



Mr. Jan Tore Sanner
Minister of Finance
Finansdepartementet
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Berlin, 19 October 2020

Contribution to consultation on the recommendations of the Ethics Committee for the Norwegian Government Pension Fund Global

Dear Minister,

the Norwegian Government Pension Fund Global (GPF) has been regarded worldwide for decades as a model of investment based on ethical and ecological criteria. Investors from all over the globe follow the Pension Fund's recommendations. This is especially true for Germany and therefore this joint stakeholder letter from German and European organisations takes note of this year's Ethics Committee review of the ethical investment guidelines made in April this year.

We strongly support many of the recommendations of the GPF Ethics Committee, in particular those concerning the arms sector. However, we would like to take this opportunity to underline, once again, the need for the recommended changes to be implemented and to make some additional comments for the ongoing review process.

WEAPONS EXPORTS TO STATES INVOLVED IN ARMED CONFLICT

„The committee proposes the inclusion of a new conduct based criterion for the sale of weapons to states involved in armed conflict where there is an unacceptable risk that the weapons are used in military operations that constitute serious and systematic violation of international humanitarian law.“

As the committee mentioned, there is an urgent need to introduce criteria **on arms exports to states involved in armed conflicts**, therefore preventing complicity in possible war crimes that arms companies worldwide are in part responsible for.

The Ethics Committee recommends excluding companies where there is an **unacceptable** risk that the military equipment will be used in operations that lead to **serious** and **systematic** violations of international law.

This proposal is, in principle, in line with the rules of the International Arms Trade Treaty (ATT) and also with the EU Common Position on exports of military equipment and technology. It prohibits arms exports where there is a clear risk that they could contribute to a serious violation of international humanitarian law.

Unfortunately, these rules are regularly violated in practice because of **vague wording** in existing guidelines. The continued arming of states involved in armed conflict by arms companies undermines the principles for the protection of civilians outlined in international humanitarian law.

The Norwegian Government Pension Fund Global should therefore try to avoid such loopholes when introducing such criteria.

In lieu of this, a more appropriate and effective exclusion would be: **all companies that supply to countries involved in armed conflict** or where there is a threat of armed conflict. Additionally, arms companies that supply their goods to countries where human rights are regularly violated should also be removed from the portfolio.

The example of the current **war in Yemen** shows that comprehensive exclusion criteria for arms exporters to war zones is urgently needed. Independent researchers of the Armed Conflict Location and Event Data Project (ACLED) report that more than 56,000 people have been killed alone in 2016-2018.

Several reports by the UN Panel of Experts, the UN Group of Eminent Experts and NGOs have documented alleged violations of International Humanitarian Law committed by members of the Saudi- and UAE-led Coalition in Yemen. In its third and latest report on human rights in Yemen, titled ‘Yemen: A Pandemic of Impunity in a Tortured Land’ the UN Group of Experts on Yemen has concluded that indiscriminate attacks have been carried out by the Coalition, inflicting harm on civilians and civilian objects. It notes that disproportionate and indiscriminate attacks constitute **war crimes** under customary international law.¹

¹ <https://www.ohchr.org/Documents/HRBodies/HRCouncil/GEE-Yemen/2020-09-09-report.pdf>

Airstrikes, that are central to the Saudi Arabia and the UAE strategy, have resulted in the largest number of civilian casualties. Of 20,000 airstrikes carried out by coalition forces, Saudi Arabia and the UAE are responsible for the vast majority².

Aerial warfare requires fighter jets, fueling planes, missiles, bombs and targeting devices among others. In recent times, the portfolio of the Norwegian Government Pension Fund Global has included numerous arms producers like Raytheon, Thales, Dassault, Rheinmetall, Leonardo and General Dynamics. These companies have regularly exported military equipment to Saudi Arabia and the UAE in recent years.³

Some examples of companies that have supplied military equipment to coalition countries fighting in Yemen:

| | |
|--------------------------|----------------------------------------------------------------------------------------|
| Leonardo: | <i>Eurofighter Typhoon and Tornado fighter jets</i> |
| Dassault: | <i>Mirage fighter aircraft</i> |
| Raytheon UK: | <i>Paveway IV bombs, guidance system</i> |
| Rheinmetall: | <i>MK80 series bombs</i> |
| Thales: | <i>Damocles and Talios pots (can be integrated in Eurofighter, Mirage and Tornado)</i> |
| General Dynamics: | <i>MK-84 series bombs</i> |

In-depth research by non-governmental organisations including Mwatana, Amnesty International and Human Rights Watch has shown that these arms have been used in Yemen in violation of international humanitarian law against causing harm to civilians.

In response, in 2019, the European Center for Constitutional and Human Rights (ECCHR) along with a number of NGOs submitted a claim to the International Criminal Court (ICC). They called on the ICC to investigate whether the aforementioned arms companies are complicit in the war crimes that are being committed in Yemen.

This is a case study on the importance of avoiding investments in arms exporters willing to do business in war zones at any cost. It is a call to action to expunge those companies from the portfolio of the Government Pension Fund Global that export their goods to **all war and crisis zones** and to **countries where human rights are regularly violated**.

With such a measure, the Norwegian Government Pension Fund would take another important step towards a more sustainable portfolio.⁴

We therefore would like to stress once again that we support strongly the Ethics Committee's call for an exclusion criterion for arms exporters to war zones and to countries continuously violating human rights; but also ask you to further clarify the criteria as we have proposed, i.e. **all companies that supply to countries involved in armed conflict** or where there is a threat of armed conflict.

² <https://www.yemendataproject.org/>

³ https://www.facing-finance.org/files/2019/05/ff_dp7_ONLINE_v02.pdf

⁴ With regard to the war in Yemen, the Norwegian state was among the first to stop arms exports to Saudi Arabia and the UAE any way in 2017/2018.

WEAPONS WITH AUTONOMOUS CAPABILITIES

“The Committee further proposes that lethal autonomous weapons be added to the list of proscribed weapons” (which means “weapons violating fundamental humanitarian principles through their normal use”).

The escalating autonomization of conventional weapon systems, or "lethal autonomous weapon systems" (LAWS) – which decide independently on the use of force without meaningful human control – is making the call for their prohibition louder. These weapon systems are designed to delegate the decision to kill from a human to a machine or an algorithm. They differ from unmanned aerial systems (UAS) because of the absence of human control over the use of force.

Mounting fears around the danger of a proliferation of these weapons technologies, an uncontrolled arms race, and the danger of uninhibited, mass use of these weapons in violation of international law, have led to public and institutional massive global protests.

However, at arms fairs the NATO Industrial Advisory Group has proclaimed that “early involvement of industry is a key factor for autonomous transformation”. At these events, manufacturers are able to state that the integration of autonomy into weapons systems is no longer a technical problem and that efforts are always being made to comply with international law, and that it is ultimately the customer who decides what capabilities the desired system should have.

Switchable systems (autonomous/semi-autonomous) for instance, are in particular demand. This includes “kamikaze drones”, which are manually and autonomously controlled. They are capable of patrolling the airspace over a long period of time and using artificial intelligence to recognize faces, operate in swarms and find and destroy targets independently without human control. Current reports show, that loitering munitions, kamikaze drones, have been used by Azerbaijan in the Nagorno-Karabakh conflict.

Some examples of current weapon systems, projects and programs moving towards full autonomy in critical areas (target identification, assessment and destruction):

Airbus, Dassault Aviation, MTU Aero Engines and MBDA: *Semi-autonomous “Future Combat Air System” including autonomous “remote carrier” drones.*

Rheinmetall: *“Mission Master” semi-autonomous combat robot equipped with autonomous WARMATE kamikaze drones.*

Ziyan (China): *“Blowfish” weapon system (helicopter drone equipped with a machine gun that autonomously carries out more complex combat missions and targeted precision hits)*

Israel Aerospace Industries Ltd (Israel): *“Loitering Ammunition” (two semi-autonomous drone systems, “Harpy” and “Harop”)*

IT companies/Microsoft: *“JEDI project” (Joint Enterprise Defense Infrastructure-Project of the US Department of Defense (development of cloud infrastructure between Pentagon and soldiers on site regarding target identification and other potential cloud-based information)*

If the trend towards autonomy continues unhindered, humans will be removed from decision-making in certain military actions. This will limit oversight functions or simply general mission parameters.

An agreement on a binding international treaty banning LAWS remains a long way off and is likely to fail in the UN framework, primarily because of resistance from Russia, the United States and China.

Therefore, financial institutions and investors should assume responsibility and should install a "watch list" of companies/IT-industries working on the autonomisation of weapon systems and remove from their portfolios companies involved in the development, production and proliferation of weapon systems with autonomous capabilities in critical areas (target identification, acquisition and destruction).

A thorough revision of the guidelines on arms companies would allow the Norwegian Government Pension Fund Global to demonstrate once again its pioneering role in ethical investment. Finally, this would help to keep control over the use of force and might help to prevent wars and related causes of flight and human rights violations.

If you wish, we would be happy to provide you with further information on these two topics.

Please find attached an exemplary portfolio analysis of the current weapon systems, projects and programs moving towards full autonomy in critical areas.

Yours sincerely,

The signatories

Association of Ethical Shareholders Germany e.V.
Bank für Kirche und Caritas eG (BKC)
European Center for Constitutional and Human Rights e.V. (ECCHR)
Facing Finance e.V.
Fondazione Finanza Etica (FFE)
Ohne Rüstung Leben
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