

Unofficial English Translation

To Norges Bank

25.04.2024

**Recommendation to exclude China
State Construction Engineering Corp
Ltd from investment by the Norwegian
Government Pension Fund Global
(GPF)**

Summary

The Council on Ethics recommends that China State Construction Engineering Corp Ltd (CSCEC) be excluded pursuant to the criterion relating to gross corruption or other serious financial crime in the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (GPFG).

CSCEC is a Chinese construction company with a total workforce of approx. 380,000 people, including subsidiaries, and operations in more than 70 countries worldwide. It is listed on the Shanghai Stock Exchange. The company's primary business activities include the construction of all types of public buildings, as well as infrastructure, property investment and development, and various forms of engineering activities. At the close of 2023, the GPFG owned 0.03 per cent of the company's shares, worth NOK 90 million.

CSCEC may be linked to allegations or suspicions of corruption in a number of countries in the period 2004–2021. As far as the Council is aware, neither the company nor any of the company's employees have so far been convicted in relation to any of the allegations, but the company has on several occasions been banned from tenders or had contracts canceled due to suspicions of financial fraud.

The Guidelines for Observation and Exclusion of Companies from the GPFG are forward-looking, and the issue to be assessed is whether there is an unacceptable risk that the company is contributing to or is itself responsible for gross corruption. In its assessment of future risk, the Council attaches importance to the assessments of authoritative sources with respect to the risk of corruption in the countries and business sector in which CSCEC operates. The Council points out that CSCEC operates in many countries that are ranked very low on international corruption indexes, that the construction industry has long been identified as one of the sectors with the highest corruption risk in the world, and that this risk is also deemed to be high in the BRI where CSCEC is engaged in many projects. The Council also attaches importance to the fact that China was ranked in the lowest category when Transparency International in 2022 assessed the country's performance in enforcing corruption committed by its own citizens or companies abroad.

Still, most important for the Council's assessment of future risk is whether the company is implementing measures capable of preventing, detecting and reacting to corruption, and which could indicate that the risk is nevertheless acceptable. The Council has contacted CSCEC and asked it a number of questions, but the company has failed to reply to the Council's queries. Nor does the company provide any information on such measures on its website or in published reports. The Council refers to the Report to the Storting on the Government Pension Fund in 2008, which states that "a lack of information

concerning a company's behaviour and, not least, a lack of willingness on the part of the company to provide information, may in itself contribute to the risk of it contributing to unethical behaviour being deemed unacceptably high."

On this basis, and in light of the cases described, the Council considers that the risk of gross corruption linked to CSCEC's operations is unacceptable and recommends that the company be excluded from investment by the GPF.

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1 Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (GPFG) has assessed the Fund's investments in China State Construction Engineering Corp Ltd¹ (CSCEC) against the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines).² The company may be linked to allegations and suspicions of corruption in multiple countries.

CSCEC is a Chinese construction company with a total workforce of approx. 380,000 people, including subsidiaries, and operations in more than 70 countries worldwide. It is listed on the Shanghai Stock Exchange. The company's primary business activities include the construction of all types of public buildings, as well as infrastructure such as railway lines, motorways, bridges, ports, etc., property investment and development, and various forms of engineering activities. The Chinese state has a controlling interest in the company through the State-owned Assets Supervision and Administration Commission (SASAC).³

At the close of 2023, the GPFG owned 0.03 per cent of the company's shares, worth NOK 90 million.⁴

1.1 Matters considered by the Council

CSCEC may be linked to allegations or suspicions of corruption in a number of countries in the period 2004–2021. Pursuant to section 4(g) of the ethical guidelines, a company may be excluded from investment by the GPFG or placed under observation if there is an unacceptable risk that it is contributing to, or is itself responsible for, gross corruption or other serious financial crime.

In accordance with its well-established practice, the Council on Ethics applies the following definition of corruption⁵:

*1) Gross corruption exists if a company, through its representatives,
a) gives or offers an advantage – or attempts to do so – in order to unduly influence:*

¹ Issuer ID: 15346696

² https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpf_guidelines_observation_exclusion.pdf

³ <https://english.cscec.com/> (last visited 11 October 2023); CSCEC Annual Report 2022, pp. 19, 74, 118.

⁴ <https://www.nbim.no/no/oljefondet/investeringene/#/2022/investments/equities/949/China%20State%20Construction%20Engineering%20Corp%20Ltd>

⁵ <https://etikkradet.no/recommendations/gross-corruption/>

- i) a public official in the performance of public duties or in decisions that may confer an advantage on the company; or*
- ii) a person in the private sector who makes decisions or exerts influence over decisions that may confer an advantage on the company,*
- b) demands or receives a bribe*
- and*
- c) the corrupt practices mentioned in a) and b) are carried out in a systematic or extensive way.*

In the Council's assessment of future risk relating to corruption, emphasis is placed firstly on the extent to which it has taken effective steps to prevent, detect and react to corruption. The risk of corruption in the business sector and countries in which the company operates are also important factors in the Council's assessment. The Council otherwise attaches importance to whether the company has helped to shed light on the matter, and takes the position that it is up to the company to substantiate that it is working effectively to prevent corruption if the Council is to deem the risk to the GPFG to be acceptable.

Where access to information is limited, the Report to the Storting on the Government Pension Fund 2021 permits greater weight to be given to risk factors at the country and sector level when assessing certain cases. With respect to corruption in particular, the report makes it clear that when assessing the potential exclusion of a company, there should be a lower threshold for substantiating the likelihood of further corrupt acts in the future, since this criterion is especially challenging for the Council to follow up.⁶ Moreover, it follows from the Report to the Storting on the Government Pension Fund in 2008 that "a lack of information concerning a company's behaviour and, not least, a lack of willingness on the part of the company to provide information, may in itself contribute to the risk of it contributing to unethical behaviour being deemed unacceptably high."⁷ The Report to the Storting on the Government Pension Fund 2021 reiterates that the Council should be able to attach importance to companies' willingness and ability to cooperate in its assessments.⁸

⁶ Meld. St. 24 (2020–2021) *Statens pensjonsfond 2021*, pp. 124, 140, <https://www.regjeringen.no/contentassets/524ad2307e424c3b9a9ff52b06569e24/no/pdfs/stm202020210024000dddpdfs.pdf>

⁷ St.meld. No. 20 (2008–2009) *Om forvaltningen av Statens pensjonsfond i 2008*, p. 125, <https://www.regjeringen.no/contentassets/88c48b559b4c4b53a0b9b4ca2dc3dc45/no/pdfs/stm200820090020000dddpdfs.pdf>.

⁸ Meld. St. 24 (2020-2021), pp. 124, 140.

1.2 Sources

The information obtained on the allegations and suspicions of corruption stem primarily from the international media. The assessment of the company's anti-corruption systems is based on information published on CSCEC's website and in its annual reports.

CSCEC has also been presented a draft recommendation on the exclusion of the company.

2 Background

2.1 The various allegations/suspicions of corruption

CSCEC may be linked to allegations or suspicions of corruption in the following countries: Algeria, the Philippines, Guyana, Kenya, Namibia, Pakistan and Hungary.

Algeria:

In April 2023, the criminal court in Algiers ordered the company *Société d'Investissement Hôtelier* (SIH) to pay a fine of DZD 645 million (approx. NOK 51.6 million) for overbilling in connection with the construction of the Sheraton hotel in Staouéli, Algeria. The overbilling was alleged to include CCTV cameras ordered through CSCEC. It was claimed that the purchase price for the cameras was four times the actual price, and a large portion of the excess amount was said to have been transferred abroad.⁹

The Philippines:

The first case to which CSCEC may be linked here relates to violation of the public procurement regulations in the Philippines. In 2004, this led to the company being barred from participating in public tenders for one year by the country's Department of Public Works and Highways.¹⁰

⁹ InterLignes, 11 April 2023: Cour d'Alger : *Annulation de la peine de 3 ans de prison prononcée contre Melzi*, <https://inter-lignes.com/cour-dalger-annulation-de-la-peine-de-3-ans-de-prison-prononcee-contre-melzi/>; El Watan, 27 March 2023: *Marché de construction de l'hôtel Sheraton d'Alger : 5 ans de prison ferme requis contre Abdelhamid Melzi*, <https://elwatan-dz.com/marche-de-construction-de-lhotel-sheraton-dalger-5-ans-de-prison-ferme-requis-contre-abdelhamid-melzi>.

¹⁰ Republic of the Philippines. Department of Public Works and Highways. Office of the Secretary. Manila, 15 December 2004: *Subject: Suspension/Blacklisting of China State Construction Engineering Corporation*, https://www.dpwh.gov.ph/dpwh/sites/default/files/issuances/DO_236_S2004.pdf; Rappler, 14 May 2018: *China firms in Marawi rehab once blacklisted by World Bank*, <https://www.rappler.com/nation/202300-chinese-firms-marawi-consortium-blacklisted-world-bank-arroyo/>.

The second case relates to cartel activity linked to the National Roads Improvement and Management Project (NRIMP), which was part-funded by the World Bank. In January 2009, on the basis of its own investigation into the case, the World Bank debarred the company from projects the bank was funding for a period of six years.¹¹ In December 2011, it also emerged that CSCEC was on the bank's corruption and fraud blacklist.¹²

Guyana:

Early in November 2021, it became known that CSCEC had been awarded the contract to build the new bridge in Demerara, Guyana. CSCEC won the contract with a bid of approx. USD 257 million, which was the lowest of the bids submitted by the companies that had qualified for the final round in the tender competition.¹³ From 2021 to 2022, the US/Canadian news outlet Vice conducted a major piece of investigative journalism into how Chinese businesses operate in Guyana. The various Chinese businesses included major state-controlled companies that operated in the area of natural resource extraction, such as gold and timber, and engaged in infrastructure projects. According to the undercover interviews that Vice conducted, the provision of bribes through intermediaries was generally necessary to win contracts with the country's authorities, and Guyana's vice president was named as the most important counterparty in this connection. One of the intermediaries interviewed stated that CSCEC was one of the companies he had helped to win contracts, and that they had paid him USD 500,000 up to that point.¹⁴

In February 2022 – after being confronted with the corruption allegations – the vice president stated that the Guyanese authorities had just cancelled further negotiations with CSCEC relating to the Demerara project.¹⁵

¹¹ Reuters, 15 January 2009: *World Bank bars seven firms including four from China*, <https://www.reuters.com/article/oukwd-uk-worldbank-corruption-idAFTRE50E0GX20090115>; The World Bank Group. Integrity Vice Presidency. *Annual Report Fiscal Year 2009*, p. 21, <https://thedocs.worldbank.org/en/doc/8c34b7be98f117dc1fd62d69dda1fbd9-0090012021/original/INT-FY09-Annual-Report.pdf>.

¹² South China Morning Post, 13 December 2011: *World Bank accuses 11 firms of corruption*, <https://www.scmp.com/article/987663/world-bank-accuses-11-firms-corruption>; .

¹³ Demerara Waves, 1 November 2021: *Chinese company approved to design, finance, build new Demerara Harbour Bridge; no dramatic increase in fares*, <https://demerarawaves.com/2021/11/01/chinese-company-approved-to-design-finance-build-new-demerara-harbour-bridge-no-dramatic-increase-in-fares/>.

¹⁴ VICE, 7 July 2022: *Undercover In Guyana: Exposing Chinese Business in South America*, <https://www.youtube.com/watch?v=sOOFSlqBYTY>; Kaieteur News, 10 February 2022: *Jagdeo accused of bribery, corruption after terminating contract with Chinese firm*, <https://www.kaieteurnewsonline.com/2022/02/10/jagdeo-accused-of-bribery-corruption-after-terminating-contract-with-chinese-firm/>.

¹⁵ Kaieteur News, 10 February 2022.

Kenya:

At the end of January 2022, it became known that activists in Kenya had asked the High Court at Nairobi to issue an injunction prohibiting CSCEC from entering into public contracts in the country and ordering the repayment of everything the company had hitherto earned from such contracts. In November 2021, CSCEC's counterparty in Kenya – the Kenya National Highways Authority (KeNHa) – cancelled the contract it had signed with CSCEC for repairs on the road between Thika and Magumu, which had commenced in August 2020. KeNHa said the cancellation was due to delays and violation of section 66(2) of Kenya's Public Procurement and Asset Disposal Act, which prohibits public contractors from being involved in corruption and conflicts of interest. Less than two months after this cancellation, however, KeNHa signed three new contracts with CSCEC for roadbuilding and the laying of fibreoptic cables in northeast Kenya, worth just over KES 20 billion (approx. NOK 134 million). It was precisely this that prompted the activists petition to the High Court, since they considered that the reason given for cancelling the previous contract also gave grounds – pursuant to Kenya's public procurement regulations – for excluding the company concerned from future contracts.¹⁶ However, the petition was rejected by the court, which concluded that it did not have legal jurisdiction to hear the case.¹⁷

Namibia:

In June 2019, it became known that the High Court of Namibia had cancelled a contract for upgrades to Andimba Toivo ya Toivo Airport, in Ondangwa, between the state-owned enterprise Namibia Airports Company (NAC) and CSCEC. The contract, which was worth NAD 211 million (approx. NOK 118 million), had originally been entered into in June 2016. It was NAC's new board of directors, which took office in September 2016, that had requested a judicial review of the contract, since it believed the company's previous board of directors had circumvented the procurement regulations by awarding the contract without an open tender process. In connection with the legal proceedings, allegations were also made that NAC's former CEO and another senior executive had persuaded the previous board to award the contract directly to CSCEC. It was further alleged that the award was dealt with in extreme haste at the very last board meeting before the previous board stepped down. With reference to the fact that two months prior to the contract being awarded, NAC had been presented with a

¹⁶ Kenya Insights, 26 January 2022: *Why Lobby Group Seek To Have China State Construction Engineering Corporation Banned In Kenya*, <https://kenyainsights.com/why-lobby-group-seek-to-have-china-state-construction-engineering-corporation-banned-in-kenya/>.

¹⁷ High Court at Nairobi, 2 August 2022. *Kithinji & another v China State Construction Engineering Corporation; Kenya Highway Authority (KENHA) (Interested Party) (Constitutional Petition E012 of 2022)* [2022] KEHC 11525 (KLR) (Constitutional and Human Rights) (2 August 2022) (Ruling), <http://kenyalaw.org/caselaw/cases/view/238123/> (last visited 1 February 2024).

cost estimate of approx. NAD 170 million, it was also questioned how the previous board could approve a contract amount that had, in such a short space of time, risen by 25 per cent. CSCEC appealed the ruling because it claimed that NAC had taken an unreasonably long time in bringing the matter before the courts. However, the cancellation was upheld by the Supreme Court of Namibia in May 2020. The court's decision makes it clear that even if there had been an unnecessary delay on NAC's part, it must nevertheless be accepted in light of the fact that the contract had been awarded in contravention of the procurement regulations, that the sharp price rise had no detailed explanation and that the award was made in an opaque and hasty fashion. Since CSCEC had previously won a contract with NAC through an open tender competition, the court also presumed that CSCEC must have understood that this contract had not been awarded properly.¹⁸

Pakistan:

In February 2019, allegations of corruption emerged in connection with the "Sukkur–Multan" motorway project between Karachi and Lahore in Pakistan. According to an MoU, which CSCEC and Pakistani authorities signed in July 2013, the road project's price was originally set at PKR 259 billion, but had risen to PKR 292 billion (USD 500 million) by the time CSCEC won the tender competition in 2015. It is alleged that the difference between the two figures was embezzled, and that CSCEC's country manager was involved in this embezzlement. The road project is part of the China–Pakistan Economic Corridor (CPEC) project, which in turn is part of China's Belt and Road Initiative (BRI).¹⁹

¹⁸ The Namibian, 10 June 2019: *Chinese firm's N\$211m airport contract cancelled*, <https://namibian.com.na/chinese-firms-n211m-airport-contract-cancelled/>; The Namibian, 8 May 2020: *Chinese company's airport contract appeal fails*, <https://namibian.com.na/chinese-companys-airport-contract-appeal-fails/>; Supreme Court of Namibia, case no SA 28/2019: *In the matter between China State Engineering Construction Corporation (Appellant) and Namibia Airports Company Ltd. Respondent*. Coram: Damaseb DCJ, Hoff JA and Frank AJA. Heard: 6 March 2020. Delivered: 7 May 2020, <https://ejustice.moj.na/Supreme%20Court/Judgments/Pages/default.aspx> (last visited 31 January 2024).

¹⁹ Dawn, 20 February 2019: *Chinese firm rejects corruption charge in CPEC project*, <https://www.dawn.com/news/1464816>; Breitbart, 20 February 2019: *China fights back after Pakistan claims corruption loss of 500 million USD on Belt and Road project*, <https://www.breitbart.com/asia/2019/02/20/china-fights-back-after-pakistan-claims-corruption-loss-500-million-belt-road-project/>; The Express Tribune, 12 March 2018: *Bumpy ride on CPEC road as people cry for transparency*, <https://tribune.com.pk/story/1657399/unearthing-scandals-bumpy-ride-cpec-road-people-cry-transparency>. BRI is a Chinese infrastructure initiative that was launched in 2013 to secure better transport links and facilitate trade between countries in Asia, Africa and Europe. Source: Chatham House, 13 September 2021: *What is China's Belt and Road Initiative (BRI)?*, <https://www.chathamhouse.org/2021/09/what-chinas-belt-and-road-initiative-bri>.

Hungary:

In June 2021, there were mass demonstrations in the Hungarian capital Budapest to protest against plans to allow China's Shanghai-based Fudan University to establish a new campus in the city. The contract for the project was entered into by the governments of Hungary and China as far back as July 2019, but was kept secret until it leaked into the public domain two years later. The project, which was seen in connection with the BRI and was the first of its kind in Europe, was estimated to cost USD 1,687 billion. In June 2021, it also emerged that the Hungarian government had already agreed that only Chinese companies and banks should be involved in the project. In this connection, Fudan University was alleged to have strongly recommended CSCEC as the project's main contractor. Furthermore, internal documents obtained from the Hungarian government are supposed to have shown that there was a major discrepancy between the price bid and the funding proposal, which was not properly explained.²⁰

2.2 Corruption risk in business sector and countries that the company operates in/from

Sector risk:

What the FTSE calls the "Construction and Materials" sector has long been highlighted as one of the sectors with the highest level of corruption risk in the world. In the OECD's Foreign Bribery Report from 2014, for example, "Construction" was ranked as the second most corrupt of all the sectors encompassed by the survey.²¹ A number of factors contribute to this. The projects, especially infrastructure projects, are often substantial. The construction of dams, power stations, industrial facilities and motorways often cost billions of dollars. It is easier to hide substantial bribes and inflate costs in large projects than in small ones. Furthermore, large construction projects are often more or less "customised". This can make it harder to compare expenditures with other projects, which also makes it easier to inflate costs and hide bribes. Public authorities are also usually involved. Most large-scale infrastructure projects are owned by the authorities, and even when they are carried out under private ownership, they will nevertheless often depend on initial public approval or on agreements concerning payment for use of the final

²⁰ China Observers in Central and Eastern Europe (CHOICE), 7 June 2021: *The Fight Over Fudan: A Chinese University in Budapest Sparks Reckoning for Sino-Hungarian Relations*, <https://chinaobservers.eu/the-fight-over-fudan-a-chinese-university-in-budapest-sparks-reckoning-for-sino-hungarian-relations/>; RadioFreeEuropeRadioLiberty, 8 June 2022: *What's Next For China's Fudan University Campus In Hungary?*, <https://www.rferl.org/a/hungary-orban-china-fudan-budapest/31888800.html>.

²¹ OECD, 2014: *Foreign Bribery Report. An Analysis of the Crime of Bribery of Foreign Public Officials*, p. 21, <https://www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm>.

'product'. The industry may be heavily regulated at both the national and local level, and it is usually necessary to obtain many different kinds of permit. The greater the discretion the relevant authorities enjoy, combined with the projects' structural and financial complexity, the greater the opportunities they have to solicit bribes from the contractors.²²

Countries CSCEC operates in:

CSCEC operates in more than 70 countries worldwide. The company is heavily represented in Southeast Asia, Africa and the Middle East, and operates in several countries that figure very low on international corruption indexes. The company itself states that it is the primary representative for and leading enterprise in the BRI.²³ Repeated warnings have been issued about the high corruption risk associated with the BRI.²⁴ On Transparency International's corruption index, the seven countries mentioned in 2.1 have an average score significantly below the global average.²⁵ The same countries also figure on

²² Stansbury, Neill. 2005. Exposing the foundations of corruption in construction, pp. 36–50, in Transparency International. 2005. Global Corruption Report 2005. *Corruption in Construction and Post-Conflict Reconstruction*,

https://images.transparencycdn.org/images/2005_GCR_Construction_EN.pdf.

²³ China State Construction Engineering Corporation Limited. 2022 Annual Report, pp. 19, 44–45, 105; <https://english.cscec.com/AboutCSCEC/Companyprofile/> (last visited 22 January 2024).

²⁴ See, for example, VOA News, 8 October 2023: *China and the Lessons Learned From a Decade of the BRI*, <https://www.voanews.com/a/china-and-the-lessons-learned-from-a-decade-of-the-bri-/7301915.html>; Foreign Policy, 15 January 2019: *The Belt and Road Initiative Is a Corruption Bonanza*, <https://foreignpolicy.com/2019/01/15/the-belt-and-road-initiative-is-a-corruption-bonanza/>; Center for Strategic & International Studies (CSIS), 18 January 2019: *Corruption Flows Along China's Belt and Road*, <https://www.csis.org/analysis/corruption-flows-along-chinas-belt-and-road>; Forbes, 29 January 2020: *How China's Belt And Road Became A 'Global Trail Of Trouble'*, <https://www.forbes.com/sites/wadeshepard/2020/01/29/how-chinas-belt-and-road-became-a-global-trail-of-trouble/?sh=37dcefa3443d>; AML RightSource, 6 May 2021: *Why China's Belt & Road initiative faces overwhelming odds in its fight against corruption*, <https://www.amlrightsource.com/news/why-chinas-belt-road-initiative-faces-overwhelming-odds-in-its-fight-against-corruption/>; Business & Human Rights Resource Centre, 8 October 2021: *Study links 35 percent of Chinese Belt and Road Initiative projects to scandals involving corruption, environmental problems, labour violations*, <https://www.business-humanrights.org/en/latest-news/study-links-35-percent-of-chinese-belt-and-road-initiative-projects-to-scandals-involving-corruption-environmental-problems-labour-violations/>; World Bank. 2019. *Belt and Road Economics: Opportunities and Risks of Transport Corridors*, p. 109, <https://openknowledge.worldbank.org/bitstream/handle/10986/31878/9781464813924.pdf?sequence=4&isAllowed=y>; Alexandra Wrage, 12 October 2017: *Companies Engaging In China's Belt And Road Projects Must Address Bribery Risks*, <https://www.forbes.com/sites/alexandrawrage/2017/10/12/companies-engaging-in-chinas-belt-road-projects-must-address-bribery-risks/#61a8fbb64f52>.

²⁵ <https://www.transparency.org/en/cpi/2022> (last visited 22 January 2024). The lower the value, the more corrupt.

average a good way down on the World Bank's indexes for both rule of law and control of corruption.²⁶

The country CSCEC operates from:

CSCEC operates in a business sector and in many countries in which the risk of corruption is high. However, available information shows that China has yet to investigate or prosecute acts of corruption committed by its own citizens or companies abroad. In Transparency International's most recent Exporting Corruption report, from October 2022, China remains ranked in the lowest category: "Little or no enforcement".²⁷

3 Anti-corruption standards

In its assessment of what companies are doing to prevent any future incidence of corruption, the Council refers, among other things, to international standards for best practice regarding compliance and anti-corruption in multinational companies. On the basis of these standards, some key principles can be deduced with respect to the steps a company should take to establish and implement an effective anti-corruption programme.²⁸

All standards for best practice presume that top management must be genuinely involved in this effort if a company is to be capable of effectively preventing corruption. In this context, it is important that management clearly communicates zero tolerance of corruption, and that the company

²⁶ «Rule of Law» and «Control of Corruption» respectively:

<https://www.worldbank.org/en/publication/worldwide-governance-indicators> (last visited 23 January 2024).

²⁷ Transparency International. 2022. *Exporting Corruption 2022: Assessing Enforcement of the OECD Anti-Bribery Convention*, pp. 90–91, <https://www.transparency.org/en/publications/exporting-corruption-2022>.

²⁸ Internationally recognised guidelines and principles for the design of anti-corruption programmes may inter alia be found in: ISO 37001:2016: *Anti-bribery management systems – Requirements with guidance for use*; UNODC. 2013. *An Anti-Corruption Ethics and Compliance Programme for Business: A Practical Guide*, available at https://www.unodc.org/documents/corruption/Publications/2013/13-84498_Ebook.pdf; U.S. Department of Justice (DOJ) and U.S. Securities and Exchange Commission (SEC). 2012. *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, available at <https://www.justice.gov/sites/default/files/criminal-fraud/legacy/2015/01/16/guide.pdf>; OECD. 2010. *Good Practice Guidance on Internal Controls, Ethics and Compliance*, available at <https://www.oecd.org/daf/anti-bribery/44884389.pdf>; Transparency International (TI). 2013. *Business Principles for Countering Bribery*, available at http://www.transparency.org/whatwedo/publication/business_principles_for_countering_bribery.

communicates the importance of its corruption-prevention activities to its workforce, business partners and representatives.²⁹

To be able to define systems and an anti-corruption programme tailored to the specific business, corruption risk must be systematically identified and assessed in all areas of the operation. It is a minimum requirement that a company implements robust preventive measures in those areas in which it is most exposed to risk.³⁰

To achieve the effective implementation of these systems, good training programmes must be developed for employees and those business partners over which the company has a controlling or decisive influence. Senior executives, middle managers and employees in high-risk positions must, in particular, receive specially tailored training.³¹

Furthermore, it is important that the company perform due diligence on third parties, that third parties in high-risk areas are given anticorruption training and are followed up on a regular basis, and that payments to such third parties are checked and verified as being proportionate to the work performed.³² The follow-up of third parties may, for example, include regular reviews and updates of risk assessments and due diligence processes, repeated online and database searches to identify new red flags, and regular and/or risk-based audits.³³

Management must encourage employees to behave in compliance with the anticorruption programme and to report any suspected breaches of internal regulations. Systems should be established by which employees and others can

²⁹ UNODC (2013), Chapter III(A); OECD (2010), Annex II(A)(1); TI (2013), section 6.1. See also World Bank Group (WBG). 2010. *Summary of World Bank Group Integrity Compliance Guidelines*, section 2.1, available at <https://thedocs.worldbank.org/en/doc/06476894a15cd4d6115605e0a8903f4c-0090012011/original/Summary-of-WBG-Integrity-Compliance-Guidelines.pdf>.

³⁰ This follows, for example, from UNODC (2013), Chapter II; OECD (2010), Annex II(A); DOJ and SEC (2012), Chapter 5, pp. 58–59; UK Ministry of Justice. 2011. *The Bribery Act 2010 Guidance*, Principle 3, available at <https://www.gov.uk/government/publications/bribery-act-2010-guidance>. More extensive guidance on how such risk assessments may be performed can be found, for example, in the Global Compact's *A guide for anti-corruption risk-assessment* (2013), available at https://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/RiskAssessmentGuide.pdf.

³¹ UNODC (2013), Chapter III(H); OECD (2010), Annex II (A)(8); TI (2013), section 6.4; WBG (2010), section 7.

³² OECD (2010), Annex II(A)(6)(i); TI (2013), section 6.2.; WBG (2010), section 5.

³³ World Economic Forum-Partnering Against Corruption Initiative (WEF-PACI). 2013. *Good Practice Guidelines on Conducting Third-Party Due Diligence*, point 4(b), p. 14, http://www3.weforum.org/docs/WEF_PACI_ConductingThirdPartyDueDiligence_Guidelines_2013.pdf.

report wrongdoing anonymously and without risk of retaliation.³⁴ The company should have a clearly defined procedure for investigating reports of rule violations, and it must make it very clear what steps will be taken against any individuals who breach the rules.³⁵

The anti-corruption programme must be monitored and improved on the basis of both internal experience, changes in the company's risk exposure and new laws and standards for best practice.³⁶

According to best practice, it is crucial that corruption prevention activities be delegated to a separate function or a person endowed with the necessary resources and autonomy. It is presumed that the compliance department has direct access to executive management and to the board of directors.³⁷ It is, moreover, crucial that the compliance department has the necessary resources and competence.

4 Information from the company

4.1 CSCEC's response to the allegations of corruption

As far as the Council is aware, CSCEC has so far commented on two of the allegations. This relates to the World Bank's debarment of the company in January 2009 in relation to the case in the Philippines, and the allegations of corruption that emerged in February 2019 in connection with the Sukkur–Multan motorway project in Pakistan.

The Philippines:

Following the announcement of the World Bank's decision to debar it in January 2009, CSCEC issued a written statement expressing its profound regret that the World Bank had confirmed its debarment and thereby rejected the company's explanation. According to the statement, CSCEC considered that it had provided a complete and correct response to the World Bank's accusations, and thereby clarified the questions relating to the tender competition process relating to the road project concerned. CSCEC further stated that the company requires all its subsidiaries and employees abroad, including those in the Philippines, to consistently comply with the company's own rules as well as local laws and

³⁴ UNODC (2013), Chapter III (I) and (J); OECD (2010), Annex II(A)(9) and (11)(ii); TI (2013), sections 6.3.1. and 6.5.1.; WBG (2010), sections 8.1, 9.1 and 9.3.

³⁵ UNODC (2013), Chapter III(J) and (K); WBG (2010), section 10.

³⁶ UNODC (2013), Chapter III(L); OECD (2010), Annex II(A)(12); TI (2013), sections 6.8 and 6.10; WBG (2010), section 3.

³⁷ This follows, for example, from DOJ and SEC (2012), Chapter 5, p. 58; OECD (2010), Annex II(A)(4); WBG (2010), section 2.3.

business regulations. CSCEC also asserted that the company rejects any dishonest and corrupt business practices.³⁸

Pakistan:

In February 2019, after the allegations of corruption linked to the Sukkur–Multan project became known, CSCEC also issued a statement in which it rejected the accusations as groundless. According to the statement, CSCEC had conducted its business and performed all operations in complete compliance with Pakistan’s laws and regulations. According to CSCEC, the entire tendering process and the award of the contract had been carried out in compliance with local laws and international practice.³⁹

4.2 CSCEC’s anti-corruption systems

As part of its assessment of the company, the Council has visited CSCEC’s website and examined available annual reports to find information concerning the company’s anti-corruption systems. However, it has not been possible to find any information about these systems on the company’s website or in the relevant annual reports.⁴⁰ Reference is made to “Codes of Conduct” on the company’s website, but these say nothing about corruption or other financial crimes. Nor do the available annual reports mention corruption or bribery. As far as the Council can see, the company does not appear to have a whistleblowing system in place. CSCEC states that the company has a Chief Compliance Officer, but it has not been possible to find any further information about the company’s compliance organisation.

The Council has also contacted CSCEC directly with a view to obtaining more specific information about what the company is doing to prevent, detect and react to corruption within its business operations. The Council has, for example, asked about the “tone from the top”, risk assessments, guidelines, training, the compliance organisation and due diligence assessments. However, the company has not replied to the Council’s queries.

³⁸ China.Org.Cn, 16 January 2009: *CSCEC: We regret the World Bank’s sanction*, http://www.china.org.cn/business/news/2009-01/16/content_17143299.htm.

³⁹ Belt and Road Portal, 21 February 2019: *Chinese firm denies corruption charge in Pakistani motorway project, calls it ‘groundless’*, <https://eng.yidaiyilu.gov.cn/p/80130.html>.

⁴⁰ CSCEC’s annual reports for the period 2019–2022.

5 The Council's assessment

Based on the available documentation, the Council has assessed the GPF's investment in CSCEC against the ethical guidelines' criterion concerning gross corruption and other serious financial crime.

The Council's inquiries have shown that CSCEC may be linked to allegations or suspicions of corruption in a number of countries in the period 2004–2021. As far as the Council is aware, neither the company nor any of the company's employees have so far been convicted in relation to any of the allegations, but the company has on several occasions been banned from tenders or had contracts canceled due to suspicions of financial fraud. The Council does not assess guilt under criminal law, but whether the company has behaved in a way that constitutes an unacceptable risk of it contributing to or being responsible for gross corruption or other serious financial crime, according to the guidelines. The Council considers that the relevant allegations and suspicions appear to be sufficiently comprehensive and systematic to qualify for a closer examination of the risk that CSCEC will become involved in gross corruption.

The Council refers to the Report to the Storting on the Government Pension Fund 2021, which states that in certain cases, greater weight may be given to risk factors at the country and sector level when access to information is limited. The Council would like to point out that access to information generally is limited in these countries, especially China, where CSCEC is domiciled.

Thus, the Council attaches importance to the assessments of authoritative sources with respect to the risk of corruption in the countries and business sector in which CSCEC operates. The Council rests its assessment on the fact that CSCEC is a construction company with operations in over 70 countries, many of them in Southeast Asia, Africa and the Middle East. It is, moreover, engaged in many BRI projects, even describing itself as the leading company in the initiative. The Council attaches importance to the fact that the construction industry has long been identified as one of the sectors with the highest corruption risk in the world, for example in the OECD's 2014 survey. The Council also attaches importance to the fact that many of the countries in which the company operates are ranked very low on corruption indexes and that the corruption risk linked to the BRI is deemed to be high. The Council further notes that Transparency International, in its 2022 assessment of China's performance in enforcing corruption committed by its own citizens or companies abroad, has ranked the country in the lowest category.

Still, most important for the Council's assessment of future risk is whether the company is implementing measures capable of preventing, detecting and reacting to corruption, and which could indicate that the risk is nevertheless

acceptable. The Council has contacted CSCEC and asked it a number of questions, but the company has failed to reply to the Council's queries. Nor does the company provide any information on such measures on its website or in published reports. The Council refers to the Report to the Storting on the Government Pension Fund in 2008, which states that "a lack of information concerning a company's behaviour and, not least, a lack of willingness on the part of the company to provide information, may in itself contribute to the risk of it contributing to unethical behaviour being deemed unacceptably high."

On this basis, and in light of the cases described, the Council considers that the risk of gross corruption linked to CSCEC's operations is unacceptable and recommends that the company be excluded from investment by the GPF.

6 Recommendation

The Council on Ethics recommends that China State Construction Engineering Corp Ltd be excluded from the Norwegian Government Pension Fund Global due to an unacceptable risk that the company is contributing to or is itself responsible for gross corruption.

Svein Richard Brandtzæg Chair (Sign.)	Siv Helen Rygh Torstensen (Sign.)	Cecilie Hellestveit (Sign.)	Vigdis Vandvik (Sign.)	Egil Matsen (Sign.)
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