

Ethical guidelines for the NGPF - the work of the Council on Ethics

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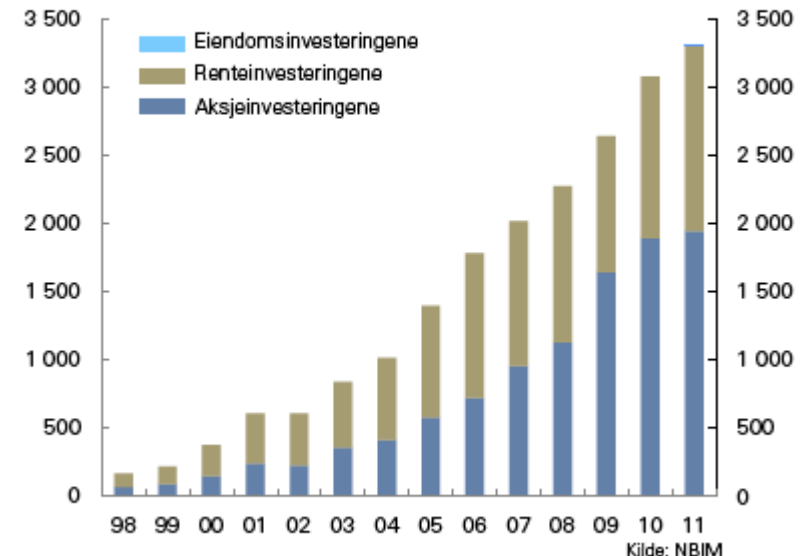
Content

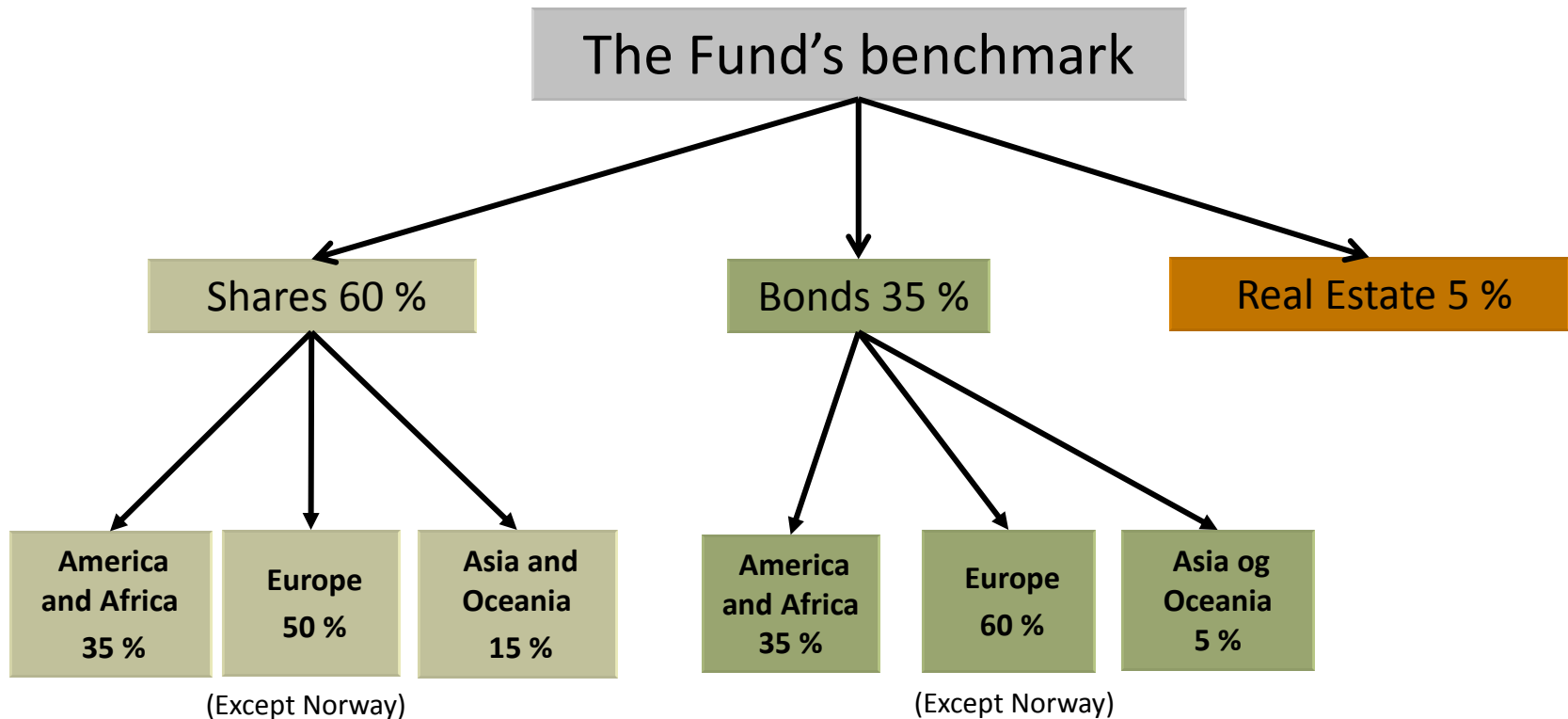
1. The Norwegian Government Pension Fund Global (NGPF) in brief
2. The ethical guidelines of the NGPF
3. The procedures and work of the Council
4. Practical examples of exclusion/observation of companies

The NGPF as of 31 December 2011

- Invests in more than 8,000 companies in 68 countries
- On average 1-2% of each company (max 10%)
- Has a market value of more than 430 billion Euros
- Invests in shares, bonds and real estate

Markedsverdien av fondet. Milliarder kroner





NOTE: In its whitepaper on the management of the pension fund in 2011, the Ministry of Finance proposes changes to the investment strategy which affect the geographical distribution – more focus on emerging markets

The ethical obligations of the Fund

Conclusions of the Graver Commission

Future generations should benefit from the petroleum wealth



The Fund shall achieve a sound return in the long term

The Fund should respect the fundamental rights of those who are affected by the companies in which the fund invests.



The Fund shall avoid being invested in companies which are or will be complicit in grossly unethical activities.

Broad approach – several measures (Three entities: MoF, NB, CE)

Exercise of ownership rights

Norges Bank
(the Central Bank)

Exclusion/observation

The Ministry of Finance
following the advice of
the **Council on Ethics**

International cooperation,
development of "best practices",
communication with companies,
(cooperation with other investors)

All three actors

Ethical mandate of the Bank

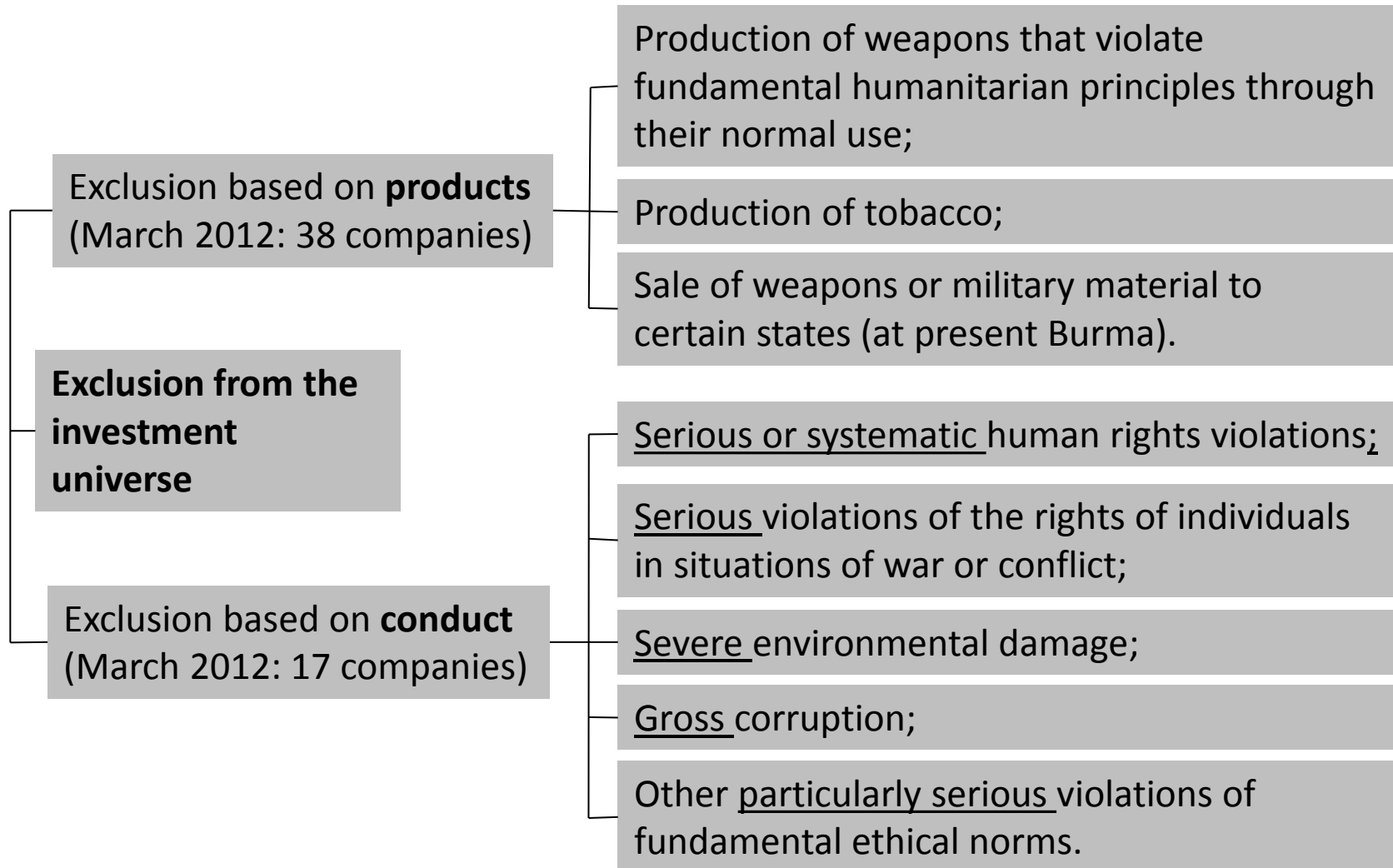
- (1) The Bank's primary goal in its active ownership is to safeguard the Fund's financial interests.
- (1) Active ownership shall be **based on the UN Global Compact, the OECD Guidelines on Corporate Governance and the OECD Guidelines for Multinational Enterprises. The Bank shall have internal guidelines for its exercise of ownership rights that indicate how these principles are integrated in its active ownership.**

Contribution to the development of best practice in responsible investment The Bank shall actively contribute to the development of good international standards in the area of responsible investment activities and active ownership.

The Council on Ethics

- Established when the Guidelines became operative: Dec. 2004
- Independent council of five experts within fields such as corporate law, corruption law, human rights law, the law of armed conflict, finance and corporations, environment, biology, CSR (Idea: to cover the fields of the mandate)
- Chaired by prof. Ola Mestad
- Supported by a secretariat of eight persons with expertise within the same areas as the Council
- The Council meets monthly

Guidelines for the exclusion and observation of companies from the NGPF



Exclusion based on products

- (§2.1) The assets in the Fund shall not be invested in companies which themselves or through entities they control:
- a) produce weapons that violate fundamental humanitarian principles through their normal use;
 - b) Produce tobacco;
 - c) Sell weapons or military material to states mentioned in section 3.2 of the guidelines for the management of the Fund (Burma)

Exclusion based on products – inhumane weapons:

Weapons that violate humanitarian principles (*principle of distinction, prohibition against superfluous injury*)

- Chemical weapons
- Biological (bacteriological) weapons
- Certain conventional weapons: blinding lasers, incendiary weapons, non-detectable fragments
- Antipersonnel mines
- Cluster munitions

Weapon not subject to prohibitions (for the P5 and others outside the NPT) but which violate humanitarian principles

- Nuclear weapons

Exclusion based on products

Number of excluded companies as of 1 March 2012	
Antipersonnel mines	1
Cluster munitions	7
Nuclear weapons	10
Sale of military material to Burma	1
Production of tobacco	19

Exclusion based on conduct

The Ministry of Finance may, on the advice of the Council of Ethics, exclude companies from the investment universe of the Fund if there is an unacceptable risk that the company contributes to or is responsible for:

- a) **serious or systematic human rights violations**, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other forms of child exploitation;
- b) **serious violations of the rights of individuals** in situations of war or conflict;
- c) **severe environmental damage**;
- d) **gross corruption**;
- e) **other particularly serious violations** of fundamental ethical norms.

Exclusion based on conduct

Number of recommendations (exclusions) as of 1 March 2012	
Serious or systematic human rights violations	5(2)
Severe environmental damage	10
Other particularly serious violations of fundamental ethical norms.	4(3)
Serious violations of the rights of individuals in situations of war or conflict	3(2)
.....	
Corruption	2(0)

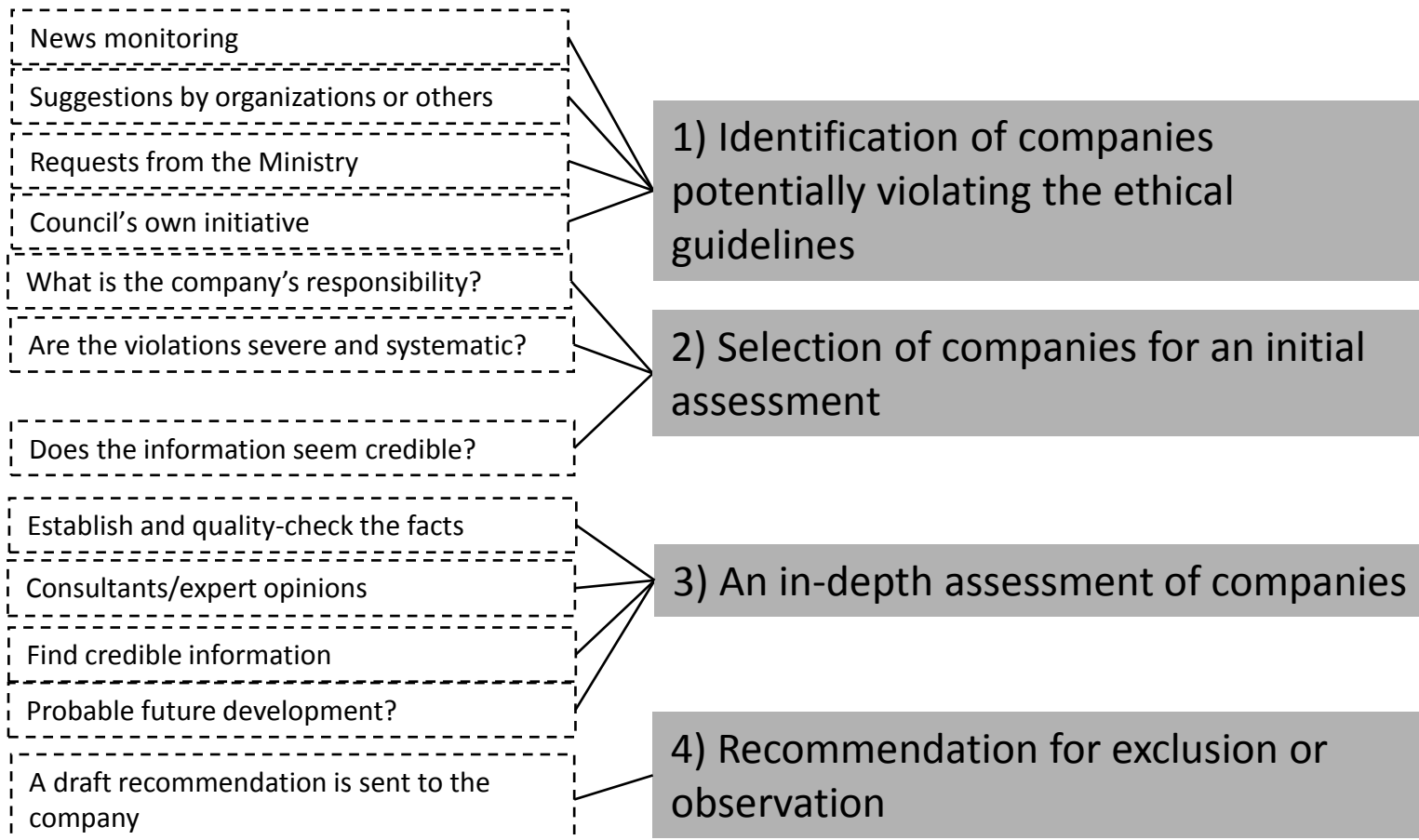
Forward looking assessment

- *“....if there is an unacceptable risk that the company contributes to or is responsible for...”*
- Not a penal (retrospective) sanction
- Main reason for exclusion mechanism: avoid contributing to unethical conduct (“clean hands”)

Work methods and process

- Screening of the 8.000 companies (key-words, against databases, processing of a large number of hits down to 50-100 per month: “red flags”)
- Special screening of weapons production
- Secretariat generates lists of potential new cases to each Council meeting
- On average: 100-130 companies being thoroughly looked at per year, only a handful excluded/observed

Exclusion based on conduct – a typical evaluation process



Once a recommendation has been issued

- Decision is taken by the Ministry of Finance
- If followed, shares and bonds are sold off (by NBIM)
- The decision and the recommendation are made public
- The process may take several months, or longer

Examples from this year's annual report:

Petrochina: 26 May 2010 – publ. 6 Dec. 2011
FMC Corp. 15 Nov 2010 - publ. 6 Dec. 2011
Alstom 1 Dec. 2010 - publ. 6 Dec. 2011
GroupCarso 15 Feb. 2011 – publ. 25 Aug 2011

Transparency

- 100% publicity/transparency – *when* the MoF publicizes the recommendation. Before this point in time: confidential
- All recommendations must be made public, irrespective of whether the MoF decides to follow the advice
- This means: Must have the facts right – if not, risk of lawsuits and undermining of the system

Excluded companies

- Excluded companies are regularly reassessed.
- Companies remain excluded as long as the reason for exclusion remains.
- If the reason for exclusion is no longer present, the Council issues a new recommendation to reverse the exclusion.

The observation of companies

- The Ministry may, on the basis of advice from the Council on Ethics to exclude observe a company, decide to put a company under observation.
- Observation may be chosen if there is doubt as to whether the conditions for exclusion have been fulfilled, uncertainty about how the situation will develop, or if it is deemed appropriate for other reasons.
- Regular assessments shall be made as to whether the company should remain under observation.
- The decision to put a company under observation shall be made public, unless special circumstances warrant that the decision be known only to Norges Bank and the Council on Ethics.

Observation of companies

Number of companies under observation as of 1 March 2012	
Corruption	2

Examples of cases

- *(Product based exclusions)*
- Environmental damage
- Human rights violations
- War and conflict
- Corruption
- Other serious violations of fundamental ethical norms (“catch all”)

Environmental damage

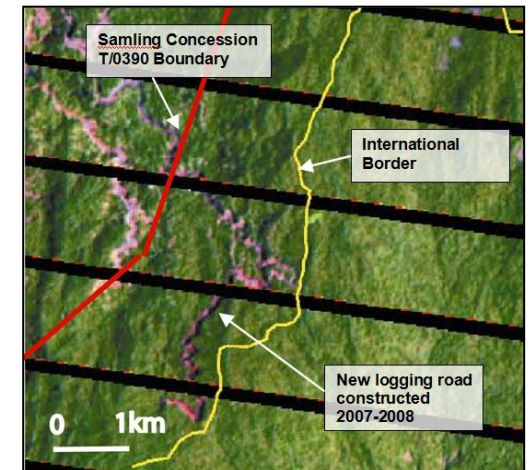
- Is the damage serious and enduring?
- Is the damage due to a contravention of international norms or national laws?
- What effects will the company's activity have on people's health?
- Has the company failed to act to avoid the damage?
- Has the company done enough to reduce the damage caused by its actions?

Is it probable that the practice will continue in the future?



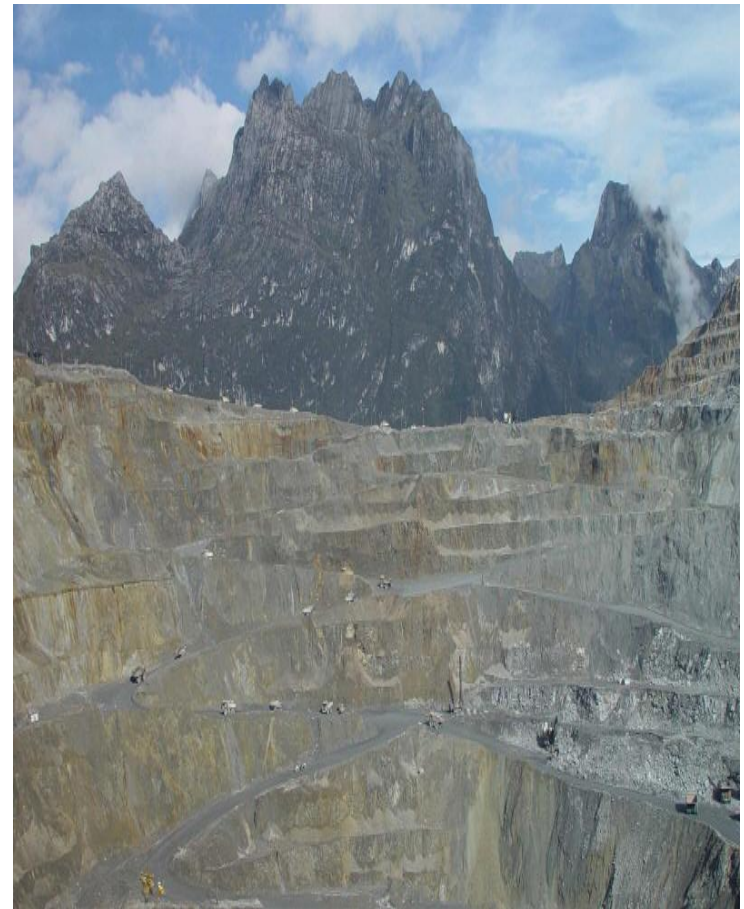
Environmental damage – examples

- Freeport McMoRan and Rio Tinto (the Grassberg mine)
- Norilsk Nickel
- Samling



The Grasberg Mine

Freeport McMoRan and Rio Tinto





Norilsk Nickel



Samling



Human Rights

- Is there some kind of connection between the company's activities and the human rights violations?
- Has the company actively contributed to the human rights violations?
- Has the company known about the human rights violations but failed to stop them from taking place?
- Are the human rights violations currently taking place, or is there an unacceptable risk of them continuing in the future?



Human rights – examples

- Walmart
- Total
- Monsanto





- Assessment of the company's own activities, and its supply chain.
- Violations of internationally recognized labour rights and human rights:
 - Child labour, work conditions bordering on forced labour, violations of work hour regulations, wages below local minimum salaries, etc.
- Relevant international instruments:
 - CRC (Art 32: Hazardous child work)
 - ILO No. 182 (Worst forms of Child Labour),
 - ICCPR (Art. 8.3) and ILO No. 29 (Forced Labour)
 - ICCPR (Art.9: Right to liberty and security of person)
 - CERD (Art. 11), ICESCR (Art 2 and 3) and ILO NO. 100 (Equal remuneration)
 - ICESCR (Art.8), ICCPR (Art.21 and 22), and ILO No. 87 (Freedom of association)
- The company was not directly responsible for all violations
- The company was aware of violations in the supply chain, but did not try to prevent it

Total

➤ Accused of complicity in human rights violations in Burma

Yadana – gas pipeline (1992-1997)

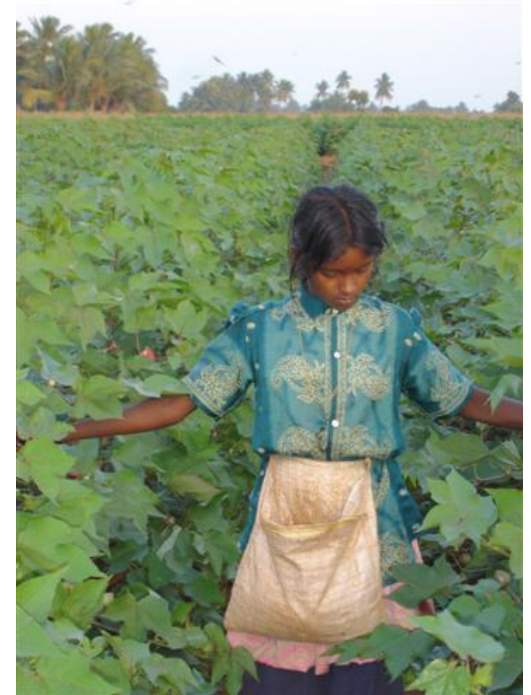
- Total (and UNOCAL)' s use of security forces
- Knowledge of human rights abuses, but failed to take any action to prevent it
 - Forced labour
 - Deportations
 - Murder, rape, torture

The Council's assessment in 2005:
Total had known about the abuses, but they were in the past.
Exclusion only when there is a risk of continued violations



Monsanto Co

- The Council investigated several companies for child labour
- (Difficult to find child labour in listed companies)
- Decided to exclude Monsanto Co in November 2006



Production of hybrid seeds in India

- Extensive use of child labour in this industry (cotton, vegetables) because manual pollination
- “Migrant children”
- Irresponsible use of pesticides
- MoF postponed exclusion awaiting the Exercise of ownership rights by Norges Bank
- NBIM launched a plan and an investor initiative to influence the company
- Substantial decrease in child labour in the areas Monsanto operated
- New recommendation in 2008



The rights of individuals in situations of war or conflict

- Are the company's activities connected to violations of international humanitarian law?
- Which effect will the company's activity have on the circumstances of the local population?
- Is it probable that the company's activities will continue in the future?



Gross corruption

- Is it probable that the company has carried out activities which may be categorised as gross corruption?
- Is there an unacceptable risk that the use of corruption will continue in the future?
- The company's earlier involvement in corruption, its reaction to accusations of corruption, its compliance system and ongoing investigations are emphasized.



Other serious violations of fundamental ethical norms

- KerrMacGee (Off-shore exploration outside Western Sahara)
- Elbit (surveillance equipment to illegal parts of the separation barrier)

www.etikkradet.no

Guidelines, recommendations and other relevant documents are available on the Council's website in Norwegian and English