

To the Ministry of Finance

Recommendation of 20 November 2006

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1 Introduction

In August 2005 the Council on Ethics for the Government Pension Fund – Global decided to assess whether the operations of the company Monsanto Co (Monsanto) may imply the Fund's compliance in gross or systematic human rights violations under the Ethical Guidelines, point 4.4, second clause, first bullet point.

As of 31 December 2005 the market value of the Pension Fund's shareholding in Monsanto was NOK 657,748,000.00.

The Council on Ethics finds that there is an unacceptable risk of the Fund contributing to the worst forms of child labour through its investment in Monsanto. Available information reveals that the company's producers of hybrid cotton seed employ child labourers aged 8-15 years. As a result these children are exposed to health risks, such as pesticides, and are deprived of schooling. Many of them are so-called *migrant children*, who live away from their own families. These allegations are further elaborated on in Chapter 3 below.

In agreement with the Guidelines, point 4.5, the Council has written to Monsanto through Norges Bank requesting the company to comment on the aforementioned accusations and the documentation presented to substantiate these. Monsanto replied to the enquiry in a letter dated 21 June 2006. The Council has also had subsequent contact with the company, including a telephone conversation on 21 September 2006.

In order to establish whether there is an "*unacceptable risk of contributing to ...the worst forms of child labour*" (Guidelines' point 4.4, second clause, first bullet point), various conditions must be met. There must be a connection between the company's activities and the violations in question; the violations must be perceived to be in the interest of the company; and the company must have been aware of them, but failed to try to prevent them. Moreover, there must be an unacceptable risk that the violations will continue in the future.

In this case, the Council finds that all the conditions have been met and thus recommends the exclusion of Monsanto Co with reference to the Ethical Guidelines, point 4.4, second clause, first bullet point, regarding unacceptable risk of contribution to the worst forms of child labour.

2 The Council on Ethics' sources of information

The Council has drawn on several sources in this case. Individual sources are referred to in footnotes throughout the recommendation.

Much information and several reports on child labour in India are available from governmental and non-governmental organisations.¹ Notwithstanding, there is scarce scientific research on the extent of child labour in hybrid cotton seed production.

¹ See the Indian Ministry of Labour's own website: <http://www.labour.nic.in/cwl/ChildLabour.htm>, U.S. Department of Labor, "The Worst Forms of Child Labor: 2005," [Report by U.S. Department of Labor, Bureau of International Labor Affairs](http://www.dol.gov/ilab/), 2005, www.dol.gov/ilab/, as well as a number of international special interest

The Council has, however, gained access to an ILO report, yet to be released, on child labour in the Indian cotton seed industry. This report is on file with the Council on Ethics.²

In order to extend its range of source material, the Council on Ethics decided to conduct its own research, commissioning an Indian consultancy firm, Global Research and Consultancy Services, to carry out field surveys in November and December of 2005. This company has also previously been engaged in mapping the scope of child labour in India's hybrid cotton seed industry.³

3 Background

3.1 Production of hybrid cotton seed in India

During recent years the scale of hybrid cotton seed production in India has increased significantly.⁴ The use of hybrid cotton varieties is rising because they yield larger crops than traditional varieties. Hybrid cotton seed grown in India is often referred to as *BT cotton seed*.⁵ Seed cultivation is a very labour-intensive process, particularly in the case of hybrid varieties, since each plant must be cross-pollinated manually.

3.2 The production chain in the hybrid cotton seed industry

Indian legislation bans private and corporate ownership of large landholdings.⁶ Companies engaged in the production of hybrid cotton seed are therefore dependent on numerous local farmers and small landowners. The company included in the investment portfolio of the Government Pension Fund – Global does not necessarily have a direct link to these landowners, but does business with them through local subsidiaries, henceforth called “seed companies”, via middlemen known as *seed organisers*, or licence agreements with other companies, which in turn have production agreements with local farmers.

Local farmers' production is organized through a system of contracts and advance payments between local landowners and the middlemen who coordinate seed growing in hundreds of small farms. Production targets and other conditions for cotton seed cultivation are determined by the seed companies. The intermediaries find land owners who are interested in undertaking production on these conditions and enter into agreements with them. It is common for seed companies, through *seed organisers*, to provide capital for the purchase of foundation seed and other factor inputs. The middlemen supply local farmers with seed for production from the seed companies. After the harvest, the seed crops are fetched by these

organisations, for example <http://www.workingchild.org/> <http://www.caclindia.org/>
<http://www.globalmarch.org/index.php>

² On file with the Council.

³ The report “*The Impact of a Joint Action Plan of MNCs for the Elimination of Child Labour on the farms Producing Cotton Seed for Companies in Andhra Pradesh*” is based on field work commissioned by the Council on Ethics and records field surveys carried out in November and December 2005. This report is discussed in more detail in section 4.1.

⁴ Hybrid cotton plants are not self-pollinating, but each single plant has to be pollinated manually. The production of such seed is extremely labour-intensive compared to that of naturally pollinating varieties.

⁵ “BT” is short for “*bacillus thuringiensis*”, a bacteria used to genetically modify the cotton seed so as to make it pest resistant. BT cotton seed is the only kind of genetically modified cotton seed permitted in India.

⁶ Land Ceiling Act: <http://indiacode.nic.in/coiweb/amend/amend34.htm>

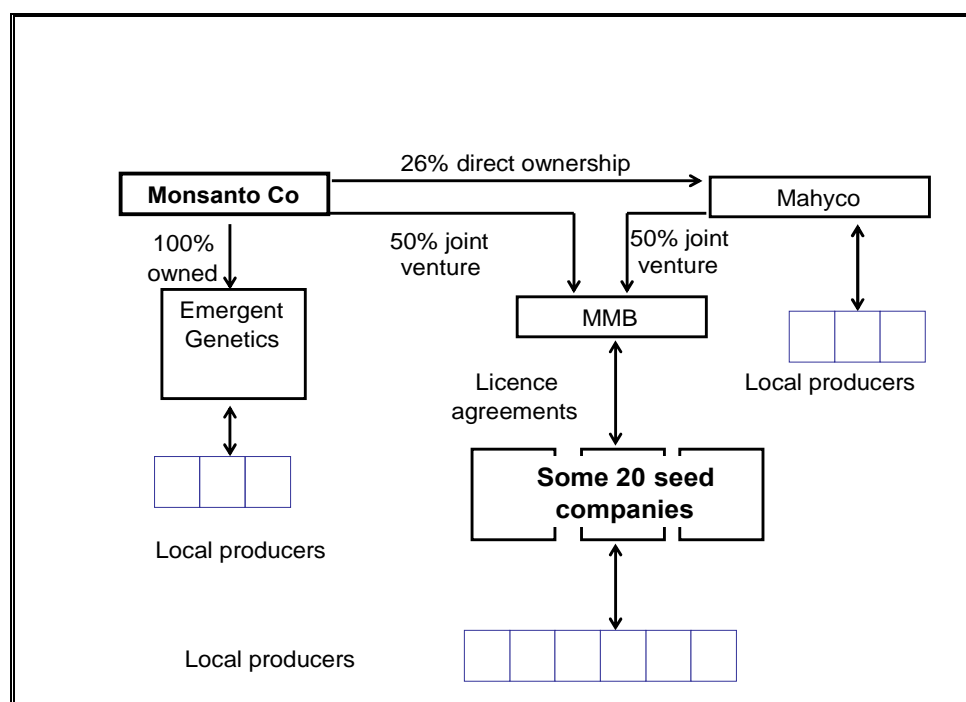
intermediaries and delivered to the seed companies. Quality controls determine whether the seed meet the required standard. If it does, both middlemen and local landowners receive payment.⁷

3.3 More details on Monsanto Co's operations

The Council on Ethics' point of departure is that Monsanto operates in the cotton seed industry in India through the wholly-owned subsidiary Emergent Genetics.⁸

Additionally, Monsanto has a 26% stake in Mharashtra Hybrid Seed Company (Mahyco). Mahyco produces hybrid cotton seed through contracts with local farmers. Moreover, Mahyco and Monsanto jointly own the company Mahyco-Monsanto Biotec (MMB). MMB is a joint venture in which each owner holds a 50% share. As a result of its stake in Mahyco Monsanto owns 63% of MMB. MMB operates through licence agreements, selling licences for hybrid cotton seed cultivation to other companies, which in turn sign production contracts with local farmers.⁹ This is illustrated in Figure 1.

Figure 1: Schematic outline of Monsanto's hybrid cotton seed operations in India



To calculate the scope of child labour associated with Monsanto's operations in the 2005-2006 season, this recommendation takes as its basis the following acreage:

Emergent Genetics: 310 hectares in Andhra Pradesh¹⁰

⁷ See footnote 2

⁸ See <http://www.emergentgenetics.com/>

⁹ Confirmed through e-mail from Monsanto Co to the Council on Ethics' Secretariat on 1 November 2006.

¹⁰ See footnote 3

MMB: Licensed production totalling 2,200 hectares¹¹

Research performed regarding cultivation for Mahyco is not directly included in the Council's assessment of Monsanto's activities.

3.4 Debt relations and child labour in the Indian cotton seed industry

India is probably one of the countries in the world with the highest incidence of child labour.¹² Estimates indicate that approximately 80% of child labourers work in agriculture, and they are often forced to work as a result of their parents' debt.¹³

It is rather common that debt obligations are redeemed through child labour, i.e. in order to repay advances or other loans that have been incurred, the borrower himself or his children work for the lender. High interest rates and low wages may create working conditions that resemble slavery or bonded labour in the sense that the debt is never paid off and the borrower is bound to the lender and forced to work for him. Children are caught up in this system by having to work as a result of their parents' debt to local landowners, and such debt may be inherited through several generations.

A survey commissioned by the ILO in 2003 showed that up to 82% of children in the cotton seed industry were working because their parents had received loans or advances from the local landowner.¹⁴ In many cases children are relocated from other parts of the country to work in the cotton seed industry. This is often arranged through intermediaries who make an agreement and pay the children's parents an advance. These children living away from their families generally have to work under even worse conditions than local children.¹⁵

In the hybrid cotton seed industry it is common that local landowners, who have delivery contracts with seed companies through middlemen, obtain child labourers by extending loans and advance payments to the parents.

Compared to other segments, child labour is particularly widespread in hybrid cotton seed production. This is probably linked to the fact that the cultivation is extremely labour-intensive as cross-pollination has to be done manually on each individual plant, something that demands a great work effort over a long period of time. It has been estimated that around 90% of the work load in hybrid cotton seed production refers to manually assisted cross-

¹¹ The estimate of cultivated area has been made by Dr. Venkateswarlu on the basis of the amount of foundation seed reported sold by Monsanto. From a press release (cited at <http://www.gmoafrica.org/2005/09/sale-of-monsantos-gmo-cotton-seed.html>) it appears that the company sold 3 million packets (450 g each). It is estimated that 60% went to MMB. Normal consumption of seed per area unit (333 packets per acre) implies a total acreage of some 2,200 ha for MMB. Similar estimates for Mahyco suggest an acreage of 1,850 ha.

¹² U.S. Department of Labor, "The Worst Forms of Child Labor: 2005," *Report by U.S. Department of Labor, Bureau of International Labor Affairs*, 2005. www.dol.gov/ilab/

¹³ Physicians for Human Rights Child Rights Group, "Child Labour in India: a health and human rights perspective," *The Lancet*, Vol. 262, Dec.2003, p.32, www.thelancet.com

¹⁴ See footnote 2. The report covered 440 children.

¹⁵ The same reference as for footnote 14. The study shows that 18% of the children involved in the activity were *migrant children*, i.e. children who come from another part of the country. These children are kept in work camps run by landowners, generally under extremely miserable conditions. The survey commissioned by the Council on Ethics reveals that as many as 89% of the children who worked in the cotton seed industry for Mahyco in Gujarat state were migrant children living apart from their families. See section 4.3 below.

pollination. This process requires approximately 10 times more work than the cultivation of self-pollinating cotton seed.

Employment contracts in general contain no or very vague provisions with regard to working hours. Normally, the children work long hours. For local children living in the area near the production site 10-hour days are standard, with an additional 1-2 hours in peak periods. Migrant children, who do not come from local communities and who live and work far from their parents, are used to putting in 12-14 hours a day.

Most children who work in this segment are aged between 7 and 14. The cotton seed season is from May to February and, as already mentioned, working hours are very long. This means that most children employed in the production are unable to go to school. A study from 2003 showed that 89% of children working in the cotton seed industry had either interrupted their education or never attended school at all. Furthermore, it was revealed that areas where cotton seed cultivation was widespread also had a larger percentage of children out of school. Some 40%-60% of children not attending school were found to work in cotton seed production.¹⁶

3.5 Economic factors associated with the use of child labour

It is estimated that labour costs account for some 50% of hybrid cotton seed production costs. In order to minimize these expenses children are used in the production.¹⁷ Children's wages are approximately 30% lower than those of women and 55% below men's wages. The average wages for children in this industry are around NOK 4.00 for a day's work.¹⁸

Previous reports show a clear connection between the price of cotton seed and the use of child labour. Given current procurement prices, the producers cannot offer high enough wages to employ adult workers. If local farmers were to carry all costs related to the employment of adult rather than child labour, their operating margin would be reduced by between 65% and 100%. The market price of hybrid cotton seed is 4 to 12 times the procurement price companies pay to local farmers. If the additional cost involved in using adult labour were to be compensated through an increase in procurement price, it is estimated that this would have to rise by 12%. The companies' profits would probably be reduced somewhat through an increase in the procurement price. Consequently, there is a clear connection between pricing and the fact that farmers use child labour. This does not imply that the problem of child labour would be solved by increasing the procurement price alone, but it seems clear that other measures to abolish child labour in this industry would have limited chances of success as long as it is not economically viable for local farmers to replace children with adult workers.¹⁹

¹⁶ Venkateswarlu, Dr. Davuluri, "Child Labour and Trans-National Seed Companies in Hybrid Cottonseed Production in Andhra Pradesh," India Committee of the Netherlands, April 2003,

¹⁷ The cost saving implicit in the use of child labour is commented on in further detail in Venkateswarlu, Dr. Davuluri, and da Corta, Lucia, "The Price of Childhood: On the Link between Prices Paid to Farmers and the use of Child Labour in Cottonseed Production in Andhra Pradesh, India," India Committee of the Netherlands, International Labor Rights Funds, and Eine Welt Netz NRW, Oct. 2005. See www.indianet.nl/PriceOfChildhood2005_Final.pdf

¹⁸ According to a briefing by Dr. Davuluri of the Council on Ethics in Oslo, October 2005.

¹⁹ Venkateswarlu, Dr. Davuluri, "Child Labour and Trans-National Seed Companies in Hybrid Cottonseed Production in Andhra Pradesh," India Committee of the Netherlands, April, 2003

3.6 Health hazards as a result of pesticide use

Use of pesticides in the cotton seed industry

The use of pesticides poses a particular health risk to children who work in this industry. Indian cotton production is responsible for approximately 45% of the country's total consumption of pesticides, even if only some 4% of the cultivated area is used for cotton.²⁰ In general, hybrid cotton seed production requires more pesticides than the cultivation of natural cotton seed.

Children working in cotton seed production are particularly vulnerable to the effects of pesticides because they often work in the fields during and immediately after the application. Children have also been reported to be engaged in the actual spraying.

Reports from several sources reveal that in hybrid cotton seed cultivation no kind of protective equipment is used to prevent exposure to pesticides. Normally, the children do not even have access to soap and water for hand washing before meals. In this way they ingest pesticides through their food intake. *Physicians for Human Rights*²¹ have conducted a study of children employed in hybrid cotton seed production in the Indian region of Andhra Pradesh. Describing how children mix and apply pesticides without wearing any protective equipment, the study also reports that most children are barefoot and thus in constant contact with the pesticides. Moreover, there is no extra clothing or washing facilities available. Local health authorities have reported several cases of poisoning in children as a result of exposure to pesticides.²²

In India the most common pesticides used in hybrid cotton seed production include *Methomyl*, *Monocrotophos*, *Endosulphan*, *Cypermethrin*, and *Metasystox*.

The health hazards associated with exposure to several of the pesticides in question are amply documented. Exposure to all these pesticides may lead to health damage or death. The World Health Organization (WHO) classifies *Methomyl* and *Monocrotophos* as "highly hazardous", and *Endosulphan* and *Cypermethrin* as "moderately hazardous".²³

Skin contact, inhalation and ingestion of pesticides may lead to health damage. Safe application and handling of pesticides require the use of protective equipment in the form of appropriate clothing and gloves to cover exposed skin, respiratory protective devices, and access to soap and water for washing.

Exposure to *Endosulphan* may cause several of the symptoms found among children who work with hybrid cotton seed; headaches, exhaustion, dizziness, nausea and respiratory problems.²⁴ *Endosulphan* is poisonous if ingested or absorbed through the skin. Inhalation

²⁰ Mathur SC., "Future of India Pesticides Industry in Next Millennium." Pesticide Information, 1999; XXIV (4):9-23. It should be noted that other surveys estimate the proportion of pesticides in the cotton industry as being even higher.

²¹ See <http://www.phrusa.org/>

²² Lancet report: Physicians for Human Rights "Child labour in India: a health and human rights perspective," *The Lancet*, Vol. 262, December 2003, p. 33. www.thelancet.com

²³ See WHO's classification of health hazards related to different pesticides: <http://www.inchem.org/documents/pds/pdsotter/class.pdf>

²⁴ See footnote 19

may also be hazardous.²⁵ This is equally the case with *Methomyl*²⁶ and *Monocrotophos*.²⁷ There are a series of possible harmful effects associated with exposure to these pesticides, for instance damage to the central nervous system, which may lead to paralysis. Prolonged or high-concentration exposure may be lethal.

Restricted Entry Interval

For several of the pesticides in question, so-called *Restricted Entry Interval* (REI) is recommended, indicating the time interval to be observed between spraying and entry into treated field. The REI for different pesticides depends on which plant species the pesticide is used on. The following applies to cotton plants:

*Methomyl*²⁸ and *Metasystox*²⁹ both have a recommended REI of 72 hours, whereas *endosulphan* requires an REI of 24 hours.³⁰ For *Cypermethrin* a 12-hour REI is suggested.³¹

Restrictions on pesticide use in the company's home country

The Council on Ethics is aware of the strict restrictions placed on the use of these pesticides in Monsanto's home country, the USA. In the USA the use of *Monocrotophos* is prohibited in all agricultural production.³² *Methomyl* is classified as a *Restricted Use Pesticide* (RUP), which implies that purchase and application are limited to authorized individuals who have training and equipment for safe use. Moreover, *Metasystox* is classified as a RUP,³³ as is *Cypermethrin*.³⁴

3.7 Measures to reduce the incidence of child labour

CLEP

A voluntary programme to eradicate child labour in the cotton seed industry in India has been in place for several years. The programme is called *Child Labour Elimination Programme* (CLEP) and is based on cooperation between seed companies, authorities and NGOs.³⁵

Monsanto's subsidiary Emergent Genetics is involved in the CLEP. Neither MMB nor Mahyco are part of the programme.

²⁵ IPCS International programme on chemical safety: Re Endosulphan:
<http://www.inchem.org/documents/pims/chemical/pim576.htm#PartTitle:9.%20%20CLINICAL%20EFFECTS>

²⁶ Extension Toxicology Network (EXTOXNET) on Methomyl: <http://extoxnet.orst.edu/pips/methomyl.htm>

²⁷ Extension Toxicology Network (EXTOXNET) on Monocrotophos: <http://extoxnet.orst.edu/pips/monocrot.htm>

²⁸ National information system for the regional integrated pest management centers: *Crop Profile for Cotton (Gossypium hirsutum) in Tennessee*. January 2005:
<http://www.ipmcenters.org/CropProfiles/docs/tncotton.html>

²⁹ National information system for the regional integrated pest management centers: *Crop Profile for Cotton in California* January 2002: <http://www.ipmcenters.org/cropprofiles/docs/CAcotton.html>

³⁰ National information system for the regional integrated pest management centers: *Crop Profile for Cotton (Gossypium hirsutum) in Tennessee*. January 2005:
<http://www.ipmcenters.org/CropProfiles/docs/tncotton.html>

³¹ National information system for the regional integrated pest management centers: *Crop Profile for Cotton in California*. 08.01.02, <http://www.ipmcenters.org/cropprofiles/docs/CAcotton.html>

³² US Environmental Protection Agency: *List of Pesticides Banned and Severely Restricted in the U.S*
<http://www.epa.gov/oppfead1/international/piclist.htm>

³³ Gowan Company (producer) <http://www.gowanco.com/Reference/Document~rid~397~FL-960006MSRcitrus.pdf.aspx>

³⁴ EPA on Cypermethrin: <http://extoxnet.orst.edu/pips/cypermeth.htm>

³⁵ See Monsanto's reference to CLEP at <http://www.indianet.nl/br060530.html>

Through participation in the CLEP companies are committed to:

- Providing all relevant information on production conditions, including specific information on all production sites where seed purchased by the company is grown.
- Establishing provisions in sales contracts that children under 15 years of age are not to be employed in any part of cotton seed production.
- Contributing to the formation of monitoring groups in order to map the scale of child labour in different areas.
- Giving financial support to the *Naandi Foundation*, which offers education to children who have worked in the cotton seed industry.
- Offering training in safe use of pesticides.
- Introducing a system of rewards and sanctions to incentivize the elimination of child labour.

Rewards

The CLEP's allows for the payment of a 5% bonus in addition to the price agreed upon for cotton seed cultivated on farms where no children are used in the production. Furthermore, if child labour ceases on all farms in a village, the companies will reward the village by offering financial support for school building, teaching material and so forth.

Sanctions

Besides, if inspections reveal the use of children in cotton seed production, first-time offences will be reprimanded. If later use of child labourers is detected, the company will reduce the price paid for the seed by 10%. Farms that after this still make use of child labourers will not be allowed to supply seed to the company; neither will future contracts be awarded.

Introduction of the CLEP

The CLEP was launched in July 2005. Participating companies made information on production sites available and introduced provisions in seed sales contracts which prohibited the use of children under 15 years of age in the production.

A secretariat comprising one project manager and a staff of five has been established to assist in implementing the CLEP's action plan, and briefings have been held to inform farmers and landowners of the programme. In August 2005 monitoring groups made up of representatives from companies and NGOs carried out inspections.

The Council on Ethics is aware that the cooperation between participating seed companies and NGOs soon became problematic. In the NGOs' opinion the companies reluctantly cooperated to implement the CLEP, and joint inspections revealed few child labourers in the production. However, during inspections carried out on the same farms by NGOs alone, a much larger number of children were found. Consequently, the NGOs suspected that the companies gave prior warning of the inspections, and that children were temporarily removed before the inspectors arrived. In September 2005, a leading NGO partner in the project, the MV Foundation, withdrew from participation in joint inspections owing to poor teamwork. Despite this, the participating companies chose to continue joint inspections in cooperation with the CLEP's secretariat and a few minor local NGOs.

4 Investigation of working conditions in cotton seed production

4.1 Surveys conducted on behalf of the Council on Ethics, 2005-2006

Purpose of the investigations

The Council on Ethics was intent on commissioning new research in order both to gain access to the most updated information available and to see if measures aimed at reducing the incidence of child labour had produced the desired effect. Investigations were also carried out in the state of Gujarat, where, to the Council's knowledge, such surveys had not yet been conducted.

Dr. Davuluri Venkateswarlu of the Global Research and Consultancy Services in Hyderabad, India performed the investigations commissioned by the Council on Ethics.

Scope

At the Council on Ethics' request, the conditions in cotton seed cultivation for Emergent Genetics and Mahyco in the states of Andhra Pradesh and Gujarat were investigated in November and December 2005. A survey of working conditions was conducted at a total of 124 farms.

The research was undertaken at a time of the year when the need for manpower is approximately 20%-25% lower than in the most labour-intensive periods. However, the data have not been corrected accordingly; only actual findings are reported.

Selection of farms

The selection of farms to be investigated with regard to the incidence of child labour has been made through random sampling within different groups of the total number of farms (so-called *stratified random sampling*). This means that the farms are divided into groups according to size, ownership (freehold or leasehold), and geographic location. Within these groups random farms are selected for investigation.

Surveys of Monsanto Co. production sites

A survey of child labour incidence was performed on 104 farms that produce cotton seed for Emergent Genetics and are located in 26 villages in four districts of Andhra Pradesh. These constituted a total acreage of 60 hectares. In the 2005-2006 season cotton seed was produced for Emergent Genetics at some 450 farms (the equivalent of around 310 hectares of cultivated land) in Kurnool, Mahaboobnagar, Cuddapah and Vijayanagaram districts, in the state of Andhra Pradesh.

Surveys of Mahyco production sites

Research was conducted regarding the incidence of child labour on 20 cotton seed producing farms in Mahyco's supply chain. These farms are located in Gujarat state. 13 of the inspected farms are situated in the Sabarkantha district (four in Idar, six in Himmatnagar and three in Khedbraham Taluks), and seven belong to the district of Mehasan (all in Vijayapuri Taluk). The total area cultivated for Mahyco in Gujarat is not known precisely, but it is believed to be some 550 hectares.

Moreover, it is known that in the 2005-2006 season hybrid cotton seed was also produced for Mahyco in the states of Maharastra and Karnataka. The estimated areas of cultivation for the

company in these states amount to around 1,000 and 300 hectares respectively³⁶. Here, surveys have not been commissioned by the Council on Ethics. The acreage for Mahyco is estimated as totalling some 1,850 hectares.

4.2 Findings in the Council on Ethics' surveys

General overview

For the 2005-2006 season the exact number of children working in cotton seed production cannot be ascertained. The investigations commissioned by the Council on Ethics, however, provide good indications as to the scope of the problem. These figures do not take into account that surveys were made at a time of the year when labour demand is not at its highest. It is estimated that up to 25% more children work during peak periods. The estimates given in this recommendation concerning the number of children are therefore conservative.

Scope of child labour on farms in Monsanto Co's supply chain

Emergent Genetics

At the 104 surveyed farms that produce cotton seed for Emergent Genetics a total of 302 children aged 8-15 were reported to work in production. This makes up approximately 28% of the whole workforce on the farms in question, a percentage which ranged from 21% to 39% in the various districts. The largest portion was found in the district of Cuddapah in Andhra Pradesh. 58% of child workers were girls.

To calculate the approximate number of children employed in cotton seed production for Emergent Genetics, the proportion between number of children and acreage of farms in the survey can be multiplied by the total area cultivated for Emergent Genetics. Findings show that 302 children are used for the cultivation of 60 hectares of land, i.e. an average of 5 children per hectare of cultivated land. The total area being farmed for Emergent Genetics is 310 hectares. It may therefore be inferred that at least 1,500 children were employed in cotton seed production for Emergent Genetics in Andhra Pradesh during the 2005-2006 season.

Mahyco

Monsanto holds a 26% stake in the company Mahyco. There was no production of hybrid cotton seed for Mahyco in Andhra Pradesh during the 2005-2006 season. Yet, production took place for the company in Gujarat, and in this regard, the Council on Ethics commissioned investigations of the incidence of child labour. 20 farms in the districts of Sabarkantha and Mehasan were selected for inspections.

According to the findings, 114 minors aged 8 to 15 worked on the surveyed farms, representing some 35% of total workforce. Among the 114 children, 89% were not related to the landowner. 86% of the children came from other districts, mainly from the state of Rajasthan and other areas in Gujarat.

The 20 farms in the survey made up 13 hectares of cultivated land, which implies an average of 8.8 children per hectare of land. This gives an idea of the child labour situation in areas where the CLEP programme has not been implemented.

³⁶ See footnote 11.

As mentioned earlier, Monsanto owns only 26% of Mahyco. The Council of Ethics will therefore not attach decisive importance to the findings made through investigations of the production for this company. This information is, however, included in the present recommendation to show the scope of child labour at one of Monsanto's business partners and in areas where measures to reduce child labour have not been implemented.

MMB

MMB does not produce cotton seed itself, but sells licences to companies which in turn enter into production agreements with local farmers. During the season, the total acreage of the companies producing on licence from MMB was around 2,200 hectares.

In the production linked to MMB, no steps aimed at reducing child labour have been taken. Previous research shows that in areas where improvement programmes have not been put into practice, the number of child labourers may vary between 7 and 25 children per hectare. Taking this as a basis, it can be estimated that 9,300 to 55,000 children were working in production linked to MMB in the 2005–2006 season.

Overall estimate

Table 1 shows estimated number of children employed in production for Emergent Genetics and MMB in the 2005-2006 season.

Table 1: Estimated number of children employed in production for Monsanto in the 2005-2006 season

Company	Cultivated area (hectares)	Number of children working per hectare	Estimated total number of children
Emergent Genetics	310	5	1 500
MMB*	2 200	7 - 25	19 300 – 55 000
Total			20 800 – 56 500

*MMB is a joint venture between Monsanto and Mahyco, which hold 50% each

The age of the children in the survey

Approximately 45% of children found working were aged between 13 and 15. Some 35% of the children were 10 to 13 years old, and the remainder (approx. 20%) were under 10 years.

Investigations carried out on behalf of the Council on Ethics also show that attempts are made at presenting children aged 11-14 years as older than they are, and that local officials in some cases are bribed to issue identity papers which belie children's true age. The motivation behind these measures is probably the increased attention recently drawn to child labour, as well as more extensive inspections by companies and organizations.

Working conditions with regard to pesticide use

The actual application of pesticides is mainly done by the use of backpack mist sprayers without any kind of protective equipment, and, at best, with faulty and insufficient protective equipment. One of the CLEP's initiatives (see section 3.7) has therefore been that the companies should pave the way for safe use of pesticides through training programmes.

No significant improvement when it comes to safe handling and use of pesticides has been observed. None of the inspected farms had undertaken such training, and work on sprayed fields went on with complete disregard for recommended entry interval (see section 3.6). It must therefore be assumed that the health hazard related to this kind of work may be considerable, and that measures to reduce this risk have not been implemented.

4.3 Comparison with previous surveys

Age and salary conditions

With regard to salary conditions there is little that seems to have changed since the 2003-2004 season.³⁷ A large number of children are still working as a result of loans and advances extended to their parents. The percentage of minors working on account of such debt relations has, however, been somewhat reduced, from around 70% in 2003-2004 to 62% in 2005-2006.

The proportion of teenagers between 16 and 18 years who work in production has grown significantly in the 2005-2006 season compared with previous years. This is mainly due to the fact that these youths have also worked during earlier seasons and are kept as labourers. Consequently, the average age of production workers has increased.

During the 2005-2006 season, at least 1,500 minors were found to be working in cotton seed production for Emergent Genetics in Andhra Pradesh. A similar survey performed in 2003-2004 registered 4,950 children employed in production for Emergent Genetics. This indicates a reduction of 70% in the number of child workers per area unit engaged in production for Emergent Genetics.

Even if the number of children who work in cultivation for Emergent Genetics seems to have been reduced, it cannot be ascertained that there has been a decrease in the total number of child labourers engaged in production for Monsanto, seeing as no measures have been implemented to lessen the incidence of child labour in MMB's supply network.

4.4 The Council on Ethics' contact with the company

On behalf of the Council on Ethics, Norges Bank has contacted Monsanto. A letter was sent to the company on 30 May 2006, presenting the results of the Council's investigations and other background information brought to light in this recommendation. Moreover, the company was requested to answer specific questions in order to further clarify the case.

The company was asked to give an account of how its cotton seed production is organized in India, to what extent its staff inspects the production sites, what it does to reduce the health hazards associated with the use of pesticides, and what it will do to decrease the incidence of child labour in hybrid cotton seed cultivation.

Monsanto answered the first query by way of a 1-page e-mail, stating the following: "*We share your interests and concerns about child labor in India and take the matter very seriously*" and "*...child labor is a complex socio-economic problem*". Incidentally, the

³⁷ Venkateswarlu, Dr. Davuluri: "*Child Labour in Hybrid Cottonseed Production in Andhra Pradesh: Recent Developments*". Study commissioned by the India Committee of the Netherlands (ICN), Sept. 2004.

wording of the e-mail is essentially identical to a standard letter Monsanto sends to various interest groups.³⁸

Additionally, Monsanto informed that the company is involved in the CLEP, but omitted information as to whether this is restricted to the operation of Emergent Genetics. The company also stated that it has implemented a Human Rights Policy; "*We are in the early stages of our implementation of this newly released policy*". Besides this, Monsanto did not comment on the report and did not address any of the queries raised in the letter.

Since the first reply from the company contained little substantial information, the Council on Ethics directed a new request to Monsanto in September 2006, asking the company once more to comment on the report and answer the accompanying questions. As a reply to the new query Monsanto suggested a telephone conference, and this was held on 21 September 2006 with representatives from the company and the Council on Ethics' Secretariat.³⁹

During the telephone conference Monsanto expressed once more the opinion that child labour in the cotton seed industry is a very complex issue and that it will require an effort by various parties to diminish the problem. It was also made clear that Monsanto deems it unrealistic to eliminate child labour in the company's supply chain, but that it has a desire to reduce the incidence of child labour. However, the company regards its own efforts as limited as long as other parties do not show the same interest.

Monsanto explained the implementation of the company's newly-established *Human Rights Policy*⁴⁰, adding that it applies to their own employees as well as business partners and joint ventures. It was emphasized, though, that in the initial phase the introduction of the *Human Rights Policy* would focus on the company's own staff.

With regard to the improvement programme CLEP, Monsanto made it clear that this only refers to Emergent Genetics' activities, and not to MMB's or Mahyco's.

During the telephone conference Monsanto informed that to reduce the health risk associated with use of pesticides it would encourage and organize training for growers engaged by Emergent Genetics. Nevertheless, it was stated that Monsanto would not provide protective equipment or make this available for use during application.

³⁸ See for example Monsanto's letter to the India Committee of the Netherlands:
<http://www.indianet.nl/br060530.html>

³⁹ The report from the telephone conference is on file with the Secretariat

⁴⁰ Monsanto's *Human Rights Policy* states the following:

"Child labor

Monsanto will not tolerate any form of exploitative child labor, as defined in the International Labor Organization Convention 182, Article 3 (Worst Forms of Child Labor). Accordingly, we will observe applicable local, state and national laws regarding the employment of minors. In those situations where minors may legally be employed, we will act to assure that such employment does not interfere with the educational opportunities of the children. Consistent with our safety and health policies and procedures, we will not expose young workers to situations in the workplace that are likely to jeopardize their health or safety.

Forced labor

Monsanto will not engage in the use of indentured, slave, bonded or other forced involuntary labor. Monsanto rejects corporal punishment of any type."

See http://www.monsanto.com/monsanto/layout/our_pledge/humanRightsPolicy.asp

5 The Council on Ethics' assessment

5.1 Factors the Council on Ethics will consider

The Council on Ethics shall assess whether the investment of the Government Pension Fund – Global in Monsanto Co constitutes an unacceptable risk of future complicity in unethical acts. The Council on Ethics' mandate is limited to concrete assessment of whether the company's operations fall within or outside the scope of the Guidelines. The Ethical Guidelines, point 4.4, second clause, first bullet point states:

"The Council shall issue recommendations on the exclusion of one or several companies from the investment universe because of acts or omissions that constitute an unacceptable risk of the Fund contributing to: Gross or systematic human rights violations, such as torture, deprivation of liberty, forced labour, the worst forms of child labour and other child exploitation."

In previous recommendations the Council has taken as its basis that even if States, and not companies, are obliged by international human rights conventions, companies may be said to contribute to human rights violations. The Council has not deemed it necessary to evaluate whether States are responsible for possible human rights violations, even if it accepts as a fact that companies may be complicit in such violations: *"It is sufficient to establish the presence of an unacceptable risk of companies acting in such a way as to entail serious or systematic breaches of internationally recognised minimum standards for the rights of individuals."*⁴¹

In two of its previous recommendations (re Total and Wal-Mart), the Council has referred to companies' complicity in human rights violations in the following way:

"Not all human rights violations or breaches of international labour rights standards fall within the scope of the provision. Point 4.4 states that human rights violations must be 'serious or systematic'. The Graver Committee recommends 'fairly restrictive criteria for deciding which companies should be subject to possible exclusion ...'.⁴² The Council assumes that a determination of whether human rights violations qualify as serious or systematic needs to be related to the specific case at hand. However, it seems clear that a limited number of violations could suffice if they are very serious, while the character of a violation need not be equally serious if it is perpetrated in a systematic manner."

The acts or omissions must constitute an unacceptable risk of complicity on the part of the Fund. This means that it is not necessary to prove that such complicity will take place – the presence of an unacceptable risk suffices. The term unacceptable risk is not specifically defined in the preparatory work. NOU (Norwegian Official Report) 2003: 22 states that 'Criteria should therefore be established for determining the existence of an unacceptable ethical risk. These criteria can be based on the international instruments that also apply to the Fund's exercise of ownership interests. Only the most serious forms of violations of these

⁴¹ See the Council on Ethics' recommendation on Wal-Mart, section 3.2, 15 November 2005.

<http://odin.dep.no/etikkradet/norsk/dokumenter/099001-110012/dok-bn.html>

⁴² NOU 2003:22, p. 34.

standards should provide a basis for exclusion.’⁴³ *In other words, the fact that a risk is deemed unacceptable is linked to the seriousness of the act.*

The wording of Point 4.4 makes it clear that what is to be assessed is the likelihood of contributing to “present and future” acts or omissions. The Council accordingly assumes that actions or omissions that took place in the past will not, in themselves, provide a basis for exclusion of companies under this provision. However, earlier patterns of conduct might give some indications as to what will happen ahead.”

Based on the Council’s previous recommendations regarding contribution to human rights violations, including the aforementioned quotes, the Council has formulated four criteria which will form the basis of the actual assessment of whether an unacceptable risk of complicity exists.⁴⁴ If the Council on Ethics finds that the violations in question are gross or systematic, the subsequent assessment of the Fund’s contribution to violations will be based on these. The following criteria will constitute decisive elements in the overall assessment of whether there is an unacceptable risk of the Fund contributing to human rights violations:

- There must be some kind of linkage between the company’s operations and the existing breaches of the Guidelines, and these must be visible to the Fund.
- The violations must have been carried out with a view to serving the company’s interests or to facilitating the conditions for the company.
- The company must either have contributed actively to or had knowledge of these violations without seeking to prevent them.
- The violation must either be ongoing or there must be an unacceptable risk that they will occur in the future. Previous violations may indicate future patterns of conduct.⁴⁵

5.2 The Council on Ethics’ assessment of the violations

To assess whether the child labour in question may fall within the scope of the Guidelines’ provision regarding “*the worst forms of child labour*”, the Council on Ethics will take as its point of departure the UN Convention on the Rights of the Child, which, in Article 32 instructs States to protect children against work which is hazardous or a hindrance to their education or development: “*States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.*”⁴⁶

The Council on Ethics also bases its assessment on the ILO Convention 182, Article 3d, which defines the *worst forms* of child labour thus: “*Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.*” This implies that work which is harmful to children’s health and safety must be considered the *worst forms* of child labour.

⁴³ NOU 2003: 22, p. 35.

⁴⁴ Recommendation on Total, 14 November 2005, and recommendation on Wal-Mart, 15 November 2005
<http://odin.dep.no/etikkradet/norsk/dokumenter/099001-990073/dok-bn.html>
<http://odin.dep.no/etikkradet/norsk/dokumenter/099001-110012/dok-bn.html>

⁴⁵ See the Council on Ethics’ recommendation regarding Total SA, based on the company’s operations in Burma: <http://odin.dep.no/etikkradet/norsk/dokumenter/099001-990073/dok-bn.html>

⁴⁶ The UN Convention on the Rights of the Child: <http://www.ohchr.org/english/law/pdf/crc.pdf>

Furthermore, the ILO Convention 182, Article 3a defines as the *worst forms* of child labour: "All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict". This implies that exposing children to all kinds of slavery and conditions similar to those of slavery, including debt bondage and serfdom, also must be considered the worst forms of child labour.⁴⁷

According to the aforementioned human rights norms, child labour that may cause health damage, and work that interferes with children's education and development, or is a result of debt bondage will constitute the core area covered by international bans on child labour.

The Council therefore takes as its basis that the detected cases of child labour in themselves must be regarded as qualifying for "*the worst forms of child labour*", even if the formal human rights responsibility, according to the various conventions referred to here, are not taken into consideration in this respect. There are several factors which substantiate this:

The Council places great importance on the children's tender age, as the investigations show that 20% of the children were under 10 years old, and 35% were aged 10-13. A large majority of the children, nearly 90%, did not have any family ties to the production site. This shows that the child labour is not part of traditional family farming, but rather that the children are engaged in seasonal labour, often working far away from their families and care providers.

An important point which makes this fall within the scope of "*the worst forms of child labour*" is the evident health risks that the children are exposed to because of almost constant contact with hazardous pesticides. In the few cases where protective equipment is available, this is for the adults who apply the actual spray, not for the children working with pollination.

The children are subject to very long hours (up to 14 a day) of demanding physical work, often in strong heat. Allegedly, one of the reasons for using children in this industry is that it is easier to make them work very long hours without extra pay. Since the season lasts for at least 8 months a year, these children are generally deprived of education.

It may also be added that findings show a strong element of debt bondage in the operations which have been investigated.⁴⁸ Besides, when it comes to child labour in India on the whole, it has been amply documented that this practice is widespread.⁴⁹

In addition to considering the aforementioned norm breaches *gross*, the Council takes as its basis that they, as a rule, must also be regarded as *systematic*. This is substantiated by the large scope of the child labour, as minors make up some 30% of the workforce on several thousand farms, and the practice of using children as labour seems to be well established. The large number of children involved in the industry shows that they constitute a significant part of an organized production system.⁵⁰

The Council on Ethics therefore considers the violations to be both gross and systematic.

⁴⁷ ILO Convention 182: <http://www.ohchr.org/english/law/childlabour.htm>

⁴⁸ See footnote 3

⁴⁹ See for example Human Rights Watch's reports from 1996 and 2003 on debt bondage and child labour in India <http://www.hrw.org/children/labor.htm#bonded> or the website of the organisation Anti Slavery <http://www.antislavery.org/homepage/campaign/bondedinfor.htm#why>

⁵⁰ See section 3 above.

5.3 The Council's analysis of the risk of the Fund's complicity in breaches

If the Council is to consider a recommendation on the exclusion of companies, there must be elements linking the operations of the company in question to the specified violations.

As previously mentioned, the Council is charged with assessing the activities in relation to the four criteria listed in section 5.1. Firstly, it has to consider whether there is some kind of connection, evident to the Fund, between the company's operations and the violations; secondly, whether the violations were committed with a view to serving the company's interests or facilitating its conditions. The last two criteria state that the company must either have contributed actively to the violations or have had knowledge of these without seeking to prevent them, and that the violations either must be ongoing or that there must be an unacceptable risk that they may occur in the future.

Connection

The Council considers there to be a clear connection between Monsanto's operations and the use of child labour. This connection is most evident with regard to the wholly-owned subsidiary Emergent Genetics, as this company signs production contracts, possibly through middlemen, with local farmers for the cultivation of hybrid cotton seed. In many cases, the farmers are given advance payments, entering into a close-knit relationship with the company, which also offers guidance and inspects the production. Child labour is a direct factor input used to fulfil the production contracts between local farmers and the company.

With regard to the use of child labourers by joint ventures in which companies in the Fund's portfolio holds large stakes, or licensed production where companies in the Fund are licensors, the link between violations and the company's activities may seem slightly more extrinsic. Even so, the Council on Ethics deems there to be a clear connection between the company's operations and the use of child labour in this case as well, and different operational structures do not formally change this in any significant way.

The company's interests

Moreover, the Council takes as a point of departure that the company's interests are served through the use of child labour in cotton seed production. The company earns profits from the production through contracts with local farmers. As mentioned in section 3.5 the procurement price is established at a level that makes it difficult or impossible for farmers to use adult workers. Local farmers employ children because this translates into lower production costs. The cost reduction thus achieved benefits the company in the form of reduced procurement costs, when compared to the use of adult labour.

Knowledge and passivity

Monsanto does not dispute that it is fully aware of the incidence of child labour in cotton seed production in India. The issue that has to be addressed is whether Monsanto has made sufficient efforts to prevent the violations. It seems clear that Monsanto, through Emergent Genetics, has actively contributed to the violations by signing production agreements with local farmers who use child labour. Furthermore, such contracts have been signed by Mahyco, in which Monsanto holds a 26% stake, and through licences sold by MMB, a joint venture between Monsanto and Mahyco of which Monsanto owns 50%. Monsanto's total ownership in MMB is therefore 63%. In the Council's view, ownership interests of such magnitude clearly entail an ethical responsibility for the norm breaches occurring at MMB. The Council

has not formed an opinion on whether the 26% ownership stake in Mahyco in itself would be sufficient to exclude Monsanto.

To the Council on Ethics, Monsanto comes across as a hesitant member of the CLEP. Monsanto became involved in the CLEP through its acquisition of Emergent Genetics in 2004. At that time Emergent Genetics was already part of the CLEP initiative. In Monsanto's operations run by Emergent Genetics, the CLEP seems to have reduced the scope of child labour significantly. Nevertheless, Monsanto has no apparent plans of applying the experience from this improvement programme to other areas of the company's hybrid cotton seed business.

The Council on Ethics deems Monsanto's measures to reduce health hazards associated with pesticide use, including the steps taken by Emergent Genetics, as insufficient. To the Council on Ethics, Monsanto has acknowledged that it will not provide necessary protective equipment, but only undertake training and motivation for safe use of pesticides. Without access to adequate protective gear, the Council regards such training and motivation as, inevitably, of little consequence.

Continued risk

The Council on Ethics shall only recommend exclusion if there are no expectations that the unacceptable practices will discontinue.⁵¹ Monsanto has recently adopted a *Human Rights Policy*, which, with reference to the ILO Convention 182, specifically mentions the worst forms of child labour. It is unclear how the company intends to transform this policy into concrete acts, and the fact that such a policy exists will hardly in itself lead to substantial improvements. Monsanto has confirmed to the Council on Ethics that the policy in principle also includes joint ventures, and hence Monsanto's operations through MMB, but the actual implementation of the company's *Human Rights Policy* will primarily be applied to Monsanto's own employees and what it considers to be its own operations.

Without focused and comprehensive measures undertaken by the company itself there is little reason to believe that the incidence or the severity of the violations will recede in the future. In communication with the Council on Ethics Monsanto has emphasized that one company alone cannot do much to eliminate child labour in this industry, and that a series of socio-economic factors are at the root of the problem. The Council finds reason to question this attitude, particularly in light of the positive results the company after all has achieved through Emergent Genetics' participation in the CLEP. Even if it cannot be expected that one company alone will manage to eradicate child labour, it seems clear that the key to improvement must lie with the company. The Council on Ethics is of the opinion that especially in countries where conditions are not conducive to the authorities' enforcement of all laws and regulations, companies have a particular ethical responsibility to ensure that minimum standards are complied with.

The Council on Ethics is not responsible for exercising ownership in companies, but may take into consideration whether it is probable that the Fund's exercise of ownership rights could produce results. The preparatory work for the Ethical Guidelines states: "*Exclusion from the investment universe should also apply to companies ... if there is no significant hope of changing the unethical practices through ethical ownership.*"⁵² The Council has, on the basis

⁵¹ NOU 2003:22, pp. 34 and 165.

⁵² NOU 2003:22, p. 34.

of the aforementioned postal and telephonic communication with Monsanto,⁵³ no reason to believe that the company desires to do anything about the situation other than what is implicit in the CLEP programme on Emergent Genetics' part. In the remaining operations linked to the company, there are more than 20,000 children working under totally unacceptable conditions that the company has no plans to remedy. Monsanto is aware of the contents of the Ethical Guidelines and of the company being assessed for exclusion, but this has not prompted any change in its attitude.

Overall assessment of whether there is an unacceptable risk of complicity in future violations through investment in Monsanto

The Council sees a clear connection between the violations and the company's operations, considering the violations to be perpetrated with a view to serving the company's interests. Moreover, the Council on Ethics accepts as a fact that this situation is currently unfolding.

In the Council's opinion there is an unacceptable risk that Monsanto will continue to be complicit in the worst forms of child labour in India. According to a conservative estimate, 20,000 minors are engaged in work associated with Monsanto's operations. Many of the children are very young; as many as 20% are believed to be under 10 years of age. The great majority live away from home and work 12-14 hours a day with no access to education. In the Council of Ethics' view, the irresponsible use of pesticides is of particular concern. Monsanto is among the world's major producers of pesticides. It must therefore be inferred that the company is well versed in the dangers associated with the irresponsible use of pesticides in the kind of production discussed in this recommendation.

In its assessment of the risk of future norm breaches, the Council on Ethics has considered whether the company shows sufficient willingness and effort to reduce the incidence and severity of the violations. Monsanto has not revealed or expressed any particular willingness to reduce the risk of future violations. With regard to large parts of its operations related to hybrid cotton seed production in India the company will not implement measures to decrease the scope of *the worst forms* of child labour. The Company's steps to reduce the gravity of the violations, where such measures have been undertaken, are also considered inadequate. Hence, there is reason to believe that the incidence of child labour will not diminish.

6 Recommendation

The Council on Ethics will, in light of this assessment of Monsanto Co's operations and according to point 4.4 of the Ethical Guidelines, recommend that the company be excluded from the investment universe of the *Government Pension Fund - Global* owing to an unacceptable risk of complicity in the worst forms of child labour.

This recommendation was issued on 20 November 2006 by the Council on Ethics for the *Government Pension Fund – Global*.

⁵³ See section 4.4

Gro Nystuen
Chair

(sign.)

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(sign.)

Anne Lill Gade

(sign.)

Ola Mestad

(sign.)

Bjørn Østbø

(sign.)