

Barnard-Boecker Centre Foundation

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Submission to Canadian Pension Plan Investment Board (CPP IB) June, 2012

Preface

"...the military-industrial model can be replaced by adopting equitable policies for Disarmament, Demilitarization and working for sustainable development..." Vijay Mehta in 'The Economics of Killing'

The following submission was presented to Michel Leduc, one of the Vice-Presidents of the Canada Pension Plan Investment Board (CPP IB), at a private meeting on June 11, 2012 which preceded a public information meeting in Victoria with the President & CEO of the CPP IB (via live video, at all nine meetings at same time, across Canada).

Two BBCF board members, two associates who are informed local activists and two staff people of the Vancouver City Credit Union Ethical Funds participated in the meetings. See the epilogue to this report for our response and action suggestions.

Introduction

The guiding directive of your board as stated on your website is *"Our role is to invest the CPP Fund to maximize returns without undue risk of loss."* In your August, 2010 policy statement on

'Responsible Investing' you state you also are guided by certain principles including:

... "Responsible corporate behaviour with respect to environmental, social and governance (ESG) factors can generally have a positive influence on longterm financial performance, recognizing that the importance of ESG factors varies across industries, geography and time;

- Disclosure is the key that allows investors to better understand, evaluate and assess potential risk and return, including the potential impact of ESG factors on a company's performance;*

- Investment analysis should incorporate ESG factors to the extent that they affect risk and return."*

It is our intention in this brief to address these principles and to propose changes that would be more inclusive of Canadian values and international agreements which would reflect the rights of people affected by our policies so that they may enjoy the rights that Canadians have and respect. It is difficult for many people to accept that our mandatory pension payments and the pension received in later life may cause death, human rights violations, social degradation and environmental destruction to other citizens and regions of this planet. We believe that the final sentence in the above quoted statement is too narrow and that ESG factors should be incorporated in investment decisions based on factors that reflect Canadian values and in some cases international agreements to which Canada is a signature including the Universal Declaration of Human Rights among others.

We will focus on three major issues: investments in military equipment companies; investment in companies that sell armaments to Israel which are used in the occupation and war against Palestine; and investments in mining companies whose foreign operations are in places where there has been and continues to be significant violations of international law, human rights and environment damage.

Military Investments

In Canada military manufacturers are exempt from government subsidy, loan and assistance regulations under NAFTA. Many arms corporations receive generous government assistance in making, marketing and promoting their products. When CPP invests in these companies it further assists them by providing investment funds which helps to maintain public stock prices. These policies also take funds away from companies engaged in peaceful, civilian, sustainable production. In 2008 the CPP invested more than \$1 billion in companies ranked among the top 100 weapons companies. For example, In 2012 CPP invested more than \$16M in CAE Inc. of Montreal. Ninety percent of its \$1.4 billion annual revenues are from exports. Describing itself as a “global leader in the design of sophisticated military training systems for air, land, and sea applications”, it has supplied these technologies to “more than 30 nations.” It has received many grants from our federal government; in March, 2009, CAE was given \$250 million of our tax money and we were told this would provide high quality employment to Canadian workers, including scientists and engineers. Six weeks later, however, CAE said it was slashing 700 workers, mostly in Montreal.

CPP also invests in foreign weapons corporations and has considerable investments in some of the world’s top arms companies, including Lockheed Martin, Northrop Grumman, Boeing and General Dynamics of USA and BAE Systems and Rolls–Royce of UK. CPP invests in the nuclear weapons industries even though Canada has prided itself on being a “non–nuclear nation” so it appears as both deceitful and hypocritical that our CPP contributions be invested in nuclear weapons made by many companies including the same companies noted above in arms manufacturing of all kinds.

Investment in Companies that trade with Israel

There are considerable investments by CPP in companies that supply military, police, surveillance and prison equipment to Israel. In 2011 CPP had \$1.5 billion in shares of companies that sold these products to Israel. This presents a major ethical issue for Canadians and the use of our pension funds. Israel has and continues to violate international law and human rights agreements in its occupation of the West Bank of Palestine and its invasion and enclosure of Gaza, Palestine. Israel illegally occupies land for commercial and residential purposes in the West Bank, imprisons children, harasses, threatens and kills Palestinian civilians as well as preventing any entry to Gaza by sea and attacking and killing unarmed people on ships in international waters and confiscating boats and imprisoning foreign nationals in Israel jails.

By investing that \$1.5 billion in more than 50 corporations which include AT&T Inc., BAE Systems, Hitachi Ltd., Caterpillar Inc., Sony Corp., Motorola, and Toyota Motor Corp. CPP is telling Canadian citizens that it is fine to make money on massive human rights abuses, including the killing of civilians and the constant disregard for international law and agreements that Canada supposedly respects. Canada had a major role in the creation of the *Universal Declaration of Human Rights* and has signed it. Israel regularly violates most of its articles including Article 13 which calls for the right of return of exiles; however, seven million exiles and their descendents from Palestine, dispersed around the world, have been denied the right of return by Israel.

Please consider this excerpt from the *International Court of Justice* ruling of 2004. “Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the *Geneva Convention* relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.”

The government pension fund of Norway has shown leadership in ethical investment and has divested from companies that Israel uses to enforce its occupation of Palestine, an initiative that we urge CPP IB to follow.

CPP IB and mining companies

Investments made in Canadian mining companies that operate abroad are not investigated or monitored with close scrutiny of the operations of these companies. Approximately 15% of the CPP's investment in Canadian public equities is held in mining shares. Yet in recent years there has been a growing awareness of major human rights violations and environmental destruction by Canadian companies operating around the world.

To look at one example, Barrick Gold which operates in Papua New Guinea, Peru and Tanzania in which CPP has invested \$330 million has been monitored by independent human rights groups. It has been documented and recorded that security personnel employed at the Porgera mine in Papua New Guinea have committed major crimes against local citizens including gang rape and torture. Barrick, which has mined billions of dollars worth of gold in its twenty years of operation there, is the world's largest gold producer.

Goldcorp is another beneficiary of our pension funds. It operates a large mine in Guatemala where the destruction of the environment, exposure to toxic waste, the unauthorized use of community land has seriously affected the health and social fabric of Mayan communities in the region.

Fortuna Mines also benefits from CPP IB share purchases. Its operation in San Jose el Progreso near Oaxaca, Mexico is of particular concern to the Barnard-Boecker Centre Foundation (BBCF). Members of the BBCF board went to Oaxaca in March and planned to meet with Bernardo Vasquez Sanchez, a local resident and Coordinator of Peoples United for the Ocotlan Valley (CPUVO) and the National Assembly of the Environmentally Affected people. He was killed on March 15, 2012, and his brother and cousin were wounded, the night before we reached Oaxaca. This is not the first death of a community activist opposed to the operation of the Trinidad mine operated by Minera Cuzcatlan, a subsidiary of Fortuna Silver Mines, based in Vancouver. Another community leader was killed & one

injured in January, 2012. Another shooting incident occurred in June, with several people injured; the gunmen were identified. Observers report that these were targeted shootings at community activists, not random killings. One of the main reasons for opposition to this mining operation is the vast amount of water used and the contamination by chemicals of the water supply of residents and farms. CPP IB is investing in companies that operate in communities where their presence results in violence and conflict.

One final example of CPP IB investment in a mining company is a very special case, that of Potash Corporation of Saskatchewan Inc., a company with an excellent record of community responsibility within Canada. However, this company purchases phosphates from the Boucraâ region in Western Sahara, mined by Fosboucraa, the Western Sahara subsidiary company of the Morocco state-owned Office Cherifien des Phosphates SA. Western Sahara is an occupied territory, occupied by force by the state of Morocco in 1975. It is the home of a tough and determined people, the Saharawi, the people of Western Sahara who have been fighting and working for their independence and self-determination for their resource-rich nation situated between Morocco, Mauritania and Algeria. The Saharawi Arab Democratic Republic (SADR) is recognized by more than fifty nations. Almost half its people were forced to flee from the Moroccan military and live in refugee camps, now communities, in Algeria. Promises for referendums have been broken and the world either ignores the illegal and unjust situation or collaborates with Morocco, a well-supported ally of the USA.

Resolutions #242 & #338 of the *UN Security Council* include statements that prohibit permanent settlement of occupied lands for domestic or commercial purposes; resolutions that Canada professes to respect. International law also recognizes the rights of colonized peoples as in the cases of East Timor and Namibia. The *Fourth Geneva Convention* prohibits (and makes criminal) settlement of a population into the occupied lands of other nations; yet many Moroccans have settled in Western Sahara and are part of the workforce at this phosphate operation. Canada is a signature to the *Geneva Conventions* as well as other international agreements that make the occupation and exploitation of resources in an occupied territory illegal. By supporting Potash Corporation of Saskatchewan Inc. with share purchases, CPP IB, with its considerable investment of \$318 Million of shares, about 1/40 the value of CPP's investment in Canadian publicly traded securities, is supporting the flagrant violation of international law. It is again sending a message to Canadian citizens that profit means more than Canada's role in international order and its good name as signature to international agreements and conventions which should protect the people of Western Sahara and their right to use their resources as they see fit.

Conclusions

CPP IB is investing in companies, both Canadian and foreign, which are contributing to war and injustice which result in the death of unarmed civilians, torture, harassment, unlawful detention and imprisonment as well as the loss of land, homes and environmental integrity. CPP IB is also contributing to the global arms race by investing in arms manufacturers and the nuclear weapon industry. The situation in Palestine will never be solved by supporting the escalating military violence of Israel. If the CPP IB divested from these companies, it would release funds for many Canadian

companies involved in alternative and sustainable energy and other peaceful industries and help defuse a situation which urgently requires a peaceful solution, not one enforced by a military power we support with our pension contributions. Canada should also honour the ruling of the *International Court of Justice* quoted above.

When CPP IB invests in companies which operate in communities where violence is committed specifically against activist citizens it sends a message to the world that CPP condones violence and is willing to look away from community destruction. Canada needs to regulate its companies in their foreign operations to ensure they operate with standards that are acceptable in Canada itself. Until Canada places legal obligations on companies operating outside of Canada, CPP could, by divesting in these companies, exercise its mandate ethically and responsibly, beyond the narrow limits of profit and create a significant influence for this much needed legislation.

Disclosure noted in your policy statement should include an independent evaluation of every investment choice of CPP IB.

By divesting from Potash Corporation of Saskatchewan Inc. (as Norway's Pension Fund has; see the reference to its Council of Ethics, cited below), CPP IB would be helping that company seek other sources of phosphates which would then enhance its reputation as a socially responsible company, as well as supporting the internationally recognized right to self-determination of Western Sahara, Africa's last colony. Canada is a signatory to the *Geneva Conventions*. So when Canada engages some aspect or obligation of the *Conventions* as they apply to Western Sahara, including the prohibition against taking natural resources from a territory under military occupation, Canada is treaty bound to refrain from all assistance in the taking of resources.

BBCF calls on the CPP IB to act on all the above recommendations. It also recommends the considerable resources of the Investment Board be used to more closely scrutinize the operations of all its investment choices. We recommend that profit not be the only criteria for investment but "***Responsible corporate behaviour with respect to environmental, social and governance (ESG) factors***" be taken into account at all levels of investment. The Government of Norway Pension Board has shown leadership in this area and we refer you to its statement of ethics and its recent divestments.

Of the total of \$161.6 billion invested by CPP as of March, 2012, \$71.5 billion is in publicly traded companies of which only \$14.2 billion is invested in Canadian companies. We recommend greater investment in Canadian companies (of a non-military and sustainable nature) that operate in Canada. These companies are regulated by Canadian law governing labour, health and environmental standards. By increasing investment in these companies, more Canadian workers will be employed, thus increasing contributions to CPP; the infusion of billions of dollars will also contribute to the stability and health of our economy.

We recommend that the CPP also use its resources to consult with the many private ethical funds that operate in Canada; for example *Vancouver City Credit Union* has a wealth of knowledge and

background on this issue. It is possible to make a reasonable return on ethical investments while enhancing sustainability and social justice.

In closing we call on Canada, including this government appointed board, to operate in such a way that CPP contributors and recipients have knowledge and confidence that their funds are being used to create a better world not only for Canada and its citizens, but for all people and for our collective future.

Respectfully submitted by,

Theresa Wolfwood, Director, Barnard-Boecker Centre Foundation

With thanks to Susan Scott and Gerd Weih for editorial and research assistance

Appendix I

Letter of Saharawi Arab Democratic Republic to Potash Corp. of Saskatchewan June 9, 2012

Resources

Barghouti, Omar. BDS: BOYCOTT, DIVESTMENT, SANCTIONS: The Global Struggle for Palestinian Rights. 2011. Haymarket Books, USA

Barrick Gold: Human Rights Watch: <http://www.hrw.org/>

Coalition to Oppose the Arms Trade: Press for Conversion Issue #66 February, 2012 and <http://coat.ncf.ca>

Canada Pension Plan: Statistics and information on CPP IB <http://www.cppib.ca/>

Goldcorp in Guatemala <http://www.rightsaction.org>

Government of Norway Pension Fund: <http://www.regjeringen.no/en/dep/fin/pressemeldinger/2011/statens-pensjonsfond-utland-nye-beslutni/statens-pensjonsfond-utland-to-selskaper.html?id=665637>

and Norway Pension Fund letter "Council on Ethics" to the government: http://www.regjeringen.no/upload/FIN/etik/2011/Rec_phospahte.pdf

International Court of Justice: <http://www.icj-cij.org/docket/files/131/1677.pdf>

Nuclear weapons production: <http://www.dontbankonthebomb.com>

Potash Corporation of Saskatchewan Inc.: www.potashcorp.com

San Martin, Pablo. WESTERN SAHARA: The Refugee Nation. 2010. University of Wales Press, Cardiff, Wales

Smith, Jeffrey. Western Sahara: The Failure and Promise of International Law. THE ADVOCATE. Vol. 69 part 2 March 2011

Vancouver City Savings Credit Union (Vancity): <https://www.vancity.com/>

Western Sahara Resource Watch: [wsrw.org](http://www.wsrw.org)

Epilogue

At the meeting with the Vice-President of CPP IB our group was able to go over the concerns raised by our paper and to engage Leduc in questions and discussion after presenting the brief. He made it clear that he could not respond to many of them as he referred back to the Act of the Parliament of Canada that created this body and its sole mandate which is **"to invest the CPP Fund to maximize returns without undue risk of loss."**

In fact, it was made clear the Environmental, Social & Governance factors (ESG) were only taken into consideration if they might cause loss of revenue. A small committee of the IB studies these issues with that directive. It was also clear from our discussion that although the IB operates for the long term, planning economically for a twenty year period, the IB has no specific long term vision based on examination of global geopolitical events. The European Union was only mentioned because some assets were purchased at low prices due to the EU's present economic difficulties. Political analysts the world over predict that the present financial crisis and the recession in the USA will continue for years. Another reason for CPP IB to invest more in Canada, not less, and to reconsider investments in infrastructure, like airports and toll roads in Europe and places like Chile.

Although the Vancity ethical fund staff told the V-P that ethical investments are secure and do create steady returns, and in fact do better than many ordinary investment funds, we were told that the IB had no mandate to examine investments in that light. We were also told that the only way to create change would be political, by changing the Act of Parliament.

At the public meeting, attended mainly by local citizens concerned specifically with the ethics of CPP investment policies and, after the 30 minute self-congratulatory speeches of the CEO and President, they answered selected questions submitted from all the meetings across Canada. The moderator admitted that there were many questions about war which she condensed into one about investment in armaments and the one question that was recognized from Victoria was about CAE making equipment used in Israel's aircraft that attacked the Mavi Mara ship in international waters; the reply was they saw no reason not to invest in armaments and about the Mavi Mara, "bad things happen". Morality is not a concern for the CPP IB.

They also said that the CPP IB planned to invest less, not more in Canada, and was considering China which may be the world's leading economic power within twenty year. That may well be, however, China is economically vulnerable to the USA dollar fluctuations and markets there. Global political analysts predict that the present financial crisis and the recession in the USA may continue for years. Another reason for CPP IB to invest more in Canada, not less, and to reconsider all foreign investments.

Later at the public meeting, the Vice-President answered questions personally for thirty minutes. BBCF distributed this paper to other citizens in attendance. When the V-P was questioned about the IB investing in companies that violated Canada's official position of accord with international agreements, including the *Geneva Conventions on War*, rulings of the *International Court of Justice* and UN Security Council among others, he adamantly replied the CPP IB is not doing anything illegal and ended the meeting. As one person said, the absolute minimum we should be able to expect of the CPP investments is that they are legal. Investing in companies that operate in occupied territories is clearly illegal by Canadian standards.

Our group reflected on how we could bring about changes in the IB policies. The obvious one is political; change or amend the CPP IB Act of Parliament. For instance, one change might be to include a Council on Ethics as Norway has. Political change in Canada is not impossible. This is where we live and vote. As someone once said, "If the people lead, politicians will follow."

Social movements and citizens concerned with how all pension funds are invested can work to create change for social justice and create a public demand for political change. Pension funds, including professional funds and private funds and individuals as well as our CPP have enormous power and resources but they are also vulnerable to political events and public opinion in Canada and abroad. Increasingly Canadians & others are learning about their pensions being invested in war, conflict, illegal occupation and that they result in human rights violations and environmental destruction. Although these meetings were not attended by mainstream media, several local media responded with interviews and discussions of the event. We are our own media as well in that we can access and disseminate information on the internet. We also know that mainstream media do respond when the independent media and social movements are active on issues; a classic example is the defeated Multilateral Agreement on Investment where publicity and revelations of its intent moved from local social movements to global media attention to political action.

Recently CBC-TV has aired a program, the *New Conquistadors* about the operation of Canadian mining companies in Latin America. This information will surely result in some individuals and funds divesting in these companies, again making CPP investments vulnerable. As public awareness increase about Canada's role in supporting illegal occupations in Palestine and Western Sahara, there will be resulting divestment in these areas.

In June, 2012 the USA retirement fund, TIAA-CREF, divested \$73 million of Caterpillar stocks; their bulldozers are used to destroy Palestinian homes and orchards, build the Wall and Israeli-only highways in Palestine, and to kill Rachael Corrie, a USA peace worker in Palestine. By publicizing and educating about the actions of companies and government engaged in conflict, death, human rights violations, environmental damage and violation of international agreements, social movements and other citizen organizations as well as individuals can create change which will influence the CPP IB.

Norway's divestment from the Potash Corporation of Saskatchewan is being closely watched by other investors as a model of divestment from companies profiting from operation in occupied Western Sahara.

Participation in private pension investment policies, peace organizations, church and community organizations, non-profit media and solidarity groups that work with national in occupied territories and countries where our investment helps oppression has become vital to our own and our country's economic and financial stability and will affect public pension funds policies in the long term. Investing in Canada peacefully and in sustainable projects and companies will strengthen movements that are working for justice everywhere.

Vijay Mehta writes, "*Ever more the burden of discovery lies not with reporters but with citizens, who in the internet now have access to a research tool of unprecedented power. It will be up to citizens to evaluate and cross-check sources, to translate documents and to monitor social media in a way that gives them access to an accurate, unmediated version of events that does not rely on a journalist's opaque quid pro quos with proprietors and politicians, officials and insiders. It is this shift in the balance of knowledge that offers the best hope of ending the destructive cycle of militarism and war.*"

.Mehta and many others have shown that militarism, conflict and oppression are not sustainable in the long term which CPP IB claims to invest for; we are depleting the earth's resources, creating greater poverty everywhere, including in our own country where the gap between the richest and poorest is growing at an alarming rate. Climate change is related to our squandering of resources for war and war preparation. Even as I write this, an appeal, signed by Nobel Peace laureates, mayors of 5000 cities and thousands of citizens, at the RIO+20 meeting in Brazil, calls for a 10% cut in military spending by governments and the funds to be diverted to social and environmental needs. Hardly revolutionary, but a giant first step.

But financial risk is not the paramount consideration for many Canadians; we want our money to help others and to provide a safe and clean world; we believe justice, morality and equality are important considerations. Ultimately it is up to us, the people, to try to create a just, peaceful and healthy world, not only for the financial benefits and our pensions, but because we want to create a better world for all and future generations.

"In faith that a just future can be fashioned from small acts" Alice Walker

Resources for Preface and Epilogue

<http://www.cbc.ca/thenational/thenewconquistadors/> film on Canadian mining companies

<http://electronicintifada.net/blogs/maureen-clare-murphy/milestone-victory-pension-fund-giant-tiaa-cref-divests-72-million> TIAA-CREF divests

McQuaig, Linda & Neil Brooks. *THE TROUBLE WITH BILLIONAIRES*. 2010. Viking, Canada

Mehta, Vijay. *The ECONOMICS OF KILLING.: How the West fuels War and Poverty in the Developing World* 2012 Pluto Press UK

Walker, Alice. Letter to Yediot Books <http://www.guardian.co.uk/books/2012/jun/20/alice-walker-declines-israeli-color-purple?newsfeed=true>

<http://www.worldfuturecouncil.org/5434.html> for information & to sign appeal at RIO+20



Saharawi Arab Democratic Republic
Petroleum Authority



9 June 2012

Mr. Dallas J. Howe Chair, Board of Directors Potash Corporation of Saskatchewan Inc. Suite 500 122 – 1 st Avenue South Saskatoon SK Canada S7K 7G3	Mr. William J. Doyle President and Chief Executive Officer Potash Corporation of Saskatchewan Inc. Suite 500 122 – 1 st Avenue South Saskatoon SK Canada S7K 7G3
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Dear Messrs. Howe and Doyle:

In the matter of the purchase of phosphate rock from occupied Western Sahara

I write to convey the request of the Saharawi Arab Democratic Republic (SADR) government that your company, Potash Corporation of Saskatchewan Inc. (PotashCorp), end the purchasing of phosphate rock from Western Sahara.

We make the request in the circumstances Morocco's continuing occupation of much of Western Sahara's territory including the Bou Craa mine from which phosphate is exported. This export trade is illegal because it continues to infringe the Saharawi people's right of permanent sovereignty to their natural resources. The exercise of that right is an important part of our self-determination. We consider the taking of phosphate from our territory also violates international humanitarian law.

We know that PotashCorp is aware of Western Sahara's history. We wish to offer some details important to understanding the consequences that result from the taking of our phosphate resources.

Western Sahara, formerly Spanish Sahara, is often called Africa's last colony. The territory was abandoned by Spain in late 1975, given to Mauritania and Morocco which each occupied it during the following months. That occupation, it should be noted, was by armed force contrary to international law as well as several United Nations resolutions. On 27 February 1976 the Saharawi people's representatives declared the SADR's independence, a state recognized by more than 80 countries and the African Union. In 1979 the SADR and Mauritania concluded a peace treaty which resulted in Mauritania withdrawing from our territory and admitting that it had illegally occupied Western Sahara. The Kingdom of Morocco subsequently occupied more of Western Sahara, now three-quarters of the territory.

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