

Press release 30 September 2013

## **Swedish AP Funds exclude four companies accused of contravening international conventions**

*The First, Second, Third and Fourth AP Funds (AP1-AP4) are to divest their holdings in Walmart, Freeport McMoRan, Incitec Pivot and Potash after being advised by their Ethical Council that several years of engagement with the companies had failed to deliver the desired results.*

The Ethical Council has in recent years engaged in dialogue with retail chain Walmart Stores, mining company Freeport McMoRan and chemicals producers Incitec Pivot and Potash. In spite of a strong commitment to this process, the Ethical Council has been unable to achieve its objectives. It has therefore chosen to terminate the dialogue and issued a recommendation to each fund to exclude the companies' shares from their investment portfolios. All four funds have elected to follow the recommendation.<sup>1</sup>

“The Ethical Council performed a detailed analysis of the four companies and concluded that AP1-AP4 should exclude them as investment vehicles from their portfolios,” said Christina Kusoffsky Hillesøy, Chairman of the Ethical Council.

“Engagement is the Ethical Council's primary tool for encouraging companies to act responsibly. Exclusion from the investment portfolio is a last resort when other avenues have not worked. This is therefore a setback for us in so far as we have been unable to secure lasting improvements despite several years of active engagement. We do not believe further interaction with these companies will be fruitful and have therefore recommended that the AP funds exclude them from their investment universe.”

The Ethical Council engages with around 200 companies every year in a bid to make a difference. As long-term, responsible and active investors, the AP funds seek to drive positive change in environmental and social governance at companies worldwide. The Ethical Council engages with companies as long as it believes that dialogue could lead to positive change.

The Ethical Council bases its recommendation on exclusion of **Walmart Stores Inc.** (Walmart) on the fact that the company in its US business is linked to systematic abuses of workers' rights, in contravention of the ILO core convention on working rights. The company also denies employees their right to form and join trade unions.

The Ethical Council has engaged with Walmart on this front ever since the council was formed in 2007. The aim has been to persuade Walmart to adopt group-wide policies and guidelines on workers' rights that comply with international guidelines on the right to collective wage bargaining and the right to unionise. A further goal has been to prevail on Walmart to establish a credible monitoring system. Notwithstanding concerted efforts by the Ethical Council encompassing different approaches and collaboration with other investors, the council has been forced to conclude that Walmart continues to fall short of its dialogue objectives. The Ethical Council takes the view that continued dialogue with Walmart will be to no avail because the company has not changed its view on workers' rights.

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<sup>1</sup> Several AP funds were engaged in active dialogue with Walmart prior to the founding of the Ethical Council in 2007. AP2 excluded the company from its portfolio in 2006.

The Ethical Council's recommendation on exclusion of **Freeport McMoRan Copper & Gold Inc.** (Freeport) reflects the fact that the company through its mining activities in Indonesia has been linked to serious adverse environmental impacts that contravene the UN Convention on Biological Diversity. Freeport's Grasberg mine in Indonesia is located in an area of high biological diversity and is adjacent to Lorentz National Park, a UNESCO world heritage site. The Grasberg mine releases large quantities of mining waste into a nearby river.

Engagement with Freeport began in 2007 but has failed to deliver on the Ethical Council's objective of persuading Freeport to take actions to prevent future treaty violations. Freeport's chief executive officer and chairman have informed the Ethical Council that the company reserves the right to release waste into rivers. The Ethical Council has therefore concluded that further dialogue is likely to be ineffectual and that there remains a continued risk of further treaty violations due to the company's reluctance to exclude the possibility of deploying its controversial waste processing practices in future projects.

The recommendations on exclusion of **Incitec Pivot Ltd and Potash Corp.** are based on both companies being purchasers of phosphate from a Moroccan supplier that mines its product in Western Sahara. Western Sahara has been under Moroccan occupation since 1975 and is on the United Nations' list of non-self-governing territories that should be decolonised. The UN's legal counsel stated in January 2002 that exploration of mineral resources in Western Sahara without local consent would be in breach of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

The Ethical Council has engaged with both companies since 2010 with the aim of persuading them to cease procurement of phosphate from Western Sahara or to prove that the extractive process complies with the interests and wishes of the Western Saharan people, in accordance with the UN legal counsel's statement of 2002. The Ethical Council has also urged both companies to adopt policies undertaking to refrain from actions that violate international humanitarian law. The Ethical Council concludes that further dialogue with Potash and Incitec Pivot would be to no avail as neither company has indicated an intention to cease procurement of phosphate from Western Sahara in the near future or been able to demonstrate that the extractive process accords with the interests and wishes of the Western Saharan people.

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*About the Ethical Council: AP1, AP2, AP3 and AP4 coordinate their work on environmental and social responsibility via the Ethical Council. The Ethical Council is the funds' joint platform for driving positive change in foreign companies implicated in non-compliance with international environmental and human rights conventions. Combining a preventive and reactive approach, the Ethical Council works to make a difference in the field of environmental and socially responsible stewardship. Preventive initiatives include actions to ensure that companies in which the funds invest operate in accordance with relevant ethical, social and environmental standards and have policies and operating and monitoring systems in place to enable responsible stewardship. Reactive measures include engaging in dialogue with companies that violate international conventions to encourage them to comply with those conventions and to take action to avoid future violations.*