

COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

To Norges Bank

30.09.2021

Recommendation to exclude Li Ning Co Ltd from the Norwegian Government Pension Fund Global

Summary

The Council on Ethics recommends that Li Ning Co Ltd (Li-Ning) be excluded from investment by the Norwegian Government Pension Fund Global (GPFG) due to an unacceptable risk that the company is contributing to serious human rights abuses in China's Xinjiang Uyghur Autonomous Region.

Li-Ning is a Chinese company that manufactures and sells sports clothing and equipment. The company is listed on the Hong Kong Stock Exchange. At the close of 2020, the GPFG owned 1.2 per cent of the company's shares, worth NOK 1.76 billion.

Several reports and news articles have described the ongoing human rights abuses in Xinjiang, both relating to internment camps and forced labour. It is therefore well documented that producing in or purchasing certain products from this region, including textiles and cotton, are associated with a particular risk of becoming involved in forced labour.

Information published on Chinese websites indicate that Li-Ning signed a cooperation agreement with Xinjiang Jinfujie Clothing Co Ltd (Jinfujie) in 2017. According to these sources, the agreement was intended to make Jinfujie Li-Ning's "production base". Publicly available information indicates that Jinfujie manufactures inside an internment camp in Xinjiang, and that the company has several production facilities in the region which are said to have taken on many workers via government-sponsored programmes targeting ethnic minorities. Li-Ning is also linked to human rights abuses in Xinjiang through other suppliers.

In light of the information available, as well as the general risk relating to textiles production in Xinjiang, the Council considers that there is a risk of forced labour linked to Li-Ning's operations. The Council does not have information indicating that Li-Ning has investigated or addressed this risk with respect to Jinfujie or other suppliers, and the company has not answered the Council's requests for information. The Council therefore concludes that the risk of the company contributing to serious human rights abuses is unacceptably high.

Contents

1	Introduction	1
	1.1 Matters considered by the Council	1
	1.2 Sources	2
2	Background	2
3	Li-Ning's connection to norm violations in Xinjiang	3
4	Information provided by the company	4
5	The Council's assessment	4
6	Recommendation	5

1 Introduction

The Council on Ethics has assessed the Norwegian Government Pension Fund Global's (GPFG) investment in Li-Ning Co Ltd¹ (Li-Ning) against the Guidelines for Observation and Exclusion of companies from the GPFG (the ethical guidelines).² This recommendation rests on the company's links to human rights abuses in China's Xinjiang Uyghur Autonomous Region.

Li-Ning is a Chinese company that manufactures and sells sports clothing and equipment. The company is listed on the Hong Kong Stock Exchange.

At the close of 2020, the GPFG owned 1.2 per cent of the company's shares, worth NOK 1.76 billion.

1.1 Matters considered by the Council

The Council has assessed the GPFG's investment in Li-Ning against section 3 (a) of the ethical guidelines, which states that "Companies may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for: a) serious or systematic human rights violations [...]."

In its assessment of whether a company has contributed to serious or systematic human rights abuses, the Council relies on internationally recognised conventions and authoritative interpretations thereof. This recommendation rests largely on the International Covenant on Civil and Political Rights and ILO conventions no. 29 and 105 on forced labour.³ The Council also attaches importance to the UN Guiding Principles on Business and Human Rights.⁴

Article 8 of the International Covenant on Civil and Political Rights and Article 2 of ILO convention no. 29 prohibit forced labour, defined in the ILO convention as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Article 1 of ILO convention no. 105 also prohibits forced labour as a means of political coercion or education, or as a method of mobilising and using labour for purposes of economic development.

Although international human rights conventions bind states and not companies, companies can be said to contribute to human rights abuses. The Council on Ethics takes no position on the extent to which the state is responsible for any human rights violations that may occur. It is sufficient to establish that the company in question acts in a way that contributes to serious or systematic violation of internationally recognised human rights.

When assessing a company's contribution to human rights abuse, the Council finds that there must be a link between the company's operations and the norm violations concerned. In addition, the company must either have contributed actively to or known about the norm violations without seeking to prevent them. The norm violations must be ongoing, or there

¹ Issuer ID: 8987654

² Guidelines for Observation and Exclusion from the Norwegian Government Pension Fund Global (GPFG), <https://files.nettsteder.regjeringen.no/wpuploads01/blogs.dir/275/files/2019/12/guidelines-for-observation-and-exclusion-from-the-gpfg-01.09.2019.pdf>.

³ ILO Forced Labour Convention, 1930 (No. 29), <https://lovdata.no/TRAKTAT/traktat/1930-06-28-1> and ILO Abolition of Forced Labour Convention, 1957 (No.105), <https://lovdata.no/TRAKTAT/traktat/1957-06-25-1>

⁴ UN High Commissioner for Human Rights, UN Guiding Principles on Business and Human Rights, 2011 https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf

must be an unacceptable risk that abuses may occur in the future. When assessing the risk of new abuses, previous norm violations may give an indication of future patterns of behaviour. The Council attaches importance to what the company is doing to prevent norm violations.

Pursuant to the Report to the Norwegian Storting (white paper) on the GPF for 2021, importance may be attached to risk factors at the country and sectoral level in certain cases where access to information is limited.⁵ In this particular case, information about the company's potential contribution to violation of norms is limited, and commissioning and conducting field studies have not been possible. The Council therefore gives weight to the mentioned risk factors in this recommendation. The white paper also affirms that importance may be attached to companies' failure to respond to the Council on Ethics' requests for information.⁶

1.2 Sources

In this case, the Council has made use of publicly available sources, including state and international bodies. The Council has also made use of media news reports.

All the websites referred to were last visited on 10 September 2021.

2 Background

Xinjiang is a region in northwest China where around 45 per cent of the population belong to the Uyghur ethnic minority. In recent years, the Chinese government has significantly stepped up security measures in the region, partly in the form of an extensive surveillance system.⁷ It has been reported that over a million Uyghurs and other ethnic minorities have been placed in internment camps.⁸ The authorities say that the camps are re-education centres, whose purpose is to offer vocational training and prevent radicalisation.⁹

In parallel with news media and civil society reports about surveillance and internment camps, allegations about forced labour in Xinjiang have surfaced.¹⁰ Several reports describe how Uyghurs and other ethnic minorities are subject to forced labour, either directly linked to the internment camps or elsewhere, as part of state-led programmes officially aimed at combatting poverty.¹¹ Cotton production has been highlighted as a sector with a particularly high risk of forced labour, often organised by the government agency Xinjiang Production

⁵ Report to the Storting (white paper) No. 24 (2020–2021) Government Pension Fund Global (GPF) 2021, p. 139, <https://www.regjeringen.no/no/dokumenter/meld.-st.-24-20202021/id2843255/>

⁶ Report to the Storting (white paper) No. 24 (2020–2021) p. 140.

⁷ For background information, see the Council on Ethics' recommendation relating to Hangzhou Hikvision Digital Technology Co Ltd, 18 September 2020, <https://etikkradet.no/hangzhou-hikvision-digital-technology-co-ltd-2/>

⁸ ChinaFile, *Where Did the One Million Figure for Detentions in Xinjiang's Camps Come From?*, 8. January 2019. <https://www.chinafile.com/reporting-opinion/features/where-did-one-million-figure-detentions-xinjiangs-camps-come>

⁹ State Council Information Office, *Vocational Education and Training in Xinjiang, Preface*, August 2019, http://english.scio.gov.cn/node_8013699.html

¹⁰ 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-uyghurs.html>

¹¹ See for example New York Times, *Inside China's Push to Turn Muslim Minorities Into an Army of Workers*, 30 December 2019, <https://www.nytimes.com/2019/12/30/world/asia/china-xinjiang-muslims-labor.html>

and Construction Corps (XPCC).¹² The allegations of forced labour have been contested by the Chinese authorities.¹³

On several occasions, the UN High Commissioner for Human Rights has asked for access to Xinjiang to carry out field studies, but this has not yet been permitted.¹⁴

In March 2021, the EU imposed sanctions on several Chinese public officials as well as the XPCC Public Security Bureau on the grounds of human rights abuses in Xinjiang.¹⁵ The reasons given for the sanctions stated that:

As the organisation in charge of security policies within the XPCC, the XPCC Public Security Bureau is responsible for serious human rights violations in China, in particular large-scale arbitrary detentions and degrading treatment inflicted upon Uyghurs and people from other Muslim ethnic minorities, as well as systematic violations of their freedom of religion or belief, linked, inter alia, to the XPCC's implementation of a large-scale surveillance, detention and indoctrination programme targeting Muslim ethnic minorities. As part of the aforementioned programme, the XPCC uses Uyghurs and people from other Muslim ethnic minorities as a forced workforce, in particular in cotton fields. As the organisation in charge of security policies within the XPCC, the XPCC Public Security Bureau is responsible for the systematic use of forced labour.

3 Li-Ning's connection to norm violations in Xinjiang

According to company profiles and adverts on several Chinese websites, Li-Ning signed a cooperation agreement with the company Xinjiang Jinfujie Clothing Co Ltd (Jinfujie) in 2017.¹⁶ According to the websites, the agreement was intended to make Jinfujie Li-Ning's "production base". Jinfujie is a company that seeks to help implement the government's anti-poverty policy in Xinjiang.¹⁷ Allegedly, the company manufactures inside one of the internment camps, the *Kashgar Education and Training Centre*. Jinfujie also has production

¹² BBC, *China's 'tainted' cotton*, December 2020 <https://www.bbc.co.uk/news/extra/nz0g306v8c/china-tainted-cotton>

¹³ The State Council Information Office of the People's Republic of China, *Employment and Labor Rights in Xinjiang*, September 2020, <https://www.chinadaily.com.cn/a/202009/17/WS5f62eda8a31024ad0ba7a273.html>

¹⁴ Reuters, *U.N. rights chief seeks Xinjiang visit this year, says HK trials key test*, 21 June 2021, <https://www.reuters.com/world/china/bachelet-seeks-xinjiang-visit-this-year-says-hk-trials-key-test-2021-06-21/>

¹⁵ Official Journal of the European Union, 22 March 2021, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2021:099I:FULL&from=EN>. Norway joined the EU's sanctions regime on 29 March 2021: regjeringen.no, EU Global Human Rights Sanctions Regime: Declaration by the High Representative on behalf of the European Union, <https://www.regjeringen.no/no/tema/europapolitikk/tema-norge-eu/utenriks-sikkerhetspolitisk-samarbeid/fusp-erklaringer/2021/eu-erklaring-om-restriktive-tiltak-mot-aktiviteter-menneskerettighetsbrudd/id2842048/>

¹⁶ [Information in Chinese] 58.com (online classified advertising market), *Xinjiang Jinfujie Clothing Co., Ltd.*, <http://qy.58.com/54517304498713/>. The same information is presented on Jinfujie's corporate profile on XJHR.com <https://www.xjhr.com/zhaopin/568084.html> and Gongsi.com.cn and Tianyancha.com (restricted access).

¹⁷ [Information in Chinese] Southcn.com (Chinese state-controlled media outlet), *Shenzhen to help entrepreneurs: getting more than 3000 Uighur people "from the stove to the machine"*, 1 November 2018, <http://pc.nfapp.southcn.com/39/1621999.html> and Ministry of Poverty Reduction /China Federation of Industry and Commerce, *National "million enterprises to help million villages" industry poverty alleviation site promotion will be held in Gan*, 24 October 2018, http://www.acfic.org.cn/wqbwxc/xddt/201810/t20181024_68909.html

facilities in Xinjiang, which are said to have taken on many workers through government programmes targeting ethnic minorities. The company's management have experience from the armed forces, and the workers are said to be subject to "military-style" educational training at the same time as the company seeks to change the workers' ideology.

Job adverts describing the business relationship between Jinfujie and Li-Ning were apparently posted by Jinfujie in 2019 and 2020. Information about Li-Ning is part of Jinfujie's corporate profile on the websites where the adverts were posted and was repeated in the adverts themselves. The business relationship between the two companies is also described in a post on the social media platform Meipian, which shows pictures and video footage of Uyghurs working for Jinfujie.¹⁸ The workers are dressed in grey and orange uniforms and are assembled on parade while they shout slogans.

In a 2020 report from the *Australian Strategic Policy Institute*, Li-Ning is mentioned as one of several businesses that purchase items from two other companies linked to forced labour in Xinjiang, Changji Esquel Textile Co. Ltd (Esquel) and Victory City International Holding Ltd (Victory City).¹⁹ While Esquel is said to have had Uyghurs working at one of its factories in Xinjiang, a subsidiary of Victory City is said to have taken on workers from Xinjiang elsewhere in the country.

With regard to the purchase of cotton from Xinjiang, Li-Ning has publicly stated that it will continue doing so despite allegations of forced labour.²⁰ It has also been reported that the company marks its products as "made of Xinjiang cotton".²¹

4 Information provided by the company

The Council on Ethics contacted Li-Ning in April 2021, seeking answers to a number of questions. In June 2021, the Council sent the company a draft version of its recommendation. Li-Ning has not replied to the Council's letters.

5 The Council's assessment

The Council on Ethics has assessed the GPF's investment in Li-Ning against the human rights criterion in the fund's ethical guidelines. The question is whether there is an unacceptable risk that the company is contributing to serious human rights abuses in Xinjiang.

In this case, the Council has been unable to perform its own field studies, such as investigating working conditions at the relevant production facilities in Xinjiang. The Council must therefore rely on publicly available information. In line with the Report to the Storting (white paper) on the GPF for 2021, the Council has also attached importance to risk at the country and sectoral level, as well as the lack of information provided by the company itself.

Several reports and news articles have described ongoing human rights abuses in Xinjiang. These relate to both the use of internment camps and forced labour. It is therefore well

¹⁸ [Information in Chinese] Meipian's online archive, <https://web.archive.org/web/20210330155051/https://www.meipian.cn/1imentq3#comment>

¹⁹ ASPI, Uyghurs for Sale, <https://www.aspi.org.au/report/uyghurs-sale>

²⁰ Global Times (state-controlled Chinese media outlet), 'Pure, white cotton shouldn't be tainted!' Chinese voice support for Xinjiang, 25 March 2021, <https://www.globaltimes.cn/page/202103/1219499.shtml>

²¹ Xinhua Net (state-controlled Chinese media outlet), Why Western mudslinging has failed to dampen Xinjiang cotton, 8 July 2021, http://www.xinhuanet.com/english/2021-07/08/c_1310050400.htm

documented that producing in or purchasing certain products from this region, including textiles and cotton, are associated with a particular risk of becoming involved in forced labour.

In this case, adverts on several websites indicate that Li-Ning has entered into a long-term production agreement with a supplier in Xinjiang. This supplier is said to manufacture inside an internment camp and takes on many workers via a state-led anti-poverty programme. This represents a substantial risk of forced labour. Other publicly available sources indicate that Li-Ning has several suppliers linked to human rights abuses in Xinjiang. Li-Ning has also publicly stated that it purchases cotton from Xinjiang and that it will continue to do so.

Based on publicly available information about Li-Ning’s suppliers, as well as the general risk associated with textiles and cotton production in the region, the Council considers that there is a risk of forced labour linked to Li-Ning’s operations. The Council has not received any information indicating that Li-Ning has investigated or addressed this risk, neither with respect to Jinfujie or other suppliers. Since the company has not responded to its requests for information, the Council concludes that the risk of the company contributing to human rights abuses is unacceptably high.

6 Recommendation

The Council on Ethics recommends that Li-Ning Co Ltd be excluded from the Norwegian Government Pension Fund Global due to an unacceptable risk that the company is contributing to serious human rights abuses.

Svein Richard
Brandtzæg
Acting Chair

(Sign.)

Cecilie Hellestveit

(Sign.)

Trude Myklebust

(Sign.)

Siv Helen Rygh
Torstensen

(Sign.)