



3.2 Conflict in the West Bank and Gaza

In June 2024, the Ministry of Finance asked the Council to provide an account of its work with respect to companies with business activities linked to the Occupied Palestinian Territories (OPT). The Council submitted its account in a letter to the Ministry dated 30 August. The letter is available on the Council's website (etikkradet.no).

An important part of the Council's work in 2024 has consisted of examining companies' business activities in the West Bank and Gaza. In relation to Gaza,

the Council has assessed companies' sales to Israel of weapons used in the war in Gaza. With respect to the West Bank, attention has been directed at the role of companies in contributing to the establishment or maintenance of Israeli settlements and occupation of the West Bank in violation of international law. Questions arising in relation to Gaza and the West Bank are in general covered by different sections of the GPFG's ethical guidelines.



Companies' sales of weapons used in Gaza

Section 4(c) of the ethical guidelines encompasses 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."*

When the guideline was introduced, the following conditions for its scope were set out:

The sale must be ongoing or at least recent. The criterion is not meant to impact the GPFG's investments in companies on the basis of sales that were finalized years back.

The criterion applies to the sale of weapons from a company to a belligerent state and will not, in principle, apply to weapons transferred between states.

The criterion is intended for types of weapons that may expose *civilians* to harm. This entails that companies in the business of e.g. air defence systems or weapons primarily intended for use against naval targets will not be a primordial focus, nor the sale of transport aircraft or various types of military vehicles.

In other words, the guidelines do not imply that the GPFG must exclude companies due to the sale of any type of weapon or military materiel to a state, even if that state uses weapons in violation of the international rules on the conduct of hostilities. Each weapon sale must be assessed individually in light of the ethical guidelines wording and its preparatory work.

Based on data from the Swedish International Peace Research Institute (SIPRI) among others, the Council has assessed 14 recent weapons deliveries to Israel. The review showed that the companies involved in the sale of weapons that may notably impact civilians have already been excluded from investment by the GPFG for other reasons.

The Council has been in contact with two weapons manufacturers, one German and one from the US. Neither company had any ongoing deliveries of relevant weapon types to Israel. If new contracts regarding weapons deliveries are published, the Council will investigate whether this may fall within the scope of the criterion.

Companies with business activities linked to the West Bank

The Council's point of departure is that the Israeli settlements in the West Bank are unlawful under international law. A total of ten companies have so far been excluded from investment by the GPFG at the Council's recommendation on the basis of their activities in such settlements. The first companies were excluded in 2009, when a construction company involved in the building of Israeli settlements and a company supplying surveillance equipment for the separation barrier were excluded. At the time, the Council considered that these types of business operations to the largest extent contributed to the illegal transfer of Israeli citizens to the OPT, and therefore qualified for exclusion from the GPFG. Following the recommendation of the Council, further companies were excluded from investment by the GPFG on the grounds of similar activities in the West Bank in 2011, 2013, 2021 and 2024.

A number of companies in the GPFG's portfolio may, in various ways and to various degrees, be linked to Israel's occupation of the West Bank. Examples include services supplied to the Israeli settlements, or products that are used for purposes that violate international law. Over half a million Israelis currently live in settlements in the West Bank and East Jerusalem. All goods and services offered in Israel are, in principle, also available to the inhabitants of the settlements. A large number of companies may therefore be said to have links to the occupation of the West Bank in one way or another. It is difficult to provide any estimate of how many companies this concerns, as the number will vary greatly with the type of linkage envisaged.

The threshold for excluding companies from the Fund based on the ethical guidelines is high by intention. This point was elaborated in detail when the guidelines were first adopted and has been repeated in several subsequent white papers on the management of the GPFG. The Council therefore presumes that the guidelines are not intended to result in the exclusion from the GPFG of companies with any or all forms of association with violations of international law, either in the West Bank or in other conflict areas. An important factor in the Council's assessment is whether the activities of a given company are a prerequisite for the international law violation to occur. Furthermore, it must be likely that the companies' activities or links to activities which may constitute



grounds for exclusion will continue into the future. The Council also attributes weight to the nature of a company's contribution, e.g. whether it is sporadic or resulting from a permanent presence in the occupied territory. Moreover, the Council will assess whether a company manufactures and sells purely generic products or products and services especially adapted for use in the area. It has also been important for the Council to establish a practice that is consistent with the assessment of companies' contributions to similar norm violations in other areas of occupation or armed conflict.

There are various lists and overviews linking companies to the occupation of the West Bank and Israeli settlements in the OPT. From 2019, the UN's Office of the High Commissioner for Human Rights (OHCHR) entertains a list of companies linked to the Israeli settlements. The Initiative *Don't Buy Into Occupation* has published annual reports on financial institutions' investments in companies linked to the occupation since 2021, and the Israeli organisation *WhoProfits* publishes a database listing several hundred companies which, in various ways, may be linked to the occupation. Such overviews are a useful starting point for the Council's assessments.

The Council's efforts primarily involve clarifying the companies' link to ongoing norm violations and assessing whether their role qualifies for exclusion. In 2024, the Council assessed around 65 companies in the GPFG's portfolio. We contacted 16 of these companies and met with four. The companies engage in the following business areas:

- Energy supply
- Infrastructure construction (roads, railways, telecommunications)
- Manufacture of construction equipment and vehicles
- Banking and finance
- Travel and tourism
- Surveillance and control systems
- Extraction of natural resources
- Various forms of commercial activity in Israeli settlements

Two companies have so far been recommended for exclusion as a result of this review. They are companies involved with business operations within critical infrastructure. These companies are present in the

settlements with their own business operations and supply products and services that are necessary for the continued existence of the settlements.

The Council has concluded that the majority of companies reviewed *do not* meet the threshold for exclusion in the ethical guidelines of the GPFG for two main reasons:

In some cases, the Council's investigations and dialogue with the companies have shown that their operations in the West Bank have ceased, even though they are listed by some entities as doing business there. In a couple of cases, companies have conveyed that they will discontinue their operations in the occupied territory. In such cases, the Council has decided to monitor the developments going forward.

However, in most cases where the Council has not recommended exclusion, it is because the companies' activities are not considered to fall within the scope of the GPFG's ethical guidelines.

The Council assesses the companies' *contribution* to serious violations of international law in the West Bank. In the Council's view, some of the companies' operations have little significance for the violations taking place. Other companies produce generic, mass-produced items that are sold in Israel and used for a variety of purposes also in the West Bank. In such cases, several factors have influenced the Council's assessment. On the one hand, norms have evolved such that there is a greater expectation that companies take responsibility for their entire supply chains. On the other hand, how products are used may be outside the manufacturer's control, and the link between product and company may diminish over time. This may occur if, for example, there are multiple sales and distribution levels from producer to end-user, or if products are used for many years after they were produced, or if they are sold in the second-hand market. The Council's assessment to date has been that the threshold for excluding a manufacturer of generic products, such as construction machinery or IT equipment, on the grounds that the company's products are used in the West Bank must be quite high. If products are closely associated with norm violations or are specifically designed to support norm violations in the West Bank, the Council will assess the matter on a case-by-case basis.



Examples of the Council's assessments

The Council has previously recommended the exclusion of construction companies building roads and settlements in the West Bank. However, it considers that the producers of generic materials used in such construction projects should not be excluded. The distinction resides, in part, in the fact that construction companies provide a customised service and are themselves present in the occupied territory. A producer of building materials to the contrary participates in the construction to a lesser extent and has less control over how its products are used. The same applies to manufacturers of agricultural machinery, fertiliser and irrigation equipment used in some settlements.

Similar assessments apply to a number of companies which may be linked to the occupation of the West Bank only through the sale of generic products. Although, for example, the Israeli police force and other Israeli authorities in the West Bank use vehicles of a certain make, the Council does not consider that this is sufficient grounds to exclude the carmaker from investment by the GPF. In this context, vehicles must be considered generic products that are sold worldwide. The same assessment applies, for example, to producers of generic electronics and IT equipment. However, the Council will assess companies supplying specially adapted products and services in a different manner. Thus, in 2009, the Council recommended the exclusion of a company which supplied specially developed surveillance equipment to Israel's separation barrier.

The Council has also assessed companies selling construction machinery that contractors may use for the construction of settlements in the West Bank or the demolition of Palestinian homes. In principle, construction machinery are generic products that can be used for a wide range of purposes and for many years after they were made, and there is a large second-hand market for such equipment. The Council has discussed this issue with several manufacturers of construction machinery. They have all communicated that they do not wish to contribute to illegal actions but that they have limited influence over their products' future day-to-day use. Nevertheless, companies approach this issue in slightly different ways. The extent of their policies and efforts in this area also vary. So far, the Council has chosen not to recommend the exclusion of such companies primarily because it is difficult to establish a clear line of responsibility between a construction machinery's manufacturer and

its end user. The Council is also consciously refraining from applying a different and more stringent standard to companies operating in Israel compared to those operating in other countries where violations of international law of a similar gravity are taking place.

Furthermore, the Council has assessed companies supplying food products to the settlements. International law requires that the fundamental needs of all civilians in an occupied territory be met, irrespective of the occupation's legality. This includes food and medicines, and also applies to the occupying power's own civilian population. The Council therefore considers that supplying Israeli settlements with food products does not constitute grounds for exclusion from investment by the GPF.

The Council has also assessed GPF-invested companies engaging in tourism in the West Bank, both companies organising package tours to the occupied territory and to those facilitating overnight accommodation in Israeli settlements. The Council considers that the companies acting as tour operators have a limited presence in the territories and that their activities do not materially contribute to the continued existence of the settlements or the overall occupation. Similarly, the Council finds that online services which facilitate overnight accommodation in the settlements do not make such a material contribution to the occupation that they fall within the scope of the ethical guidelines.

Continuation of the work in 2025

An important part of the Council's work is to assess companies operating in areas of conflict. The Council will therefore continue its efforts to investigate companies' links to norm violations in the West Bank. In line with established practice, the Council takes the position that companies operating in areas of conflict must exercise a higher level of due diligence. The due diligence requirement is heightened when the norm violations are more serious. The situation is dynamic, in that the GPF's portfolio of companies, these companies' operations and the situation in the area are constantly changing. Over time, the fundamental norms that the Council abides by have also evolved. Here, as elsewhere, the Council will make an individual assessment of each company's links with the ongoing norm violations and the risk of it contributing to future norm violations and will evaluate its findings in light of the GPF's ethical guidelines.