

ETHIX SRI ADVISORS

# Defining controversial weapons for European institutional investors

Report on definitions, criteria and process for assessing corporate  
involvement in controversial weapons – endorsed by BEAMA

**March 2011**

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**Note: The intent of this report is to capture the majority view of the workshop participants. It is not intended to imply complete consensus, nor should it be taken as representing the policy positions of any of the organizations who attended.**

**Any recommendations should be attributed to Ethix SRI Advisors only.**

## Foreword by the Belgian Asset Managers Association

Since 2001, the Belgian Asset Managers Association (BEAMA) has been actively following sustainable and socially responsible investment (SSRI) and has been making a concrete contribution to conceiving an adequate method and quality control for SSRI-type investment funds.

In 2004, Belgium was the first country to introduce a law imposing a general ban on the financing of controversial weapons, and BEAMA immediately took the necessary steps to lay down a suitable prevention policy for the benefit of its members. As for the actual screening of the portfolios, the members jointly call upon specialized partners such as Ethix SRI Advisors among others.

BEAMA appreciates the latter's gradual building up of an adequate compliance strategy, which cannot be summarized in just a few words, as will be shown in this report on more than one occasion. This is a broad social phenomenon as is shown by the fact that the debate goes well beyond the confines of the Belgian borders. Consequently, BEAMA pays ample attention to the European and international trends towards increased transparency for investors who are keen to opt for a type of investment that is sustainable and socially responsible.

On behalf of the BEAMA Executive Committee and of the members of BEAMA, we hope that there will be a better understanding of this matter thanks to the exchange of ideas and experience. So, we highly recommend reading the report enclosed.

BEAMA, March 2011

# Introduction

## What are controversial weapons?

Controversial weapons are weapons that are either illegal—as their production and use is prohibited by international legal instruments—or deemed particularly controversial because of their indiscriminate effects and the disproportionate harm they cause (see Exhibit 1 below).

The principles of ‘distinction’ and ‘proportionality’ are key concepts in International Humanitarian Law which regulates the methods as well as the means of warfare. Based on these fundamental principles, International Humanitarian Law seeks to prohibit or regulate the use of weapons that do not allow to distinguish between combatants and civilians and that can be expected to cause ‘incidental’ loss of civilian life excessive in relation to the anticipated military advantage gained.<sup>1</sup>

Some countries, such as Belgium, have started to legislate to prohibit investment in companies involved in several weapons categories considered controversial. This report focuses on those categories that are of immediate relevance under Belgian legislation, namely cluster munitions, anti-personnel mines and depleted uranium ammunition.<sup>2</sup>

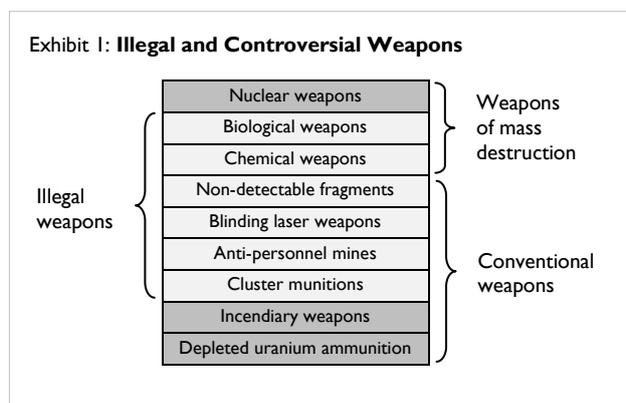
## Why controversial weapons are an challenge for investors

In 2004 Belgium was the first country in the world to introduce legislation explicitly prohibiting the financing of anti-personnel mines, a weapon banned under the 1997 Mine Ban Treaty. Since then, Belgium has progressively extended its prohibition to cover two additional weapon categories (cluster munitions and depleted uranium ammunition).<sup>3</sup> In the wake of the 2008 Convention on Cluster Munitions, similar financing prohibitions have been discussed across Europe, with Ireland and Luxembourg having already introduced financing prohibitions on anti-personnel mines and cluster munitions.

In Belgium, it was envisaged that an official list of companies involved in prohibited weapons would be published by 2008. Even though the list has not yet been issued, investors are concerned that those not compliant with the prohibition on investment could be prosecuted. A significant number of investors have already taken action to address this risk by developing their own lists of restricted companies and introducing restrictions on investments in these companies.

In 2005, through the Belgian Asset Managers Association (BEAMA), investors established a tailored research and screening service—developed and provided by Ethix SRI Advisors—that produces a list of companies with reported involvement in controversial weapons. This service is widely used by investors in Belgium.

While the ‘BEAMA list’ is widely used within Belgium, there is, at present, no



‘definitive list’ that has been agreed for all of the European countries where financing prohibitions have been introduced or are being discussed. In fact, there are multiple lists in existence, produced by various investors and research organizations. However, there is a certain level of discrepancy across such lists as a consequence of the differences in the criteria used to develop the list, the scope of companies covered, and the robustness of the underlying research.

In the absence of a universally agreed list, it is difficult for investors to be confident that they are meeting the letter and spirit of legislation which has already been enacted in various countries. This challenge is compounded by the gaps between the international instruments that have been signed and the expectations of civil society.

### **The multi stake-holder consultation process and its findings**

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In early 2010 Ethix SRI Advisors initiated a consultation process with investors and key stakeholders to explore the basis for consensus on the implementation of investment restrictions regarding controversial weapons. This was in response to a strong demand from investors for a coherent criteria-driven approach to identifying companies involved. Over the period June to September 2010, expert workshops were held in Brussels, Copenhagen, Oslo, Stockholm and The Hague. The events were hosted by KBC Asset Management, Danske Capital, Nordea Investment Fund, the Seventh AP Fund and Syntrus Achmea respectively. The participants were investors (in total, over 40 investors attended the workshops), leading civil society groups and policy makers (a full list of the attendees is provided in Appendix 1 of this report). The principal aim was to develop a common understanding of what constitutes corporate involvement in anti-personnel mines and cluster munitions.

In parallel, Ethix SRI Advisors consulted with external experts including Landmine Action, the Stockholm International Peace Research Institute, the International Committee of the Red Cross and the Cluster Munition Coalition. These organizations were selected because of their expert knowledge and reputation.

**The intent of this report is to capture the majority view of the workshop participants. It is not intended to imply complete consensus, nor should it be taken as representing the policy positions of any of the organizations who attended.**

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# An overview of investment restrictions on controversial weapons

There is a variety of reasons for investors to look at the issue of controversial weapons. In some countries they must do so in order to comply with legislation. In other countries, pressure to take a position comes from media and civil society. Some investors also look at the issue in order to address the particular concerns and demands of their own clients.

## Voluntary restrictions

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Some European investors had already adopted voluntary restrictions on investment well in advance of the 2008 Convention on Cluster Munitions. This was in response to several factors, including the political and media controversy around the use of cluster munitions in Lebanon during 2006,<sup>4</sup> significant civil society pressure in countries such as Belgium (especially the NGO Netwerk Vlaanderen)<sup>5</sup> for action on controversial weapons, and growing awareness of the role investors could play. In 2007, Dutch pension funds PGGM and ABP introduced divestment policies regarding cluster munitions, in reaction to a documentary aired by the television program Zembla that attracted public attention on the issue.<sup>6</sup> Major Danish and Swedish investors followed suit.

In terms of other controversial weapons categories, anti-personnel mines had already been widely discussed and some investors have had voluntary restrictions in place for a number of years. Depleted uranium ammunition and armor is not yet a major issue of discussion for those investors that have adopted voluntary restrictions.

## Binding restrictions

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Some countries in Europe have already passed legislation prohibiting the financing of controversial weapons, while others are actively considering doing so in their national parliaments.

Belgian law covers ‘all forms of financial support’: credits, bank guarantees and the acquisition of any financial instruments issued by a company involved in weapons covered under the financing prohibition—but allows for the exemption of index-tracking funds. The necessity of such an exemption has been questioned by both civil society groups as well as a significant number of investors.

In Luxembourg, investors are still waiting to receive clarification from the government regarding the coverage of the prohibition introduced in 2009. The language of the law, referring to ‘knowingly financing cluster munitions’, leaves a significant margin for interpretation.

Similar discussions are taking place in countries which ratified the Convention on Cluster Munitions without explicitly referring to or expanding on article 1(c), under which it is prohibited to ‘assist, encourage or induce’ anyone to engage in activities banned under the Convention. The article is commonly understood to be relevant also to investments, but not all national parliaments have taken a clear position on how it should be implemented. While investment restrictions largely focus on equities, investments in bonds, including government bonds, are increasingly discussed.

There has been a particularly active debate in the parliaments of France, the United Kingdom, Germany and the Netherlands. The French government has indicated that it considers indirect investment to be illegal, while the British government has concluded that it is not. Indirect financing is defined by the British government in the following way: '[...] it would not become illegal to provide funds generally to companies that manufacture a range of goods, including cluster munitions'. It should be noted that there are no known companies which produce only cluster munitions. More of these discussions can be expected in the near future in European parliaments.

Exhibit 2 presents an overview of existing and proposed national legislation regarding restrictions on the financing of controversial weapons. Some legislatures have provided more detail than others, but a common theme is that the national laws that have been proposed or are already in place do not provide detailed guidance regarding the level of involvement in controversial weapons components or related services that are to be considered subject to exclusion.

Exhibit 2: Existing and proposed national legislation / statements<sup>7</sup>

Country	Weapons covered	Legislation/guidance	Prohibition(s)	Exemption(s)
Australia <sup>8</sup>	Cluster munitions	2010, draft bill, second reading by the Attorney-General	[...] where a person provides financial assistance to, or invests in, a company that develops or produces cluster munitions [...]	"but only where that person intends to assist, encourage or induce the development or production of cluster munitions by that company."
Belgium <sup>9</sup>	Anti-personnel mines Cluster munitions Depleted uranium ammunition and armour Incendiary weapons with white phosphorus	2004 2007 2009 Draft law regulating economic activities and individuals with weapons	[...] the financing of a company [...] involved the manufacture, use, repair, marketing, sale, distribution, import, export, stockpiling or transportation of [...] Financing [...] includes all forms of financial support, namely credits, bank guarantees and the acquisition for own account of financial instruments issued by the company	[...] does not apply to investment institutions where the investment policy under the articles of association or management regulations is to follow the composition of a specific equities or bonds index [...] does not apply to the well defined projects of a company on the list, insofar as the financing does not cover activities under this article
France <sup>10</sup>	Cluster munitions	2010, Interpretative statement by the Deputy Minister of Defense	[...] any knowing financial assistance, directly or indirectly, in the production or trading of cluster munitions [...]	
Germany <sup>11</sup>	Weapons prohibited under international conventions	2010, motion	[...] investments in conflict with international conventions, e.g. the Convention on Cluster Munitions [...]	
Ireland <sup>12</sup>	Anti-personnel mines Cluster munitions Depleted Uranium Weapons	2008 Cluster Munitions and Anti-Personnel Mines Act 2009, draft bill	[...] the investment of public moneys [...] [...] any investment, direct or indirect, in a munitions company	Nothing [...] shall prevent an investor from contracting derivative financial instruments based on a financial index
Italy <sup>13</sup>	Anti-personnel mines Cluster munitions	April 2010: draft bill	[...] the financing of a company [...] involved the manufacture, use, repair, marketing, sale, distribution, import, export, stockpiling or transportation of [...] Financing: all forms of financial support, including for instance, the granting of credits of any kind, the issuance of bank guarantees, the acquisition of financial instruments issued by the company [...]	
Luxembourg <sup>14</sup>	Anti-personnel mines and cluster munitions	2009 Convention on Cluster Munitions Ratification Law	[...] knowingly financing cluster munitions or explosive sub-munitions	
Netherlands <sup>15</sup>	Cluster munitions	December 2009 and September 2010: Motions September 2010, government decides not to carry out the motion	Direct and indirect investments	
New Zealand <sup>16</sup>	Cluster munitions	2009 Cluster Munitions Prohibition Act	[...] provides or invests funds with the intention that the funds be used, or knowing that they are to be used, in the development or production of cluster munitions [...] [...] funds means assets of every kind	
Norway <sup>17</sup>	Cluster munitions	2008: Proposition to the Norwegian parliament.	The Ministry agrees that investment, for example, in companies that develop or produce cluster munitions may fall within the scope of the Convention's prohibition of aiding and abetting	
Switzerland <sup>18</sup>	All banned weapons	2010: Motion	[...] financing of weapons prohibited by law [...]	
United Kingdom <sup>19</sup>	Cluster munitions	Written Ministerial Statement by the Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, 2009	[...] the direct financing of cluster munitions [...] The provision of funds directly contributing to the manufacture of these weapons would therefore become illegal	Indirect financing is [...] not within the scope of the Bill's provisions. As such, it would not become illegal to provide funds generally to companies that manufacture a range of goods, including cluster munitions

## Findings from the consultation process

This section presents the key findings from the expert workshops held in Brussels, Copenhagen, Oslo, Stockholm and Utrecht. These are divided as follows:

- Discussion on definitions
- Areas of broad agreement
- Areas to be resolved.

### Discussion on definitions

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#### Corporate involvement

There was general consensus that, as far as possible, the definitions provided in international conventions should be used when assessing whether or not companies should be included on a restricted company list. It was suggested that, in situations where there are gaps or ambiguities, the objective and purpose (also called the 'spirit') of the bans must be taken into account. Of particular importance in this regard is the expectation from civil society that companies contributing vital parts to controversial weapons should not be investable.

It is, therefore, recommended by Ethix SRI Advisors that 'corporate involvement' in controversial weapons be defined as follows:

- The company is involved in the development, production, use, maintenance, offering for sale, distribution, import or export, storage or transportation of anti-personnel mines, depleted uranium ammunition/armour, or cluster munitions/sub-munitions and their key components.
- The company owns 50% or more of a company as defined above. The 50% figure is not defined in any of the relevant conventions, but is recommended here as a reasonable point at which it could be concluded that one company has a significant influence over another.

#### Key Components

After much technical discussion among the workshop participants about what should be considered a key component, it was suggested that key components be defined as follows:

- Components primarily developed or designed for use in the weapon system; and
- Components that play a direct role in the lethality of the weapon system.

Note that involvement in components primarily developed or designed for use in the weapon system alone is not considered as involvement in key components. Such components must play a role in the lethality of the weapon system.

This definition would therefore include companies involved in the production of cluster munition 'self-destruct fuses', which trigger the detonation of a submunition and are designed to decrease the humanitarian risk posed by unexploded ordnance left on the field. Available information and open statements by governments and NGOs, however, support the view that equipping munitions with self-destruct fuses alone is not a sufficient measure for avoiding civilian casualties. Cluster munitions with self-destruct fuses are still banned by the Convention on Cluster Munitions if the weight and number of sub-munitions are not compliant with the Convention.

Such a definition of key components would also cover companies that develop engines for cluster munition rockets, as well as delivery systems for cluster munitions. The delivery systems, for example launchers, are an essential part of the weapons system that delivers cluster munitions to their target. If there is clear evidence that launchers have been developed to fire rockets which contain submunitions, companies producing them would subsequently be included on the list for investors seeking to comply with Belgian law.

The effect of the definition of key components proposed here would be to exclude activities that can be considered peripheral to the weapons system. For example, companies at the outer edges of the supply chain which produce components that do not play a direct role in the lethality of the weapon system would be excluded. A highly sophisticated modern weapon such as the Sensor Fuzed Weapon (which is considered a cluster munition under the definition provided by the Convention on Cluster Munitions) contains electronics made by many suppliers, not all of which advertise their involvement.

Also excluded from such a definition of key components would be companies involved in other peripheral activities such as producing trucks on which launchers are mounted, or providing winches/hoists to lift rockets into place. While there was interest from some investors at the workshops in these companies, it was emphasized that they should be left outside a restricted company list because there was no agreement that these companies could be included in a consistent way. It was recognized that this did not preclude investors from engaging with these companies.

Furthermore, it was suggested that the most urgent focus in terms of implementing investment restrictions should be on development, production and maintenance of controversial weapons. 'Transportation' was highlighted as an important future issue. Some companies have already been named by NGOs for their involvement in shipping cluster munitions from one country to another. However, there was general agreement that such companies need some time to be made aware of their obligations and to put policies in place.

Finally, there was broad support at the workshops for placing the 'burden of proof' on a company that has in the past marketed its involvement in a controversial weapon to provide evidence that it has ceased such involvement. Some companies have stated that they have no current activity related to a particular weapon but would resume production if they received orders. Some investors suggested that those companies should be considered to be involved until such time as there is clear evidence that a program has been cancelled and / or they state clearly that they would not accept additional orders.

## **Areas of broad agreement**

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### **Focus on prime contractors and producers / developers of key components**

A concrete suggestion to emerge from the discussions was a proposal to adopt a two-tiered approach to determining restricted entities. The first tier would focus only on the prime contractors and their immediate subcontractors working on controversial weapons systems. These terms are illustrated in Exhibit 3.

This focus would result in only those companies that are primarily responsible for the production of controversial weapons and their key components (which are designed for and

considered essential to the lethality of the weapon) being included on any company list adopted by the investment community.

The second tier would result in a broader list. Such a list might include companies manufacturing components not assessed to be central to the functioning of a controversial weapon, or producing dual-use components used on a controversial weapon without their knowledge. This company list could be used by investors as a starting point for dialogue with companies whose involvement in controversial weapons is more peripheral, or as a potential flag in investment decision-making.



### Focus on ongoing involvement

The issue of ‘knowledge’ by a company was a recurring theme at the workshops – there was broad consensus that a company must be aware that its products will be used in a controversial weapon in order for it to be included on a restricted list. ‘Knowledge’ by a company is most easily established by an assessment of its marketing materials.

It was also suggested that there is a ‘burden of proof’ on a company that has in the past marketed its involvement in a controversial weapon to provide evidence that it has ceased such involvement. However, it was emphasized that old marketing material should not be used as a basis for including a company on a restricted list if it can be verified that the weapon in question is no longer in production and will not be manufactured again.

### Robust research process

There was broad consensus among the workshop participants that there is a need for a single agreed list of companies involved in controversial weapons that investors could use to meet the requirements of Belgian legislation and of the legislation being developed by other European countries.

The workshop participants offered some comments on how such a list should be constructed and maintained.

**First, the list should be based on credible criteria.** It was suggested that, given the multi-stakeholder nature of the consultation process, the criteria proposed above represented a sensible basis for such a list, acknowledging that there is a need for further work and dialogue around the questions of ‘assistance’ and ‘key components’.

**Second, the research process underpinning such a list should be robust.** It particular, it was emphasized that the list should not be based solely on the information contained in company filings and reports. Rather, this information should be cross-checked against other sources such as government contract announcements, publications by research organizations and NGOs, and specialized periodicals and reports.

**Third, the list should be verified.** A consistent message from the investor participants in the workshops was that any such list should only include those companies which can with total certainty be verified to be involved in controversial weapons.

**Fourth, companies should be provided with the opportunity to present their position** and submit relevant information and documentation, before being included on any such list. This is seen as integral both to the integrity of the list and also to the legitimacy of the process. Companies should not be included on a list without first having the opportunity to review the information that is being used to assess their involvement.

**Finally, such a list should be dynamic and should be updated regularly** (e.g. every six months). It is inevitable that companies will exit and enter the list over time. For example, it is known that some companies that are currently involved in the production of cluster munitions are concluding their commitments under existing contracts and have already indicated that they have no intention to extend their involvement. It is also the case that, in those countries that have not signed the Convention on Cluster Munitions or the Mine Ban Treaty, new programmes may be developed. For example, South Korea has already announced plans to develop a new indigenous version of the Multiple Launch Rocket System (the MLRS, which can carry cluster munitions) by 2013.<sup>20</sup> Other countries such as the United States, India and Pakistan also remain outside of the Convention on Cluster Munitions and the Mine Ban Treaty. There are indications that the United States is moving away from procurement of these weapons but new programmes cannot be completely ruled out.

## Areas to be resolved

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Some gaps and discrepancies regarding definitions and the scope of the financing prohibition laws remain. For example:

### **What constitutes ‘assistance’ or ‘encouragement’ of banned weapons production?**

The specific issues discussed were what forms of financing should fall within the scope of any restricted company lists. Should it be confined to equity investments or should it also apply to bonds issued by companies manufacturing controversial weapons? Should it be confined only to investments which can be shown with complete certainty to be used in the development or production of banned weapons (‘direct financing’)? While it was emphasized that clear guidance from governments would be helpful, it was also acknowledged that, in the interim, investors need to develop some credible proposals on this point.

### **What constitutes a ‘key component’ of a controversial weapon?**

The nature of the arms industry is such that most weapons are made by more than one company. There is an expectation from NGOs and other campaign groups that the producers of key components should also be included on any restricted company list adopted by the investment community. Electronic fuses and delivery systems / launchers were discussed in particular. This was the main area where opinions diverged at the workshops. Some investors with a strong ‘responsible investment profile’ would like to see a broad list which covers even peripheral involvement in a controversial weapon. Other investors voiced concern that using a list with such a large number of companies could potentially have an impact on their fiduciary duty to clients, because it would take too many companies out of their investable ‘universe’ and introduce a tracking error. More research is needed on the potential impact of this.

## Implications

If the criteria presented in this report were applied globally, the result, as of June 2010, is a list of 12 stock-market listed companies that were verifiably involved in weapons subject to investment restrictions, as shown below in Exhibit 4.

However, it is equally important to note that some gaps and discrepancies regarding definitions and the scope of the financing prohibition laws remain.

**Exhibit 4: Stock-listed companies verifiably involved, as of June 2010, in anti-personnel mines, cluster munitions, and depleted uranium ammunition/armour), based on the methodology proposed by Ethix SRI Advisors**

Company	Domicile
Aerostar S.A.	Romania
Alliant Techsystems Inc.	United States
Aryt Industries Ltd	Israel
Doosan Corporation	South Korea
GenCorp Inc.	United States
General Dynamics Corporation	United States
Hanwha Corporation	South Korea
L-3 Communications Corporation	United States
Lockheed Martin Corporation	United States
Poongsan Corporation	South Korea
Singapore Technologies Engineering Ltd	Singapore
Textron Inc.	United States

## Appendix I: Workshop attendees<sup>1</sup>

### Brussels 7 June 2010, hosted by KBC Asset Management

Organization	Name
Allianz Global Investors	Carole Crozat
BEAMA	Tom Van den Berghe
Belgian Ministry of Finance	Viviane Buydens
Belgian Senate (Advisor Group PS)	François Toussaint
BNP Paribas Investment Partners	Emmanuel Ska
Dexia Asset Management	Florent Griffon
Funds For Good	Marc Verhaeren
ING	Esther van Munster
ING	Christian Vanhooreweder
J.P. Morgan Asset Management	Robert G Hardy
KBC Advisory Board	Luc Hens
KBC Asset Management	Geert Heuinck
KBC Asset Management	Flavia Micilotta
Netwerk Vlaanderen	Esther Vandenbroucke
State Street Global Advisors	Nicolas Crochet
Syntrus Achmea	Annette van der Krogt

### Copenhagen 2 September 2010, hosted by Danske Capital

Organization	Name
Bankinvest	Katja Karas
Danish Ministry of Economic and Business Affairs	Ole Kirkelund
Danish Ministry of Foreign Affairs	Dorthea Damkjær
Danish Red Cross	Anne Sofie Lauritzen
Danske Capital	Thomas Hyldahl Kjærgaard
Danske Capital	Thomas Bolvig
FunktionærPension	Vibeke Bodi Markussen
FunktionærPension	Ian Valsted
JOEP	Torsten Kjær
KBC Asset Management	Geert Heuinck
Lægernes Pensionskasse	Niels Elmo Jensen
Lægernes Pensionskasse	Steen Erik Marcus
Mercer	Will Oulton
Mercer	Susanna Jacobson
Nykredit	Claus Bilde
Nykredit	Nathalie Rasmussen
PBU	Rasmus Juhl Pedersen
PFA	Kristin Parello Plesner
PKA	Claus Jørgensen
Sparinvest	Jacob Nordby Christensen
Syntrus Achmea	Annette van der Krogt
Unipension	Zaiga Strautmane

<sup>1</sup> Note that some participants requested that their names/affiliations not be included in the report.

**Oslo 3 September 2010, hosted by Nordea Investment Funds**

Organization	Name
Council on Ethics	Aslak Skancke
KLP	Heidi Finskas
Nordea Investment Management	Tore Gunnar Iversen
Nordea Investment Management	Sasja Beslik
Norwegian Ministry of Finance	Wilhelm Mohn
Norwegian Ministry of Foreign Affairs	Torbjørn Graff Hugo
Norwegian Red Cross	Mads Harlem
Sigla	Stina Torjesen

**Stockholm 7 September 2010, hosted by Seventh AP Fund (AP7)**

Organization	Name
AMF Pension	Peter Lindell
DnB NOR Asset Management	Pär Löfving
AP 1-4: Etikrådet	John Howchin
Fidelity	Kirsten T. Heilesen
Handelsbanken Asset Management	Elisabet Jamal Bergström
OPM	Simon Reinius
SEB	Victor Andersson
SIPRI	Anna Körlof-Askholt
Seventh AP-fonden	Christian Ragnartz
Seventh AP-fonden	Johan Florén
Seventh AP-fonden	Richard Gröttheim
Storebrand	Stina Billinger
Storebrand	Philip Ripman
Swedish Ministry of Foreign Affairs	Anna Maj Hultgård

**Utrecht 17 September 2010, hosted by Syntrus Achmea**

Organization	Name
APG	Anna Pot
Association for European Retirement Education	Peter Kraneveld
Eumedion	Marleen Jansengroesbeek
Hermes Equity Ownership Services Ltd	Tim Goodman
ING	Hendrik-Jan Boer
IKV Pax Christi	Roos Boer
MN Services	Faryda Lindeman
PGGM	Pieter van Stijn
Robeco	Wilco van Heteren
Shell Pension Fund	Henk Marius
Syntrus Achmea	Annette van der Krogt
Syntrus Achmea	Marjolein Sol

**Also consulted by telephone were the following expert stakeholders**

Organization	Name
Cluster Munition Coalition	Thomas Nash
International Coalition to Ban Uranium Weapons	Doug Weir
International Committee of the Red Cross	Lou Maresca
Landmine Action / AOAV	Richard Moyes
IKV Pax Christi	Roos Boer
Stockholm International Peace Research Institute	Pieter Wezeman

## Appendix 2: Definitions provided by international conventions

### Anti-personnel mines

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Anti-personnel mines are mines designed to be exploded by the presence, proximity or contact of a person, and that will incapacitate, injure or kill one or more persons.

Mines designed to be detonated by the presence, proximity or contact of a vehicle (...) that are equipped with anti-handling devices, are not considered anti-personnel mines as a result of being so equipped.

*(Source: Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997)*

### Cluster munitions

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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. A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
- b. A munition or submunition designed to produce electrical or electronic effects;
- c. A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
  - i. Each munition contains fewer than ten explosive submunitions;
  - ii. Each explosive submunition weighs more than four kilograms;
  - iii. Each explosive submunition is designed to detect and engage a single target object;
  - iv. Each explosive submunition is equipped with an electronic self-destruction mechanism;
  - v. Each explosive submunition is equipped with an electronic self-deactivating feature;

*(Source: Convention on Cluster Munitions, 2008)*

## Sources

<sup>1</sup> The International Committee of the Red Cross works to promote the laws that protect victims of war and is universally regarded as the 'guardian' of these laws. See the section of its website entitled 'Methods and means of warfare', 29 Oct. 2010, URL <<http://www.icrc.org/eng/war-and-law/conduct-hostilities/methods-means-warfare/overview-methods-and-means-of-warfare.htm>>.

<sup>2</sup> Other Ethix SRI Advisors publications cover the debate in the investment community surrounding nuclear weapons. See, for example, 'Defining controversial weapons for institutional investors', Ethix Press, Jan. 2011 and 'SRI and Corporate Involvement in Nuclear Weapons', Ethix Press, Oct. 2006.

<sup>3</sup> Wet houdende regeling van economische en individuele activiteiten met wapens; Loi réglant des activités économiques et individuelles avec des armes. Full text available at URL <[http://www.ejustice.just.fgov.be/cgi\\_loi/loi\\_a.pl?language=nl&caller=list&cn=2006060830&la=n&fromtab=wet&sql=dt='wet'&tri=dd+as+rank&rech=1&numero=1](http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl?language=nl&caller=list&cn=2006060830&la=n&fromtab=wet&sql=dt='wet'&tri=dd+as+rank&rech=1&numero=1)>.

<sup>4</sup> 'Flooding South Lebanon: Israel's Use of Cluster Munitions in Lebanon in July and August 2006', Human Rights Watch, 16 Feb. 2008, URL <<http://www.hrw.org/en/reports/2008/02/16/flooding-south-lebanon-0>>.

<sup>5</sup> See the website of Netwerk Vlaanderen at URL <<http://www.netwerkvlaanderen.be>>.

<sup>6</sup> 'The Cluster bomb feeling', Zembla, (English subtitles), April 2007, URL <[http://zembla.vara.nl/About\\_Zembla\\_English.2828.0.html](http://zembla.vara.nl/About_Zembla_English.2828.0.html)>

<sup>7</sup> A comprehensive overview of national legislation related to investments in cluster munitions is maintained by the Cluster Munition Coalition at URL <<http://www.stopexplosiveinvestments.org/legislation>>.

<sup>8</sup> Parliament of Australia, 'Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010', Second Reading by Attorney General Robert McClelland, 27 Oct. 2010, URL <<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p?page=0;query=Id%3A%22chamber%2Fhansardr%2F2010-10-27%2F0026%22;rec=0>>

<sup>9</sup> Wet houdende regeling van economische en individuele activiteiten met wapens; Loi réglant des activités économiques et individuelles avec des armes. Full text available at URL <[http://www.ejustice.just.fgov.be/cgi\\_loi/loi\\_a.pl?language=nl&caller=list&cn=2006060830&la=n&fromtab=wet&sql=dt='wet'&tri=dd+as+rank&rech=1&numero=1](http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl?language=nl&caller=list&cn=2006060830&la=n&fromtab=wet&sql=dt='wet'&tri=dd+as+rank&rech=1&numero=1)>.

<sup>10</sup> Interpretative statement by the French Deputy Minister of Defense, 6 Jul. 2010, URL <[http://www.assemblee-nationale.fr/13/cr/2009-2010-extra/20101008.asp#INTER\\_0](http://www.assemblee-nationale.fr/13/cr/2009-2010-extra/20101008.asp#INTER_0)>.

<sup>11</sup> Motion submitted to the German Parliament, 24 Feb. 2010. A copy of the original in German has been posted by the Cluster Munition Coalition at URL <<http://www.stopexplosiveinvestments.org/uploads/pdf/German%20ministerial%20statements.pdf>>.

<sup>12</sup> Irish Cluster Munitions and Anti-Personnel Mines Act 2008, 24 Feb. 2010, available at URL <<http://www.irishstatutebook.ie/2008/en/act/pub/0020/print.html>>

<sup>13</sup> Bill presented to the Italian Senate, 26 May 2010, available at URL <<http://www.senato.it/leg/16/BGT/Schede/Ddliter/35297.htm>>

<sup>14</sup> Luxembourg Convention on Cluster Munitions Ratification Law, 7 May 2009. An unofficial translation to English has been posted by the Cluster Munition Coalition at URL <[http://www.stopexplosiveinvestments.org/uploads/pdf/law\\_luxembourg\\_eng.pdf](http://www.stopexplosiveinvestments.org/uploads/pdf/law_luxembourg_eng.pdf)>

<sup>15</sup> Motion to the Dutch Parliament on a prohibition on direct investments and research on indirect investments, Dec. 2009. A copy of the Motion (in Dutch) has been posted by the Cluster Munition Coalition at URL <<http://www.stopexplosiveinvestments.org/legislation>>.

<sup>16</sup> New Zealand Cluster Munitions Prohibition Act 2009, 17 Dec. 2009, URL <<http://www.legislation.govt.nz/act/public/2009/0068/latest/whole.html#d1m2171615>>.

<sup>17</sup> Excerpts from Proposition No. 7 (2008-200) to the Odelsting on a Bill relating to the implementation of the Convention on Cluster Munitions in Norwegian law and Proposition No. 4 (2008-2009) to the Storting on consent to ratification of the Convention on Cluster Munitions. An unofficial translation to English has been posted by the Cluster Munition Coalition at URL <<http://www.stopexplosiveinvestments.org/uploads/pdf/Norway%20legislation%20excerpts%20from%20Prop%207.pdf>>

<sup>18</sup> Motion to prohibit financial support for the production of all banned weapons, 10 Mar. 2010. Available in French and German at the website of the Swiss parliament, URL <[http://www.parlament.ch/ab/frameset/d/n/4813/321728/d\\_n\\_4813\\_321728\\_322052.htm](http://www.parlament.ch/ab/frameset/d/n/4813/321728/d_n_4813_321728_322052.htm)>.

<sup>19</sup> United Kingdom Foreign and Commonwealth Office, 'The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs: Written Ministerial Statement', 7 Dec. 2009, URL <<http://www.parliament.the-stationery-office.co.uk/pa/cm200910/cmhansrd/cm091207/wmstext/91207m0001.htm>>.

<sup>20</sup> See, for example, Sung-ki, Jung, 'S. Korea to Sell Multiple Rocket Launchers to Jordan', The Korea Times, 29 Jul. 2009, URL <[http://www.koreatimes.co.kr/www/news/nation/2010/04/205\\_49321.html](http://www.koreatimes.co.kr/www/news/nation/2010/04/205_49321.html)>, accessed 9 Feb. 2011.