/The
- CLP Holdings Ltd
- Coal India Ltd
- CONSOL Energy Inc
- Datang International Power Generation Co Ltd
- DMCI Holdings Inc
- DTE Energy Co
- Electric Power Development Co Ltd
- Electricity Generating PCL
- Emera Inc
- Eneva SA
- Engie Energia Chile SA
- Evergy Inc
- Exxaro Resources Ltd
- FirstEnergy Corp
- Glencore PLC
- Great River Energy
- Guangdong Electric Power Development Co Ltd
- Gujarat Mineral Development Corp Ltd
- HK Electric Investments & HK Electric Investments Ltd
- Hokkaido Electric Power Co Inc
- Hokuriku Electric Power Co
- Huadian Energy Co Ltd
- Huadian Power International Corp Ltd
- Huaneng Power International Inc
- IDACORP Inc
- Inner Mongolia Yitai Coal Co Ltd
- Jastrzebska Spolka Weglowa SA

- Korea Electric Power Corp
- Lubelski Wegiel Bogdanka SA
- Malakoff Corp Bhd
- MGE Energy Inc
- New Hope Corp Ltd
- NRG Energy Inc
- NTPC Ltd
- Okinawa Electric Power Co Inc/The
- Otter Tail Corp
- PacifiCorp
- Peabody Energy Corp
- PGE Polska Grupa Energetyczna SA
- PNM Resources Inc
- Public Power Corp SA
- Reliance Infrastructure Ltd
- Reliance Power Ltd
- RWE AG
- Sasol Ltd
- SDIC Power Holdings Co Ltd
- Shikoku Electric Power Co Inc
- Tata Power Co Ltd/The
- Tenaga Nasional Bhd
- TransAlta Corp
- Tri-State Generation and Transmission Association Inc
- Washington H Soul Pattinson & Co Ltd
- WEC Energy Group Inc
- Whitehaven Coal Ltd
- Xcel Energy Inc
- Yankuang Energy Group Co Ltd

List of companies placed under observation

Serious violations of the rights of individuals in situations of war or conflict

- Kirin Holdings Ltd Co

Severe environmental damage

- Astra International Tbk PT
- Marfrig Global Foods SA

Severe environmental damage | Serious or systematic human rights violations

- Pan Ocean Co Ltd

Gross corruption

- Hyundai Engineering & Construction Co Ltd
- Leonardo SpA

Serious or systematic human rights violations

- Hansae Co Ltd
- Hansae Yes24 Holdings Co Ltd
- Nien Hsing Textile Co Ltd

Production of coal or coal-based energy

- Berkshire Hathaway Energy Co
- BHP Group Ltd/BHP Group Plc
- CMS Energy Corp
- Kyushu Electric Power Co Inc
- MidAmerican Energy Co
- NorthWestern Corp
- OGE Energy Corp
- Pinnacle West Capital Corp
- SCANA CORP
- Southern Co
- Tohoku Electric Power Co Inc
- Uniper SE
- Vistra Corp

An updated list can be found at <https://www.nbim.no/en/the-fund/responsible-investment/exclusion-of-companies/>



Published recommendations


Table 2. List of companies about which recommendations were published in 2021

Company	Criterion	Recommendation	Decision	Issued	Public
Ashtrom Group Ltd	War or conflict	Exclusion	Exclusion	15.03.2021	02.09.2021
Atal SA/Poland	Human Rights	Revoke exclusion	Revoke exclusion	25.11.2020	03.03.2021
Beijing Tong Ren Tang Chinese Medicine Co Ltd	Environment	Exclusion	Exclusion	15.03.2021	29.09.2021
China Grand Pharmaceutical and Healthcare Holdings Ltd	Environment	Exclusion	Exclusion	28.04.2021	29.09.2021
China Traditional Chinese Medicine Holdings Co Ltd	Environment	Exclusion	Exclusion	15.03.2021	29.09.2021
Elco Ltd	War or conflict	Exclusion	Exclusion	15.03.2021	02.09.2021
Electra Ltd/Israel	War or conflict	Exclusion	Exclusion	15.03.2021	02.09.2021
Hanwha Corp	Cluster munitions	Revoke exclusion	Revoke exclusion	27.05.2021	29.09.2021
Honeys Holdings Co Ltd	Human Rights	Exclusion	Exclusion	25.11.2020	19.05.2021
Hyundai Engineering & Construction Co Ltd	Corruption	Observation	Observation	28.04.2021	01.07.2021
Kirin Holdings Co Ltd	War or conflict	Observation	Observation	23.06.2020	03.03.2021
Marfrig Global Foods SA	Environment	Observation	Observation	30.09.2021	21.12.2021
Mivne Real Estate KD Ltd	War or conflict	Exclusion	Exclusion	17.12.2020	19.05.2021
Oil & Natural Gas Corp Ltd	War or conflict	Exclusion	Exclusion	08.01.2021	02.09.2021
Precious Shipping PCL	Human Rights	Revoke exclusion	Revoke exclusion	28.04.2021	01.07.2021
Shapir Engineering and Industry Ltd	War or conflict	Exclusion	Exclusion	02.11.2020	19.05.2021
thyssenkrupp AG	Corruption	Observation	Active ownership	14.12.2020	03.03.2021
Tong Ren Tang Technologies Co Ltd	Environment	Exclusion	Exclusion	15.02.2021	29.09.2021
Yunnan Baiyao Group Co Ltd	Environment	Exclusion	Exclusion	27.05.2021	21.12.2021

The Council on Ethics publishes its recommendations on its website at the same time as Norges Bank announce its decision on the matter. The following is a summary of the recommendations that were published in 2021.

Each year, the Council reviews the excluded companies to see whether the grounds for exclusion continue to exist. In 2021, the exclusion of three companies was revoked. Once company had ceased disposing of ships for break-up on the beaches of Bangladesh and Pakistan, one company had ceased



producing cluster munitions and one company could no longer employ workers from North Korea after the EU banned this practice due to the risk of forced labour.

During the year, a total of 12 companies were excluded under three different criteria. One company was excluded due to systematic labour rights infringements, based on investigations at the company's factories in Myanmar. Six companies were excluded under the war and conflict criterion. Five of these were excluded as a result of their business activities in the West Bank, while one was excluded due to its operations in South Sudan. Five companies were excluded because they contribute to serious environmental damage. All of these were Chinese pharmaceutical companies which use ingredients based on the body parts of endangered animal species in the production of medicines.

Of the four recommendations to place companies under observation that were published in 2021, two related to gross corruption, one to serious violation of the rights of individuals in situations of war or conflict, and one to severe environmental damage. In one of the corruption cases, Norges Bank decided to follow up the company through active ownership from the fund. The observation case under the war and conflict criterion relates to a company engaging in a business partnership with the armed forces in Myanmar. The company is working to extricate itself from these agreements, but is uncertain when this might be achieved. The last case related to a Brazilian meat producer, which has been placed under observation due to the risk of deforestation and loss of biodiversity in its supply chain. The Council will observe what the company does to prevent deforestation for a period of four years.



Summaries of recommendations published in 2021

Ashtrom Group Ltd

Issued 15 March 2021

The Council on Ethics recommends that Ashtrom Group Ltd be excluded from by investment by the Government Pension Fund Global (GPF) due to an unacceptable risk that the company is contributing to serious infringements of the rights of the individual in situations of war or conflict.

Ashtrom Group Ltd is an Israeli construction and real estate company. Through its subsidiary Ashtrom Properties Ltd it owns and lets commercial properties. Ashtrom Group Ltd is listed on the Tel Aviv Stock Exchange. At the close of 2020, the GPF owned 0.04 per cent of the company's shares, worth NOK 6 million.

The Council's recommendation is based on the fact that Ashtrom Properties lets industrial premises linked to Israeli settlements in the West Bank. The company has not replied to the Council's queries, but describes its operations in its annual report.

The Council considers that the company's letting of buildings constructed in violation of international law contributes to the continuation of an illegal state that their construction once initiated. This form of contribution to international law violations constitutes, in the Council's view, grounds for exclusion from the GPF.

Atal SA/Poland

Issued 25 November 2020

The Council on Ethics recommends that the exclusion of Atal SA/Poland (Atal) from investment by the Government Pension Fund Global (GPF) be revoked.

Atal is a Polish property development company. On 25 August 2017, the Council on Ethics recommended that Atal be excluded from the GPF due to an unacceptable risk that the company contributed to serious human rights violations, including forced labour, through employing a subcontractor which used North Korean workers at Atal's construction sites.

In 2018, the EU transposed into EU law a UN Security Council resolution demanding that all workers from North Korea be repatriated. In December 2019, Poland reported to the Security Council that there were no North Korean workers in Poland. The Council on Ethics thus finds that there are no longer grounds for maintaining the 2017 recommendation.

Beijing Tong Ren Tang Chinese Medicine Co Ltd and Tong Ren Tang Technologies Co Ltd

Issued 15 March 2021

The Council on Ethics recommends to exclude Tong Ren Tang Technologies Co Ltd and its subsidiary Beijing Tong Ren Tang Chinese Medicine Co Ltd (Tong Ren Tang Chinese Medicine) from the Government Pension Fund Global (GPF) due to an unacceptable risk of these companies contributing to serious environmental damage. The Council on Ethics' assessment focuses on the companies' use of ingredients based on body parts of threatened animal species in the production of traditional Chinese medicine (TCM).

At the end of 2020, the GPF owned shares in Tong Ren Tang Technologies valued at approximately USD 4,1 million corresponding to an ownership interest of 0.5 per cent. The Fund's holdings in Tong Ren Tang Chinese Medicine was USD 3,7 million corresponding to an ownership interest of 0.4 per cent.

Both companies are Chinese pharmaceutical companies that manufacture and market TCM products. Investigations conducted by the Council indicate that Tong Ren Tang Technologies manufactures 18 different products which include animal parts from threatened species. This pertains to horns from saiga antelope, leopard bones, pangolin scales and musk from musk deer. Tong Ren Tang Technologies has confirmed that the company uses body parts from animal species that are threatened with extinction.

Tong Ren Tang Chinese Medicine manufactures a product which contains natural musk. The company's annual report confirms that threatened species are used in the company's production of medicines.

The Council takes as a fact that biodiversity loss is a global threat to life on Earth and that the extinction of species is accelerating. The Council has focused on species listed on the IUCN Red List of Threatened Species, i.e., critically endangered, threatened or vulnerable species, as well as species listed in Annex 1 of the Convention on International Trade in Endangered and Vulnerable Species (CITES). The Council is of the view that companies, whose activities contribute to species becoming extinct, are depleting biodiversity. By producing medicines with ingredients that include the body parts of threatened species, there is a risk of the company contributing to irreversible and severe environmental damage.

Although the companies refer to their production of TCM products as being in compliance with government requirements, in light of the extensive illegal trade in threatened species, the Council is of the view that emphasis must be placed on the fact that the companies do not disclose information regarding traceability of purchases or where the animals originate from. The Council finds that the lack of such information and transparency in the company's practices constitute an unacceptable risk that the threatened species the company uses in its products may originate from illegal sources.

Due to lack of information, the Council is unable to quantify each company's contribution to environmental damage. Since the quantity of body parts of threatened wildlife used, the provenance and stockpiles of these and how these are replenished are not known, the Council finds that the question of companies' contribution is a matter of whether the companies use endangered species in their production or not.

Neither of the companies have reported plans to substitute ingredients based on threatened species in the production of TCM. Until the companies publicly announce a specific goal to stop using threatened species in their production and a time bound plan for when the use of such species will cease, the Council considers there to be an unacceptable risk of the companies contributing to severe environmental damage.



China Grand Pharmaceutical and Healthcare Holdings Ltd

Issued 28 April 2021

The Council on Ethics recommends to exclude China Grand Pharmaceutical Holdings Co Ltd (China Grand Pharma) from the Government Pension Fund Global (GPF) due to an unacceptable risk of the company contributing to severe environmental damage. The Council on Ethics' assessment focuses on the company's use of ingredients based on body parts of threatened animal species in the production of traditional Chinese medicine (TCM).

At the end of 2020, GPF owned shares in China Grand Pharma valued at approximately USD 8.3 million corresponding to a 0.26 per cent ownership interest in the company.

China Grand Pharma is a pharmaceutical company, listed on the Hong Kong Stock Exchange, that produces and markets TCM products. The Council's investigations show that the company manufactures products, which include ingredients based on horns from Saiga antelope. The Saiga antelope is a globally threatened species.

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Due to lack of information, the Council is unable to quantify each company's contribution to environmental damage. Since the quantity of body parts of threatened wildlife used, the provenance and stockpiles of these and how these are replenished are not known, the Council finds that the question of companies' contribution is a matter of whether the companies use endangered species in their production or not.

China Grand Pharma stated that it has stopped producing products containing leopard bones. This is positive and a step in the right direction. However, the company has wider production that is based on the use of threatened species. Until the company announces a specific goal to stop using threatened species in its production and a time bound plan for when the use of such species will cease, the Council considers there to be an unacceptable risk of the company contributing to serious environmental damage.

China Traditional Chinese Medicine Holdings Co Ltd

Issued 6 April 2021

The Council on Ethics recommends to exclude China Grand Pharmaceutical Holdings Co Ltd (China Grand Pharma) from the Government Pension Fund Global (GPF) due to an unacceptable risk of the company contributing to severe environmental damage. The Council on Ethics' assessment focuses on the company's use of ingredients based on body parts of threatened animal species in the production of traditional Chinese medicine (TCM).

At the end of 2020, GPF owned shares in China Grand Pharma valued at approximately USD 8.3 million corresponding to a 0.26 per cent ownership interest in the company.





China Grand Pharma is a pharmaceutical company, listed on the Hong Kong Stock Exchange, that produces and markets TCM products. The Council's investigations show that the company manufactures products, which include ingredients based on horns from Saiga antelope. The Saiga antelope is a globally threatened species.

The Council takes as a fact that biodiversity loss is a global threat to life on Earth and that the extinction of species is accelerating. The Council has focused on species listed on the IUCN Red List of Threatened Species, i.e., critically endangered, threatened or vulnerable species, as well as species listed in Annex 1 of the Convention on International Trade in Endangered and Vulnerable Species (CITES). The Council is of the view that companies, whose activities contribute to species becoming extinct, are depleting biodiversity. By producing medicines with ingredients that include the body parts of threatened species, there is a risk of the company contributing to irreversible and severe environmental damage.

Due to lack of information, the Council is unable to quantify each company's contribution to environmental damage. Since the quantity of body parts of threatened wildlife used, the provenance and stockpiles of these and how these are replenished are not known, the Council finds that the question of companies' contribution is a matter of whether the companies use endangered species in their production or not.

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Elco Ltd and Electra Ltd/Israel

Issued 15 March 2021

The Council on Ethics recommends that the companies Elco Ltd (Elco) and its subsidiary Electra Ltd (Electra) be excluded from the Norwegian Government Pension Fund Global (GPF) due to an unacceptable risk that the companies are contributing to serious infringements of the rights of the individual in situations of war or conflict in connection with the construction of roads linked to Israeli settlements in the West Bank.

At the close of 2020, the GPF owned 0.38 per cent of the shares in Electra, worth NOK 67 million. At the same time, the Fund's owned 0.10 per cent of the shares in Elco, worth 12 million. The companies are listed on the Tel Aviv Stock Exchange.

The companies have not replied to the Council's queries but provide information about their operations in stock exchange notifications, half-year reports and on their own websites.

In principle, the construction of roads by an occupying power in the area it occupies does not necessarily violate international law if it can be justified as a military necessity or is done for the benefit of the occupied population. At the same time, international humanitarian law places severe constraints on, for example, the occupying power's right to expropriate private property for such purposes. The Council takes the view that the construction of the roads in question falls outside the occupying powers right of use and has a negative impact on social and economic conditions for the population in the occupied area.





Without any further specification from the companies, it is difficult for the Council to obtain a full overview of their activities in the West Bank. The Council notes that Electra has recently won a tender for the construction of a major road project whose primary purpose is to serve Israeli settlements in the West Bank, and that the company has also previously built such roads. The Council therefore considers that there is an unacceptable risk that Electra will, through its construction activities linked to Israeli settlements in the West Bank, contribute to serious violation of the rights of the individual in situations of war or conflict. Elco contributes to the same through its ownership of Electra. In the Council's view, this risk will persist until the companies makes it clear that it is no longer engaged in such activities

Hanwha Corp

Issued 27 May 2021

The Council on Ethics recommends that the exclusion of Hanwha Corp from investment by the Government Pension Fund Global (GPF) be revoked. The company has been excluded since 2007 due to its production of cluster munitions. This activity has now ceased, thereby eliminating the grounds for the company's exclusion.

Honeys Holdings Co Ltd

Issued 25 November 2020

The Council on Ethics recommends that Honeys Holdings Co Ltd (Honeys) be excluded from investment by the Norwegian Government Pension Fund Global (GPF) due to an unacceptable risk that the company is responsible for systematic human rights abuses.

Honeys is a Japanese company that designs, produces and distributes women's clothes and accessories for women through its own brands in Japan and China. It is also a supplier to other major distributors in Japan. The company owns two garment factories in Myanmar.

Investigations into working conditions at these factories identified numerous labour rights violations, including harassment of workers and serious violations of fire safety and health and safety regulations. The investigations also revealed that, until recently, Honeys employed underage workers on the same terms as adults, widespread and illegal use of daily contracts and that employees are penalised financially for taking sick leave. The Council considers that Honeys actively restricts workers' freedom of association, by dismissing trade union leaders and members due to their participation in union activity. The company has also filed civil suit and criminal charges against a trade union leader on the grounds of this person's trade union activities.

Honeys denies many of the alleged norm violations, but also seems to have implemented certain improvements at the factories following the Council's inspections. The Council attaches importance to the fact that many of the norm violations do not seem to have been rectified, and that follow-up investigations have not corroborated the company's claims concerning the improvements. In the Council's opinion, this shows a pattern of behaviour indicating that the norm violations are systematic, and that the company, in practice, does not have a system capable of preventing, uncovering and rectifying labour rights abuses in its operations.



Hyundai Engineering & Construction Co Ltd

Issued 28 April 2021

The Council on Ethics recommends that Hyundai Engineering & Construction Co Ltd (HDEC) be placed under observation pursuant to the corruption criterion in the Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPF). HDEC is one of the largest building contractors in South Korea. The company does business worldwide, but has the bulk of its operations in Asia and the Middle East. It is listed on the Korea Stock Exchange. At the close of 2020, the GPF owned 0.56 per cent of the company's shares, worth approx. NOK 184 million.

By itself or through subsidiaries, HDEC can be linked to allegations or suspicions of corruption in three countries in the period 2008–2018. In the period 2005–2013, HDEC was involved in 13 bid-rigging cases. In the Council's opinion, repeated incidents of different forms of financial crime reflect a company's ability to prevent, detect and deal with corruption. The many different cases that can be linked to HDEC must therefore be viewed as a whole. The Council takes the view that, overall, HDEC's involvement in gross corruption has been sufficiently substantiated.

The Guidelines for Observation and Exclusion from the GPF are forward-looking. In its assessment of the risk that HDEC will once again become involved in gross corruption, the Council attaches importance to how the company has responded to allegations of corruption and other financial irregularities, how it has assisted in the Council's inquiries and the extent to which the company has implemented effective measures to prevent corruption.

The Council considers that HDEC's handling of the various allegations shows it has treated them too lightly. The company largely denies any accountability as the controlling owner of a company linked to allegations of corruption; it blames delays and defects in the tendering process for repeated cases of bid rigging, and places facilitating payments in a completely different category than other forms of bribery. The Council also attaches importance to the company's limited disciplinary response to those responsible for the bid rigging cases, for which the company has been fined substantial amounts.

Although HDEC states that it has had an anti-corruption system in place since 2005, it was not until 2017 that it drew up detailed anti-corruption guidelines, while the guidelines for due diligence investigations into third parties have not yet been fully implemented. HDEC's assessment of corruption risk is integrated in a general risk assessment, and appears not to be particularly detailed. The Council also notes that the company does not have an overarching plan for its anti-corruption efforts. The Council has no clear understanding of the extent to which the company has allocated dedicated resources to anti-corruption activities within the company. Based on the information available, the Council therefore considers that HDEC does not at present have a compliance system that is in line with international guidelines.

HDEC's corporate governance also constitutes a weak point for effective anti-corruption activities. The OECD's principles establish that the board of directors has an important control function with respect to a company's day-to-day management, and it is therefore considered good practice to separate the roles of CEO and board chair. At HDEC, the same person fills both these roles. The Council considers that this may weaken the board's efforts to prevent corruption.

All in all, the Council therefore concludes that the risk of contributing to corruption in the future must be deemed unacceptably high. Nevertheless, the Council is recommending that HDEC be placed under observation at this time. Firstly, this is due to the fact that the company seems to have taken significant steps to improve its anti-corruption efforts the last couple of years compared to previous years. Moreover, the Council attaches importance to the fact that HDEC has proved





willing to assist the Council's inquiries, thereby enabling it to gain an insight into how the company is working to prevent and detect corruption. During the period of observation, the Council will both obtain information on this effort and monitor whether additional incidents of gross corruption in the company's operations come to light, pursuant to section 6(4) of the GPFG's ethical guidelines.

Kirin Holdings Co Ltd

Issued 23 June 2021

The Council on Ethics recommends that Kirin Holdings Co Ltd (Kirin) be placed under observation pursuant to the provision in the Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPFG) relating to serious violations of the rights of individuals in situations of war or conflict. The recommendation concerns Kirin's business partnership with the armed forces in Myanmar.

Kirin is a Japanese holding company with several subsidiaries engaged primarily in beverage production and pharmaceuticals. At the close of 2019, the GPFG owned 1.24 per cent of Kirin's shares, worth approx. NOK 2.19 billion. Kirin is listed on the Tokyo Stock Exchange.

In Myanmar, the company operates through its subsidiary Kirin Holdings Singapore Pte Ltd. This subsidiary is a partner in two joint ventures with the military-owned conglomerate Myanmar Economic Holdings Limited (MEHL).

The armed forces in Myanmar have committed acts of extreme brutality against the country's civilian population. Atrocities are reported to include violence against and the killing of children and adults, gang rape, torture and the torching of entire villages. A great many of the victims belong to the Rohingya community, a religious minority in Myanmar. Due to the gravity and scale of the violations, several actors are currently under investigation for crimes against humanity, war crimes and genocide.

The Council on Ethics takes the position that companies which operate in areas of conflict must exercise particular care. The Council's assessment of Kirin's contribution to the military's norm violations builds on the UN's Independent International Fact-Finding Mission on Myanmar's (IFFM) statement that a business partnership with MEHL poses a high risk of contributing to human rights abuses and violations of international humanitarian law. Kirin's business partnership with MEHL may also be perceived as legitimising the armed forces' behaviour. With respect to its assessment of future risk, the Council has heeded statements by the IFFM concluding that there is still a significant risk of the military committing new human rights abuses.

Kirin has stated that it takes the situation seriously, and the company has held several meetings with MEHL to discuss the human rights situation in Myanmar. Kirin has further disclosed that it is considering making changes to its operations in Myanmar, and asks for the Council's appreciation that this is a process that will take some time. Due to the uncertainty relating to future developments, the Council recommends that the company be placed under observation.



Marfrig Global Foods SA

Issued 30 September 2021

The Council on Ethics recommends that Marfrig Global Foods SA be placed under observation due to a risk that the company is contributing to severe environmental damage. The Council's recommendation relates to the deforestation associated with Marfrig's purchases of beef cattle for its slaughterhouses in Brazil. Cattle ranching is one of the most important reasons for the loss of forest cover and biodiversity in the Amazon.

At the close of 2020, the Norwegian Government Pension Fund Global (GPF) owned 0.2 per cent of the company's shares, which are listed on the São Paulo Stock Exchange.

Marfrig is one of Brazil's largest producers of beef. The company purchases beef cattle, which it slaughters and processes for sale in the national and international market. Many of the ranches that supply direct to the slaughterhouses purchase calves from other farms, which may in turn have bought the calves from other farms, so-called indirect suppliers. The risk of deforestation is linked to the conversion of forest to pastureland for cattle grazing.

Marfrig buys cattle in several regions, the most important of which are the Amazon and the Cerrado. In 2009, Marfrig pledged to establish a system to monitor its direct suppliers in the Amazon. Since 2009, however, numerous reports have been published concerning deforestation and illegal practices in Marfrig's supply chain, particularly relating to its indirect suppliers. The Council's own investigations indicate the same. The Council has analysed purchases of beef cattle from ranches with properties that have been embargoed by the Brazilian authorities due to illegal deforestation. The investigations revealed that up to 3 per cent of Marfrig's purchases between 2016 and 2019 could be traced back to ranches with embargoed properties, and that embargoed properties could be found in all phases of the supply chain, from direct suppliers down, and in almost all regions – not simply the Amazon.

Marfrig contests accusations that the company has purchased cattle from embargoed properties, and maintains that this is ensured through monitoring of its purchases. The Council's investigations include purchases from ranches where all or part of the property is embargoed, while Marfrig only checks that the actual property they buy from is not embargoed. So-called 'cattle laundering', where an owner moves cattle between embargoed and 'clean' properties, is a major problem in the industry. In light of this, the Council considers that it is not enough to restrict checks to the individual property. This is particularly apparent when very few of the properties that clear forest illegally are actually embargoed. The Council also considers that even though the Cerrado is Marfrig's most important supply base, the company's supplier monitoring has so far targeted the Amazon. This means that a large proportion of Marfrig's direct cattle purchases come from other regions with a high rate of deforestation, but where suppliers are hardly monitored.

The Council attaches importance to the fact that the company has taken an extremely long time to react. Twelve years after its 2009 pledge to have zero deforestation in its supply chain, the company is still only starting to implement a system to control and monitor the *entire* supply chain in all regions in which it operates.

In 2020, Marfrig announced that the company would eliminate deforestation throughout its entire supply chain, and published plans to implement a system to control and monitor the entire supply chain in all regions in which it operates. This is good. However, the Council considers that the timeframe for when this will be achieved – 2025 in the Amazon and 2030 in the Cerrado – is too long. Furthermore, the Council finds it unclear how Marfrig's system will work in practice and how Marfrig will verify that the measures are working.



Nevertheless, the Council considers that the initiatives that Marfrig has now planned and is starting to implement have the potential to reduce the risk of it contributing to deforestation going forward. It appears to the Council that Marfrig is now working more seriously to prevent deforestation along its entire value chain. Since it is too early to evaluate the impact of these efforts, the Council is recommending that the company be placed under observation.

Mivne Real Estate KD Ltd

Issued 17 December 2020

The Council on Ethics recommends that Mivne Real Estate Kd Ltd (Mivne) be excluded from investment by the Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is contributing to serious violations of the rights of individuals in situations of war or conflict.

Mivne is an Israeli real estate company that owns and lets commercial property. The company is listed in Tel Aviv. At close of 2019, GPFG owned 0.53 of the company's shares to the value of NOK 103.6 million.

The Council on Ethics' recommendation rests on the fact that the company engages in letting of industrial real estate linked to Israel settlements in the West Bank. The company has not replied to the Council's enquiries but provides details of its operations on its website.

The Council considers that the company's letting of buildings constructed in violation of international law contributes to the continuation of an illegal state that their construction once initiated. This form of contribution to international law violations constitutes, in the Council's view, grounds for exclusion from the GPFG.

Oil & Natural Gas Corp Ltd

Issued 8 January 2021

The Council on Ethics recommends that Oil & Natural Gas Corp Ltd (ONGC) be excluded from investment by the Norwegian Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is contributing to serious violations of the rights of individuals in situations of war or conflict. At the close of 2019, the GPFG owned 0.35 per cent of the shares in ONGC, worth approx. NOK 699 million.

ONGC is an Indian oil company engaged in the production of oil in South Sudan. The company participates in two joint ventures with, among others, South Sudan's state oil company Nilepet. In 2013, a civil war broke out in South Sudan, during which the civilian population has been subjected to acts of extreme violence, including mass killing, sexual assault and torture. Some of the abuse has been perpetrated by members of the military and the country's National Security Services (NSS). The United Nations Commission on Human Rights in South Sudan has recommended that those responsible be investigated for crimes against humanity and war crimes.





The Council takes the view that companies operating in situations of war and conflict must exercise a particular degree of care when there is a known risk of contributing to serious norm violations. Such care also applies to their choice of business partners. The requirement of care is reinforced by the militarisation of the oil industry in South Sudan, and by the fact that control of the petroleum resources in, among other places, the areas in which ONGC operates, is a key driver in the conflict.

The Council considers that ONGC, through its joint venture participation, has accepted the risk of contributing to serious abuses committed to enable oil production in Unity State. Furthermore, ONGC has entered into collaborations with actors who are directly or indirectly responsible for extremely serious abuses. The Council also takes into consideration that the security at the oil fields in which the joint ventures operate is provided by actors in the conflict. Reportedly, NSS staff also provides services at the head office of one joint venture, while this joint venture's head of security is an NSS brigadier general.

In the Council's opinion, the ONGC's links to parties to the conflict are further reinforced by the reported use of Nilepet to channel funds from the oil operations into military purposes. The Council considers that, through these business partnerships, ONGC may have contributed to providing parties to the conflict with revenues that could be used to finance violence against the civilian population. The collaboration may also have added legitimacy to parties to the conflict and may have been perceived as implicit acceptance of their behaviour.

In its response to the Council on Ethics, the company states that no incidents of human rights abuses have been reported within the joint ventures' areas of operation, and that there are no links between assaults on the civilian population and the company's operations. The company also points out that it has made investments, for example in healthcare and education, to improve the living conditions of South Sudan's civilian population. The Council acknowledges that such initiatives may have a positive impact but considers them insufficient to prevent or mitigate the consequences of the extremely serious norm violations perpetrated by parties with whom the company cooperates.

The Council considers that the company does not have the necessary influence to prevent the military or NSS from committing further violence against the civilian population. Nor has the company given any indication that it can or will make changes to or terminate its business relations. The Council notes that although South Sudan has now embarked on a peace process, serious assaults on the civilian population are still taking place. The Council considers that as long as the company continues to collaborate with key parties in the conflict, there is an unacceptable risk of it contributing to such abuse.



Precious Shipping PCL

Issued 28 April 2021

The Council on Ethics recommends that the exclusion of the company Precious Shipping PCL from the Government Pension Fund Global be revoked.

The Council on Ethics recommended the exclusion of the company in 2017 due to the company's practice of disposing of decommissioned ships that were sold to be broken up for scrap on beaches in Bangladesh and Pakistan (so-called *beaching*).

Since then, the company has not disposed of any further ships for scrapping. The Council on Ethics therefore finds that the grounds for exclusion no longer exist.

Shapir Engineering and Industry Ltd

Issued 2 November 2020

The Council on Ethics recommends that Shapir Engineering and Industry Ltd (Shapir) be excluded from investment by the Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is contributing to serious violations of the rights of individuals in situations of war or conflict.

Shapir is an Israeli construction company listed on the stock exchange in Tel Aviv. At the close of 2019, GPFG owned the equivalent of 0.1 per cent of the company's shares, to the value of NOK 19 million.

The Council on Ethics' position is that the Israeli settlements in the West Bank have been built in violation of international law and that their existence and constant expansion causes significant harm and disadvantage to the area's Palestinian population.

The Council on Ethics' recommendation rests on the fact that the company engages in the construction of homes in Israeli settlements in the West Bank. The company has not replied to the Council's enquiries but provides details of its operations on its website

thyssenkrupp AG

Issued 14 December 2020

The Council on Ethics recommends that Thyssenkrupp AG be placed under observation pursuant to the corruption criterion in the Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPFG). Thyssenkrupp is a multinational industrial group comprising 331 companies with a total of 104,000 employees in 60 countries. It is listed on the Frankfurt Stock Exchange. At the close of 2020, the GPFG owned 1.9 per cent of the company's shares, worth approx. NOK 1 billion.





The Council's investigations have shown that Thyssenkrupp, through its subsidiaries, can be linked to suspicions or allegations of corruption in a total of eight countries over a period of more than 20 years. All the allegations relate to the payment of bribes or suspicious transactions – or agreements relating to such transfers of money – via agents and intermediaries to secure contracts for Thyssenkrupp's subsidiaries. In all, the cases relate to payments amounting to tens of millions of US dollars.

The Guidelines for Observation and Exclusion from the GPFG are forward-looking. When assessing the risk of whether Thyssenkrupp will once again become involved in similar incidents, the Council has attached importance to the company's response to the corruption allegations, the assistance it has provided with respect to the Council's investigations and the extent to which it has implemented effective measures to prevent, detect and respond to corruption.

With regard to the company's response to the corruption allegations, it seems clear that Thyssenkrupp has long signalled that it takes corruption seriously. Furthermore, the Council notes that the company has been open to working with the prosecuting authorities and that it has launched internal investigations into the corruption allegations.

The Council's review of the company's systems and routines for the prevention and detection of corruption leaves the impression that Thyssenkrupp has done much to establish a comprehensive and effective anti-corruption programme since the Council last contacted the company in 2014. However, all this must be seen in light of the sector and the countries in which the company operates, as well as its history of corruption allegations. Thyssenkrupp operates in many countries where the risk of corruption is high. In addition, the defence sector is considered to be particularly prone to corruption, not least due to its extensive use of agents.

In the Council's opinion, this places a particular requirement on the company to have in place robust systems with which to prevent, detect and deal with corruption in general, and manage the corruption risk associated with the use of agents in particular. It also presumes that these systems work when they are really needed. However, the ongoing corruption case in Israel, which involves Thyssenkrupp's former agent in the country, gives another impression. The Council notes that in that case there is a significant discrepancy between what the company itself has disclosed and the information the Council has obtained from other sources. More generally, the Council also notes that the company's central administration does not have a complete overview of the number of third parties the group companies do business with, and that it does not have an overview of the third parties who have been rejected on the grounds of corruption risk. The Council attaches importance to the fact that Thyssenkrupp has not instituted standardised maximum amounts for success fees, and that the company has no special criteria or procedures for determining when agents should be the object of more detailed inquiries or referred upward to group management.

In principle, this indicates that the risk of Thyssenkrupp contributing to corruption in the future must be deemed unacceptably high. The fact that the Council is nevertheless recommending that Thyssenkrupp be placed under observation at this juncture is due to the company long having given indications that it takes corruption seriously and because it has demonstrated a willingness to assist the Council's investigations, thereby enabling it to gain an insight into how the company is working to prevent and detect corruption. During the period of observation, the Council will obtain information about these endeavours and monitor whether further cases of gross corruption are detected in the company's operations going forward, see section 6(4) of the GPFG's guidelines.



Yunnan Baiyao Group Co Ltd

Issued 27 May 2021

The Council on Ethics recommends that Yunnan Baiyao Group Co Ltd (Yunnan Baiyao) be excluded from investment by the Government Pension Fund Global (GPF) due to an unacceptable risk that the company is contributing to severe environmental damage. The Council's assessment rests on the company's use of body parts from endangered animal species in the production and sale of ingredients for Traditional Chinese Medicine (TCM).

At the close of 2020, the GPF owned 0.11 per cent of the shares in Yunnan Baiyao, valued at NOK 202.2 million.

Yunnan Baiyao is a Chinese pharmaceutical company which produces, among other things, ingredients used in TCM products. The company is listed on the Shenzhen Stock Exchange. The Council's investigations show that in 2018, the company sold significant quantities of raw pangolin scales from its own stocks to another pharmaceutical company, and that the company also produced and sold processed pangolin scales. Yunnan Baiyao has declined to provide any information about its business to the Council.

The Council considers that loss of biodiversity is a global threat to life on Earth, and that the eradication of species is accelerating. The Council has focused on animal species that are included on the IUCN Red List of Threatened Species, i.e. critically endangered, endangered or vulnerable species, as well as species listed in Appendix 1 to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Council considers that companies whose operations contribute to the extinction of species impoverish biodiversity. By producing medicines containing body parts from endangered species, there is a risk that the company is contributing to severe and irreversible environmental harm.

In this case, the Council has emphasised that the company sells and uses a critically endangered species in its production and that the company has not been willing to clarify the case with respect to its use of body parts from threatened species, the traceability of purchases or whether it knows their provenance.

The lack of information makes it impossible for the Council to quantify the individual company's contribution to the environmental damage caused. When nothing is known of the extent to which a company uses endangered species, where the animal parts originate from, what stocks of animal parts exist or how they are replenished, the Council considers that the question of the company's contribution must be determined by whether or not endangered animal species are included in its production. When the activities themselves constitute a risk of species becoming extinct, there is also a risk that the company contributes to the depletion of biodiversity and serious environmental damage.

As there is no information available which indicates that Yunnan Baiyao's business has changed, the Council assumes that the company is continuing to sell and use the body parts of threatened animals in its production. Until the company publishes a specific goal to stop using endangered species in its production and a timetable for when its use of such species will cease, the Council considers that there is an unacceptable risk of the company contributing to severe environmental damage.



Observation

Section 6(4) of the ethical guidelines states that: “Observation may be decided when there is doubt as to whether the conditions for exclusion are met or as to future developments, or where observation is deemed appropriate for other reasons.”

Table 3: Companies under observation at the close of 2021

Company name	Criterion	Comment
Astra International Tbk PT	Environmental damage	New factors must be assessed
Hansae Co Ltd	Human rights	
Hansae Yes24 Holdings Co Ltd	Human rights	
Hyundai Engineering & Construction Co Ltd	Corruption	New in 2021
Kirin Holdings Ltd Co	War and conflict	New in 2021
Leonardo SpA	Corruption	Observation report issued
Marfrig Global Foods SA	Environmental damage	New in 2021
Nien Hsing Textile Co Ltd	Human rights	
Pan Ocean Co Ltd	Environmental damage and human rights	

In addition, Norges Bank is responsible for following up a further 13 companies which it has placed under observation at its own initiative with reference to the coal criterion.

The Council is responsible for following up companies that have been placed under observation at its recommendation or that Norges Bank has decided it should observe. The Council may at any point in the observation period recommend that a company be excluded or removed from the list of companies under observation. In 2021, the Council recommended the termination of observation for three companies. Norges Bank accepted this advice after the close of the year. The Bank has also decided that two new companies should be placed under observation after the close of the year. The Council on Ethics now has eight companies under observation.

During the observation period, the Council normally provides Norges Bank with an annual assessment of each company. The Council obtains information from open sources, but may also commission its own investigations with the assistance of external consultants. The Council's observation reports are published on its website along with the recommendation upon which it rests.

The observation process depends on good cooperation between the companies concerned and the Council. A draft report to Norges Bank is sent to the companies for their comments, and meetings are also



often held with them. In 2021, the Council met with three companies under observation, and engaged in written correspondence with a further five.

In 2021, the Council issued an observation report on the Italian defence contractor Leonardo SpA, which has been under observation since 2017. The latest observation report, which was published at the end of May, concluded that the company had done much to strengthen its efforts to prevent, detect and deal with corruption since observation commenced. Nevertheless, the Council had learned that two of the company's employees had been involved in a new corruption case in Italy. Because the available information was insufficient to provide a satisfactory picture of the company's involvement in the case, the Council recommended that observation be continued until further notice.

Astra International has been under observation since as far back as 2015, due to its plantation business. However, no observation report on Astra was issued in 2021 because the Council has recently started investigating the company in relation to another matter, and this must be examined in more detail before the Council can issue a report. No observation report was issued on Pan Ocean either. Pan Ocean is under observation because it has previously disposed of ships to be broken up by means of beaching. If new vessels are broken up in this way, the Council will recommend that the company be excluded from the GPFG. As long as the matter remains so binary, there is little reason to issue annual reports on the company.



Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global (GPFG)

This translation is for informational purposes only. Legal authenticity remains with the original Norwegian version, Retningslinjer for observasjon og utelukkelse av selskaper fra Statens pensjonsfond utland, that can be found on lovdata.no.

This unofficial English version was last updated 19 November 2021. Adopted 18 December 2014 by the Ministry of Finance pursuant to the Royal Decree of 19 November 2004 and section 2, second paragraph, and section 7 of Act no. 123 of 21 December 2005 relating to the Government Pension Fund. Amended 21 December 2015, 1 February 2016, 31 January 2017, 1 September 2019 and 13 September 2021.

I. Purpose and scope

§ 1. Purpose

The purpose of the Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global (the ethical guidelines) is to avoid that the Government Pension Fund Global (GPFG) is invested in companies that cause or contribute to serious violations of fundamental ethical norms, as set out in these guidelines' sections 3 and 4.

§ 2. Scope

These guidelines apply to the work of the Council on Ethics for the Government Pension Fund Global (the Council on Ethics) and Norges Bank (the Bank) on the observation and exclusion of companies from the GPFG's equity and fixed-income portfolios. Advice and decisions pursuant to the criteria set out in section 3 may also apply to companies only included in the reference index or to be included in the reference index.

II. Criteria for observation and exclusion of companies

§ 3. Criteria for product-based observation and exclusion of companies

- (1) The GPFG shall not be invested in companies which themselves or through entities they control:
 - a. develop or produce weapons or key components of weapons that violate fundamental humanitarian principles through their normal use. Such weapons include biological weapons, chemical weapons, nuclear weapons, non-detectable fragments, incendiary weapons, blinding laser weapons, antipersonnel mines and cluster munitions
 - b. produce tobacco or tobacco-products
 - c. produce cannabis for recreational use.
- (2) Observation or exclusion may be decided for mining companies and power producers which themselves, or consolidated through entities they control, either:
 - a. derive 30 per cent or more of their income from thermal coal,
 - b. base 30 per cent or more of their operations on thermal coal,
 - c. extract more than 20 million tonnes of thermal coal per year, or
 - d. have the capacity to generate more than 10,000 MW of electricity from thermal coal.

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- b. base 30 per cent or more of their operations on thermal coal,
- c. extract more than 20 million tonnes of thermal coal per year, or
- d. have the capacity to generate more than 10,000 MW of electricity from thermal coal.

§ 4. Criteria for conduct-based observation and exclusion of companies

Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for:

- a. serious or systematic human rights violations
- b. serious violations of the rights of individuals in situations of war or conflict
- c. the sale of weapons to states engaged in armed conflict that use the weapons in ways that constitute serious and systematic violations of the international rules on the conduct of hostilities
- d. the sale of weapons or military materiel to states that are subject to investment restriction on government bonds as described in section 2-1(2)(c) of the Management mandate for the Government Pension Fund Global
- e. severe environmental damage
- f. acts or omissions that on an aggregate company level lead to unacceptable greenhouse gas emissions
- g. gross corruption or other serious financial crime
- h. other particularly serious violations of fundamental ethical norms.

III. Organisation of the work

§ 5. The Council on Ethics' work

- (1) The Council on Ethics makes recommendations to the Bank on the observation and exclusion of companies in the GPFG's portfolio, in accordance with the criteria set out in sections 3 and 4, and on the revocation of observation and exclusion decisions; see subsection 7 and section 6(7).
- (2) The Council on Ethics monitors the GPFG's investments, see section 2, for the purpose of identifying companies that contribute to or are themselves responsible for the products or conducts set out in sections 3 and 4.
- (3) The Council on Ethics takes up cases at its own initiative or at the request of the Bank. The Council on Ethics shall develop and publish principles for the selection of companies for closer investigation.

- (4) The Council on Ethics shall be free to gather the information it deems necessary and shall ensure that each matter is thoroughly investigated before making a recommendation regarding observation, exclusion or revocation of such decisions.
- (5) A company that is being considered for observation or exclusion shall be given an opportunity to present information and opinions to the Council on Ethics at an early stage of the process. In this context, the Council on Ethics shall clarify to the company what circumstances may form the basis for observation or exclusion. If the Council on Ethics decides to recommend observation or exclusion under section 4, its draft recommendation shall be presented to the company for comments.
- (6) The Council on Ethics shall describe the grounds for its recommendations to the Bank. The Bank may adopt more detailed requirements relating to the form of such recommendations.
- (7) The Council on Ethics shall have routines for assessing whether basis for observation or exclusion still exists. In light of new information, the Council on Ethics may recommend that the Bank revoke an observation or exclusion decision. These routines must be made public. Companies that have been excluded must be informed of these routines separately.

§ 6 Norges Bank's work

- (1) Based on the advice submitted by the Council on Ethics, the Bank makes decisions on observation and exclusion in accordance with the criteria set out in sections 3 and 4, and on the revocation of observation and exclusion decisions; see section 5(7) and section 6(7). The Bank may, at its own discretion, make decisions on observation and exclusion, and on the revocation of such decisions under section 3(2).
- (2) In assessments pursuant to section 3(2), importance shall also be attached to forward looking assessments, including any plans the company may have that will change the level of extraction of coal or coal power capacity relating to thermal coal, reduce the income ratio or business share based on thermal coal and/or increase the income ratio or business share relating to renewable energy sources.
- (3) Advice and decisions on the exclusion of companies pursuant to section 3(2) shall not encompass a company's green bonds, where these are recognised through inclusion in indexes for such bonds or verified by a recognised third party.
- (4) In assessing whether a company is to be excluded under section 4, the Bank may, inter alia, consider factors such as the probability

of future violations of norms, the severity and extent of the violations and the connection between the norm violation and the company in which the Fund is invested. The Bank may also consider the breadth of the company's operations, including whether the company is doing what can be expected to reduce the risk of violations of norms within a reasonable time frame. Relevant factors in these assessments include the company's corporate governance, guidelines and efforts on environmental and social conditions, and whether the company is contributing to remedying measures with respect to those who are or have previously been affected by the company's conduct.

- (5) Companies may be placed under observation if it is uncertain whether grounds for exclusion exist or what developments may occur forward in time, or when expedient for other reasons. Before any decision to exclude a company or place it under observation is made pursuant to section 6(1), the Bank must consider whether the exercise of ownership rights could be an appropriate way to reduce the risk of continued norm violations or could be more appropriate for other reasons. The Bank shall consider the full range of measures at its disposal and apply the measures in a coherent manner.
- (6) The Bank shall ensure that sufficient information is available before it makes a decision regarding the exercise of ownership rights, observation or exclusion, or revokes any such decision.
- (7) On the basis of new information, the Bank may ask the Council on Ethics to assess whether the grounds for observation or exclusion continue to exist.

§ 7 Exchange of information and coordination between the Bank and the Council on Ethics

- (1) To facilitate good coordination between the Bank and the Council on Ethics, and the effective interaction of different measures, the Bank and the Council shall hold regular meetings.
- (2) The Council on Ethics provides the Bank with information about companies it has selected for an initial assessment under these guidelines. The Bank provides the Council on Ethics with a list of the companies it is working on and company information that could be relevant for the Council's assessments.
- (3) The Council on Ethics may ask the Bank for information on matters concerning individual companies, including how specific companies are dealt with in the context of the exercise of ownership rights. The Council on Ethics may ask the Bank to contact companies with which the Council is unable to establish contact for

the purpose of soliciting information. The Bank may ask the Council on Ethics to make its assessments of individual companies available to it and be given access to the Council's communications with the companies concerned.

- (4) The Bank and the Council on Ethics shall establish detailed procedures for the exchange of information and coordination to clarify responsibilities and promote productive communication and integration of the work of the Bank and the Council on Ethics.
- (5) Communication with the companies shall be coordinated. The Bank may attend meetings that the Council on Ethics has with companies. The Bank exercises the GPFG's shareholder rights; see Management mandate for the Government Pension Fund Global.

§ 8 The Council on Ethics' composition and organisation

- (1) The Council on Ethics consists of five members based on nomination by the Bank and appointed by the Ministry of Finance. The Ministry also appoints a chair and deputy chair based on nomination by the Bank. The Bank's nominations shall be submitted to the Ministry no later than three months prior to the expiry of the appointment period.
- (2) The Council on Ethics performs its work independently and autonomously. The Council on Ethics' composition must ensure that it possesses the required expertise to perform its functions as defined in these guidelines.
- (3) Members of the Council on Ethics shall be appointed for a period of four years. If a Council member steps down during their period of appointment, a new member may be appointed before the remaining portion of the period has expired.
- (4) The Ministry sets the remuneration payable to the members of the Council on Ethics and the Council on Ethics' budget.
- (5) The Council on Ethics has its own secretariat, which falls administratively under the Ministry's purview. The Council on Ethics shall ensure that the secretariat has appropriate procedures and routines in place.
- (6) The Council on Ethics shall prepare an annual operating plan, which shall be submitted to the Ministry. The operating plan shall describe the priorities set by the Council on Ethics for its work; see section 5.
- (7) The Council on Ethics shall provide the Ministry with an annual report on its activities. This report shall be submitted no later than three months after the end of each calendar year.
- (8) The Council on Ethics shall evaluate its work regularly.

§ 9 Meetings with the Ministry of Finance

- (1) The Ministry, the Bank and the Council on Ethics shall meet at least once a year. The report on responsible investment management included in the annual report to the Norwegian parliament (Stortinget) on the management of the GPFG shall be based in part on the information exchanged at such meetings.
- (2) The Ministry and the Council on Ethics shall meet at least once a year. The following matters shall be discussed at these meetings:
 - a) activities in the preceding year
 - b) other matters reported by the Ministry and the Council on Ethics for further consideration.

IV. Public disclosure

§ 10 Publication

- (1) The Bank shall publish its decisions pursuant to these guidelines. Such public disclosure shall be in accordance with section 6-1(5) of the Management mandate for the Government Pension Fund Global. When the Bank publishes its decisions, the Council on Ethics shall publish its recommendations. When the Bank makes decisions in accordance with section 6(1)(2) at its own discretion or decides to implement a measure other than that recommended by the Council on Ethics, the Bank shall explain its decision.
- (2) The Bank shall keep a publicly available list of companies that have been excluded from the GPFG or have been placed under observation pursuant to these guidelines. Each year, the Bank shall publish details of the progress made in cases involving the exercise of ownership rights under these guidelines.

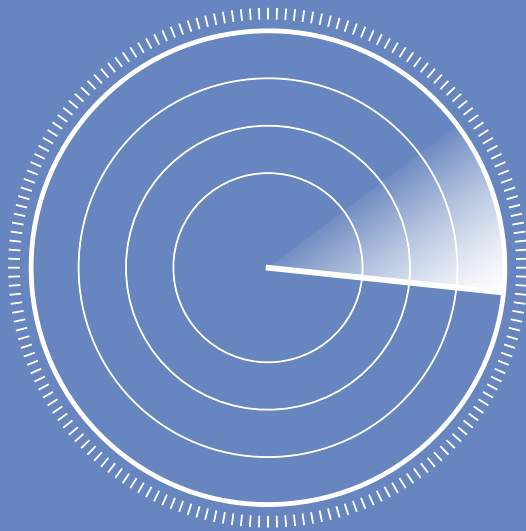
V. Other provisions

§ 11. Adgang til å gjøre endringer

The Ministry may issue additions or make amendments to these guidelines.

§ 12 Entry into force

§ 4(1)-(3) enter into force immediately. Other sections enter into force 1 January 2015. From that same date, the Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPFG) adopted on 1 January 2010 are rescinded.







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