



# Decision to exclude Evergreen Marine Corporation Ltd, Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL

January 2018

## Introduction

KLP and the KLP Funds (KLP) have decided to exclude Evergreen Marine Corporation Ltd, Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL from their investment portfolios due to an unacceptable risk that these companies contribute to serious environmental damage and gross human rights violations.

Norges Bank announced on 16 January 2018 that the companies had been excluded from the Norwegian Government Pension Fund Global (GPF) in line with the Council on Ethics' recommendation.<sup>1</sup> The excluded companies have disposed of ships to be broken up for scrap on the beaches of Bangladesh and Pakistan, or just Bangladesh. This process is carried out under extremely poor working conditions and causes substantial environmental damage.

As at 16 January 2018, KLP had approx. NOK 1.2 million invested in Evergreen Marine Corporation, but no investments in any of the other companies.

## The Council on Ethics' recommendation

The Council on Ethics has concluded that there exists an unacceptable risk that the above-mentioned companies contribute to or are themselves responsible for systematic violations of internationally recognised human rights norms and for serious environmental damage in connection with the break-up of their ships for scrap on the beaches of Bangladesh and Pakistan.

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<sup>1</sup> Council on Ethics (29 June 2017), *Recommendation to exclude Evergreen Marine Corp. (Taiwan) Ltd. from the Government Pension Fund Global (GPF)*. URL: <http://etikkradet.no/en/evergreen-marine-corp-taiwan-ltd-2/>  
Council on Ethics (29 June 2017), *Recommendation to exclude Korea Line Corporation from the Government Pension Fund Global (GPF)*. URL: <https://nettsteder.regjeringen.no/etikkradet-2017/files/2018/01/Tilr%C3%A5dning-Korea-Line-Corp.-2017-ENG-20454.pdf>  
Council on Ethics (29 June 2017), *Recommendation to exclude Precious Shipping PCL from the Government Pension Fund Global (GPF)*. URL: <https://nettsteder.regjeringen.no/etikkradet-2017/files/2018/01/Tilr%C3%A5dning-Precious-Shipping-Pcl-2017-ENG-20460.pdf>  
Council on Ethics (29 June 2017), *Recommendation to exclude Thoresen Thai Agencies Public Company Limited from the Government Pension Fund Global (GPF)*. URL: <https://nettsteder.regjeringen.no/etikkradet-2017/files/2018/01/Tilr%C3%A5dning-Thoresen-Thai-Agencies-PLC-2017-ENG-20456.pdf>

The main points in the Council on Ethics' assessment are recapitulated below. The complete recommendations relating to each of the companies named in this document can be found on the Council's own website.<sup>2</sup>

### Human rights violations

The labour rights laid down in the Universal Declaration of Human Rights and ILO conventions underpin the Council on Ethics' assessment of what constitutes gross and/or systematic human rights violations.<sup>3</sup>

*Extensive use of child labour in Bangladesh's shipbreaking industry has been reported, with children as young as 12 performing dangerous work and work that is hazardous to their health. If children under the age of 18 perform such work, it may be considered the worst form of child labour in contravention of ILO Convention 182. This alone can constitute grounds for exclusion of companies from the GPFG.*

*To this must be added the continuous, innumerable and serious violations of a number of ILO conventions whose purpose it is to establish minimum standards which safeguard the lives and health of workers. The Council on Ethics does not find it necessary to consider the violations of each individual convention separately. The reported conditions demonstrate an almost total failure to comply with the conventions and to implement minimum standards, and this results in the vast number of accidents and considerable harm to health deriving from these operations. One reason why it is possible to operate this business at a low cost is the deliberate use of minimal resources on measures such as protective equipment, training, safety procedures and creating a secure working environment. Wide-ranging and serious violations of these conventions must be deemed to infringe fundamental rights to life and health, the sum of which must be said to constitute a serious breach of fundamental human rights.<sup>4</sup>*

### Environmental damage

The Council's assessment of what constitutes serious environmental damage rests on the scale of the damage to the environment, whether it is irreversible, whether the damage has a negative impact on human life and health, whether national legislation or international conventions have been infringed, whether the company has failed to act to prevent the damage and whether the company is likely to continue engaging in the harmful practice. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal also encompasses shipbreaking.<sup>5</sup>

*Environmental damage occurs as a result of failure to comply with both the Basel Convention and national legislation, in that several thousand tonnes of hazardous waste are sent annually to countries that have no infrastructure capable of dealing with it in a safe and sustainable manner. It is precisely this kind of transboundary transport of waste that the convention is intended to prevent. Given that it nevertheless does take place, the consequences are predictable: Serious pollution and the dispersal of environmental toxins, which in turn have a negative impact on*

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<sup>2</sup> <http://etikkradet.no/en/recommendations/serious-violations-of-human-rights/>

<sup>3</sup> Council on Ethics, *Recommendation to exclude Korea Line Corporation from the Government Pension Fund Global (GPFG)*, p. 8. , Letter to Norges Bank 29.06.2017. URL: <https://nettsteder.regjeringen.no/etikkradet-2017/files/2018/01/Tilr%C3%A5dning-Korea-Line-Corp.-2017-ENG-20454.pdf>

<sup>4</sup> Ibid, p. 8.

<sup>5</sup> Ibid, p. 9.

*human health and ecosystems in the area. Although no comprehensive documentation exists with respect to the harm caused, studies have revealed levels of pollution deriving from heavy metals, among other things, that to an extreme degree exceed established norms. One particular problem with beaching is that shipbreaking takes place when the vessels are standing in mud and sand. As a result, the pollution leaches into the ground and is washed out with the tides. Even if arrangements were put in place at the beaching sites for the treatment of asbestos and PCBs, for example, the fundamental problem of containing and collecting the pollution would be impossible to resolve.<sup>6</sup>*

#### Assessment of the company's contribution to the violation of ethical norms

Human rights violations and environmental damage occur because of how the shipbreakers operate. The Council on Ethics has considered whether companies can be held responsible for how ships that they do not own are broken up in its assessment of their contribution to norm violations. When a ship is sent to be broken up by means of beaching, companies generally use an intermediary "cash buyer", a company whose business it is to deal with ships that are due to be scrapped.

*When a company sells a ship to a cash buyer, it is at the outset clear that the ship is being sold for the sole purpose of scrapping. Furthermore, both parties are aware that the price agreed depends largely on two factors: the volume of steel in the ship and the cost of dismantling it. The cheapest method of dismantling a ship is by beaching, which is why this process gives the seller the highest price for the vessel concerned.*

*The Council on Ethics presumes that companies that dispose of a ship for scrapping in this way are fully aware of what will happen to it next. It must also be considered as general knowledge in the shipping industry that environmental and working conditions associated with beaching are extremely poor. That a ship is nevertheless sent for scrapping at the Chittagong beach in Bangladesh or the beaches at Gadani in Pakistan is a consequence of an active choice on the part of the company that owned the vessel to maximise its profit. In the Council's opinion, that company must shoulder an independent responsibility for doing so. There are better ways of dismantling ships that are readily available to the shipowner, but these are more expensive.*

*In the opinion of the Council on Ethics, therefore, there exists a tangible connection between the shipowner's actions and the violation of ethical norms, which is of such a nature as to constitute a contribution to the latter under the GPF's ethical guidelines.<sup>7</sup>*

#### Assessment of future risk

In its recommendation and its assessment of the future risk of human rights violations or serious environmental damage, the Council on Ethics makes it clear that it has considered the likelihood of the companies continuing to sell ships for beaching in Bangladesh or Pakistan. Its assessment of future risk does not therefore involve any analysis of whether the conditions under which beaching is practised in Bangladesh and Pakistan will improve.

Evergreen Marine Corporation Ltd, Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL have all provided insufficient information to indicate that they will not in future dispose of ships for the purpose of beaching.

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<sup>6</sup> Ibid, p. 9.

<sup>7</sup> Ibid, p. 8.

On the basis of all the above-mentioned assessments, the Council on Ethics recommends the exclusion of Evergreen Marine Corporation Ltd, Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL from the GPFG due to the unacceptable risk that these companies are contributing to serious environmental damage and gross human rights violations.

The Council will re-examine the grounds for exclusion if at the end of four years the company has not sent any ships for beaching, or before that time if the company gives notice that it has ceased this practice.<sup>8</sup>

## KLP's guidelines and assessment

Section 6.3 of the "Guidelines for KLP as a responsible investor" states that:

*KLP should exclude companies from its investments where there is an unacceptable risk that they could contribute to or be responsible for...*

- *serious or systematic violations of human rights...*
- *severe environmental damage*<sup>9</sup>

The wording of this provision is identical to the wording of the Guidelines for the Observation and Exclusion of Companies from the Government Pension Fund Global (GPFG).<sup>10</sup>

Evergreen Marine Corporation is the only company in which KLP had investments as at 16 January 2018.

Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL may become part of KLP's investment universe in the future if this universe is expanded or, for whatever reason, one of these companies becomes included in its existing investment universe. It is KLP's established practice to assess companies in light of the Council on Ethics' recommendations, even though KLP itself has no investments in them. If, after such an assessment, KLP arrives at the same conclusion as the Council on Ethics, the company concerned will be placed on KLP's list of excluded companies. This ensures that future changes in KLP's investment universe will not include Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL.

### KLP's dialogue with Evergreen Marine Corporation

KLP has engaged in a lengthy dialogue with Evergreen Marine Corporation in an attempt to obtain more information about their practices with respect to the scrapping of ships. Shipbreaking has for several years been an important issue for KLP. The report *Shipbreaking Practices in Bangladesh, India and Pakistan* was written by ILPI at the behest

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<sup>8</sup> Ibid., p. 9.

<sup>9</sup> *Guidelines for KLP as a responsible investor* (08.12.2017), KLP.no, URL: [http://english.klp.no/polopoly\\_fs/1.39178.1513197530!/menu/standard/file/Guidelines%20for%20KLP%20as%20a%20responsible%20investor.pdf](http://english.klp.no/polopoly_fs/1.39178.1513197530!/menu/standard/file/Guidelines%20for%20KLP%20as%20a%20responsible%20investor.pdf)

<sup>10</sup> Council on Ethics, *Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (GPFG)*, URL: [http://etikkradet.no/files/2017/04/Etikkradet\\_Guidelines- eng 2017 web.pdf](http://etikkradet.no/files/2017/04/Etikkradet_Guidelines- eng 2017 web.pdf)

of KLP and published in 2016.<sup>11</sup> This report has formed the basis for the exercise of KLP's shareholder influence with respect to companies which break up ships for scrap on the beaches of Bangladesh, India and Pakistan.

KLP's dialogue with the company has failed to result in adequate answers to questions relating to Evergreen's practice of disposing of ships for break-up on the beaches of Bangladesh. Nor has KLP received specific answers with regard to the company's future plans for ship disposal. We therefore have no information to indicate that the company plans to change its use of beaching in Bangladesh to dispose of obsolete vessels.

In a letter dated 13 February 2017, we informed the company that it was being considered for exclusion from KLP's investment universe.

#### KLP's investigations into the companies' shipbreaking practices

Each year, the NGO Shipbreaking publishes a list of ships that have been scrapped, with information about each vessel's owners and where it was broken up.<sup>12</sup> A review of the information contained in this list provides the following information on these companies:

No. of ships sent for breakup in the period 2014-2016		
Company	Bangladesh	Pakistan
Evergreen Marine Corp. Taiwan Ltd	6	0
Korea Line Corp	3	4
Precious Shipping PCL	2	1
Thoresen Thai Agencies PCL	1	0

#### KLP's Conclusion

Like the GPF, KLP excludes companies that contribute to serious environmental damage or human rights violations.

The assessments underpinning the Council on Ethics' recommendation are sound and include extensive source material. KLP therefore sees no reason to deviate from the Council's conclusion and its own established practice of excluding companies that dispose of ships by beaching in Bangladesh and Pakistan.

## Decision

KLP and the KLP Funds have decided to exclude Evergreen Marine Corporation Ltd, Korea Line Corporation, Precious Shipping PCL and Thoresen Thai Agencies PCL from their investment portfolios due to an unacceptable risk that they contribute to serious environmental damage and gross human rights violations.

<sup>11</sup> Shipbreaking Practices in Bangladesh, India and Pakistan, An Investor Perspective on the Human Rights and Environmental Impacts of Beaching, ILPI, 2016.

[https://www.klp.no/polopoly\\_fs/1.34213.1467019894!/menu/standard/file/Shipbreaking%20report%20mai%202016.pdf](https://www.klp.no/polopoly_fs/1.34213.1467019894!/menu/standard/file/Shipbreaking%20report%20mai%202016.pdf)

<sup>12</sup> <http://www.shipbreakingplatform.org/annual-lists-of-scrapped-ships/>