

**(Unofficial English translation)**

To the Ministry of Finance

August 26th, 2008

## **Recommendation**

### **Introduction**

The Council on Ethics for the Government Pension Fund – Global submitted its first recommendation on exclusion of companies that produce cluster munitions on June 16th, 2005. The recommendation was based on the Council’s own definition of criteria which defined cluster munitions.

In 2008, an international convention to ban cluster munitions has been negotiated. The convention’s technical definition of what constitutes cluster munitions is largely in line with the criteria the Council applied in 2005, but in some areas it is more stringent. This implies that production of munitions which have previously not qualified for recommendation of exclusion may fall inside the treaty’s definition of cluster munitions. The Council on Ethics finds it appropriate to base future recommendations of exclusion on the definitions provided in the cluster munitions convention.

The company Textron Inc. produces weapons which, according to the definition of the convention, must be considered cluster munitions. The Council on Ethics therefore recommends that Textron Inc. is excluded from the investment universe of the Government Pensions Fund – Global.

### **Background**

In its 2005 recommendation<sup>1</sup>, the Council considered that certain types of cluster munitions should not constitute grounds for recommendation of exclusion. These were the so-called “*Advanced Munitions*”/ “*Sensor Fuzed Weapons*” designated CBU-97 and CBU-105. These weapons were characterised by a low number of submunitions able to detect and engage single target objects and designed to engage vehicles. These types of munitions are not meant to strike randomly within a target area. The Council on Ethics considered the risk of civilian

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<sup>1</sup> See <http://www.regjeringen.no/pages/1661742/Tilr dning%20klasev pen%20eng%2015%20juni%202005.pdf>

casualties from the use of such weapons as low, and that, generally, the use of such weapons could not be viewed as a violation of fundamental humanitarian principles of armed conflict.

Article 2 of the Convention on Cluster Munitions defines the types of cluster munitions which the Convention prohibits. The convention specifies cumulative criteria which must be fulfilled for cluster munitions that are not to be subjected to the convention's definition.<sup>2</sup> These criteria specify that the weapon must have fewer than ten submunitions, each submunition must weigh more than four kilogram and the weapon must have autonomous targeting and self-destruct / self-deactivating mechanisms.

The Council will base its recommendations on exclusions of cluster munitions producers on the convention's definitions.

The Council assumes that future production of cluster munitions will only take place in states that are not parties to the convention. Such production will not be illegal or constitute a breach of the convention. This, however, has no bearing on the Council's assessments.

### **Cluster munitions produced by Textron Inc.**

Textron describes the cluster munitions CBU-97 / CBU 105 on its own homepage:

*“Known as CBU-97 and CBU-105, Textron Defense Systems' Sensor Fuzed Weapon (SFW) is the first and only combat-proven smart area weapon of its kind in U.S. Air Force inventory designed to accurately detect and defeat multiple threat targets. [...]*

*The SFW, a 1,000-pound class weapon, contains our own BLU-108 submunition and Smart Skeet warheads. Equipped with dual-mode passive infrared and active laser sensors on each warhead, one SFW can simultaneously detect and engage many fixed and moving land combat targets within a 30-acre coverage area.*

*[...] SFW's 40 warheads are also equipped with timed self- de-activation modes for clean battlefield operation.”<sup>3</sup>*

The company describes its production of the *Sensor Fuzed Weapon (SFW)* designated CBU-97 and CBU-105 with submunitions designated BLU-108. It is also stated that SFW contains 40 warheads.

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<sup>2</sup> Convention on Cluster Munitions, Article 2:

Cluster munition means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:

[...] A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:

- Each munition contains fewer than ten explosive submunitions;
- Each explosive submunition weighs more than four kilograms;
- Each explosive submunition is designed to detect and engage a single target object;
- Each explosive submunition is equipped with an electronic self-destruction mechanism;
- Each explosive submunition is equipped with an electronic self-deactivating feature;

<http://www.clusterconvention.org/convention/text/english/#toc-article-2>

<sup>3</sup> Textron's home page: <http://textrondefense.com/products/airlaunched/sfw.htm>

Based on this information, Norges Bank wrote to Textron Inc. on behalf of the Council in June 2008. In its letter, Norges Bank asked Textron to clarify whether the company produces cluster munitions as per the convention's definitions.

Norges Bank received a response on July 15th, 2008.

In its letter to Norges Bank, Textron confirms its production of SFW. The company maintains that this weapon fulfils the convention's criteria for acceptable cluster munitions in several areas, but also states that the convention's criteria of fewer than 10 submunitions, each weighing more than four kilogram, are not met in today's configuration of this weapon.

The Council therefore finds that Textron produces cluster munitions as per the definitions of the Convention on Cluster Munitions.

### **Recommendation**

Based on the information given above, the Council recommends that Textron Inc. is excluded from the investment universe of the Government Pension Fund – Global.

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(sign.)

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