



DISINVESTMENT CAMPAIGN GUIDE

This guide provides essential information on how to campaign on disinvestment, and covers many of the issues you will come across when campaigning on this topic. Similar to how specific knowledge on governmental bodies is needed to lobby or campaign at a national level, having insight into the world of financial institutions is important in order to run an effective campaign on disinvestment. This guide aims to provide you with the information you need to run an effective disinvestment campaign, targeting both financial institutions and governments as well as effectively engaging the public and the media. It builds on lessons learned from CMC members that have been involved in disinvestment campaigns.

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1. FOCUS ON FINANCIAL INSTITUTIONS

1.1 HOW TO FIND OUT IF YOUR BANK IS INVESTING IN CLUSTER MUNITIONS PRODUCERS

A logical first step is to ask them directly. Unfortunately many banks are not transparent about their investments. Some banks will give clients the impression they invest in a responsible way by showing general business principles like the UN Principles of Responsible Investment or a Code of Conduct. Since there is often a difference between business principles and business practice, general answers cannot guarantee any certainty over their business practice.

The main problem is that banks have been building up a wall of what they call 'confidentiality'. The result is a lack of transparency and thus accountability.

This lack of transparency plays a role on different levels. You can ask specific questions regarding each level:

- **The policy level:** What is the investment policy of my bank in relation to the arms industry or cluster munitions producers?
- **The implementation level:** If there is a policy; there should be clear information about the way the bank is implementing this policy. How is my bank performing?
- **The transaction level:** Stakeholders should be able to find the names and details of the major transactions a bank carried out. What is my bank investing in?

Consequently, researching the financial links between financial institutions and cluster munition producers is a difficult task. You need some basic understanding of the financial world and a lot of patience to go through a company's annual reports, announcements to stock market authorities, press releases, business newspapers and magazines, etc. And most of the time, because not all this information is public, you need to pay to access expensive databases and search machines.

The following organisations are able to help you out with their experiences and expertise on this topic:

- **Netwerk Vlaanderen**, www.netwerkvlaanderen.be, Ms. Esther Vandenbroucke,, +32 2 201 07 70, esther.vandenbroucke@netwerkvlaanderen.be
- **IKV Pax Christi**, www.ikvpaxchristi.nl, Ms. Roos Boer, +31 30 233 33 46, boer@ikvpaxchristi.nl
- **BankTrack**, www.banktrack.org, Mr. Johan Frijns, +31 30 2334343 , coord@banktrack.org
- **Profundo**, www.profundo.nl, Jan Willem van Gelder, +31 251 65 83 85, jw@profundo.nl¹

1.2 HOW TO USE THE *Worldwide investments in cluster munitions: a shared responsibility* REPORT?

The *Worldwide investments in cluster munitions: a shared responsibility* report, written by IKV Pax Christi and Netwerk Vlaanderen, launched in October 2009 offers a good starting point for campaigning efforts on divestment. The report lists financial institutions that are investing in cluster munition producers, and can be useful for your own campaign in the following ways:

1) Take a look at the 'Hall of Shame' section of the report and search for financial institutions active in your country. Even if the headquarters of a bank is not located in your country, as long as they have subsidiaries in your country, it is worthwhile to target them in your campaign. Subsidiaries may not decide upon the policy of the whole group, but this does not mean that they can not influence policy in a positive way.

¹ Profundo is a research company, meaning they can provide you with financial information, but you need to pay them for this service.

2) The banks listed in the 'Runners-Up' list might also be a good target. These financial institutions are on their way to be included in the 'Hall of Fame'. Therefore, convincing them to make relatively minor amendments to their policy to be effective enough to be included in this list might stimulate them to end all financial links to cluster munitions producers, in order to be promoted into the 'Hall of Fame'.

3) Read the more detailed information on how the financial institutions you are targeting are investing in cluster munition producer(s), and which ones. Take a look in the 'Red Flag List' of cluster munition producers to learn more about the producing companies.

4) Take a look at the criteria used for the research. These criteria give you more information on how the research was carried out and will answer some questions you or others (financial institutions, media) might have.

5) Take a look at the 'Hall of Fame' to see which financial institutions have good policies on cluster munition producers. These policies are important examples for other financial institutions, and they provided proof that ending financial involvement with cluster munition producers is possible.

The information in the Hall of Fame is divided into three parts:

- **Ethical Banks:** it is the ethos of these banks not to get involved in the arms industry. They are usually small banks, founded to serve as a source of capital for sustainable projects and companies. Moreover, these banks are usually transparent and thereby counter the frequently heard confidentiality arguments by other financial institutions.
- **Government-managed pension funds:** These funds are an example of government best practice and are a clear example of what governments can do if the political will is there.
- **Mainstream financial Institutions:** These examples show the mainstream financial institutions with a far-reaching policy. These are very interesting to use as an example when you talk to financial institutions from the Hall of Shame.

IMPORTANT

- It is important to target all financial institutions active in your country, not only the ones which have their headquarters based there. Campaigning efforts by other NGOs have shown that targeting subsidiaries can change policies within this subsidiary, and can even change the policy of the whole group! It is important to raise public awareness within all the banking group's clients, meaning all clients in all countries where the bank is active. But, as the policy is made on the group-level, it is important to communicate with them directly. This means you should send a letter to the contact persons responsible for the group. It is a good idea to put the persons responsible for the subsidiaries in copy of your communications so they are aware of the issues concerned. This way, you involve the subsidiary in your action and you can pressure both sides: the subsidiary and the group.
- If a financial institution is not listed in the Hall of Shame, it does not necessarily mean they are not investing in cluster munition producers. The Hall of Shame is a non exhaustive list. For the research in this report, a threshold of 1% for owning or managing assets of some cluster munitions producers was used. This means that the financial institutions which own or manage 0 – 1 % of assets of some cluster munition producers are not listed. Extra research could reveal financial links not mentioned in this report.
- The report has given special attention to some public pension funds and sovereign wealth funds. These are particularly interesting because most of them are state owned. This becomes even more important when the Sovereign Wealth Funds (SWF) or Public Pension Funds (PPFs) home country has ratified the Convention on Cluster Munitions. Moreover, SWFs and PPFs sometimes hold a substantial stake in the capital of companies. This gives them considerable voting power at annual meetings, and sometimes even one or more seats on the

board of directors. If one of the listed funds is based in your country, this is a very interesting campaigning opportunity!

1.3 WHAT ARE WE ASKING FINANCIAL INSTITUTIONS TO DO?

Develop a comprehensive policy against investing in cluster bomb producers

Financial institutions should develop policies that exclude all financial links with companies involved in the production of cluster munitions. Investment makes production possible. This means that no exceptions will be made for financial services on behalf of third parties, for funds that follow an index, for project finance for civil purpose of a company that is also involved in cluster munitions, nor should it be a policy that only excludes project financing for cluster munitions.

Inform the producer why they are disinvesting

Financial institutions should inform the producing company about its decision to end investments because of the company's involvement with cluster munitions. The financial institution can set clear deadlines within a limited time frame for the company to stop the production of cluster munitions, in order to reverse its decision to disinvest. In case a producing company continues its involvement in the production of cluster munitions after the set deadline, the financial institution will have to disinvest until the producing company stops their involvement in cluster munitions. New requests for investments will have to be declined therefore until the company has stopped all activities related to the production of cluster munitions.

Apply the divestment policy to all activities

Financial institutions should apply their divestment policy to all their activities: commercial banking, investment banking and asset management. All these activities actively assist a company in the production of cluster munitions. For a victim, it doesn't make a difference if a cluster bomb was financed by investment banking, loans or asset management. In case this requires a policy change for investment funds, investors should have a deadline to sell their participation in these funds after notification of this policy change. After this deadline, changes in the investment fund can be implemented, and stocks and obligations in companies involved in cluster munitions can be sold.

1.4 WHO SHALL I TARGET?

Campaigning on banks and investors and their investment policies also includes lobbying banks and meeting people who work for these banks. But banks and investors can be huge companies with thousands of employees. Who do you need to talk to?

Try to climb as high as you can. Campaigning efforts are more effective if you are able to get in contact with members of the board of directors. If the board of directors gets involved in your topic, you are halfway there. Most of the time, it will be difficult to contact someone on the board of directors, so it is important to find people that are connected to the issue of investment in cluster munition producers. Furthermore, the people you talk to should be in a position to influence internal company policies.

The rule of thumb is to talk to the people in charge of the policy. The best situation is to have a meeting with someone from the bank, someone responsible for commercial banking, and someone responsible for asset management. It is important to find someone who is interested in the cluster munitions issue and both willing and capable to influence internal company policies.

Assess the situation with the bank that you are interacting with. Who you choose to talk to within the financial institution can have advantages and disadvantages for your campaign. Below are a few key departments and positions that you may want to consider targeting:

Sustainability department

Advantage: Will be easily to garner interest in the issue, and will know how to get sustainability or ethical issues on the agenda within the company.

Disadvantage: Sometimes this department is focused totally on working on sustainable investment products within the bank, and therefore might not be good allies to change the total investment policy within the company. They may be connected with the communication department, which could be a disadvantage (see below).

Investment managers

Advantage: If you can convince them to consider disinvestment, you are halfway there. Investment managers are very keen to avoid any limits to their investment practices.

Disadvantage: You will enter difficult technical discussions about practical problems to implement a disinvestment policy on cluster munitions.

Communications department

Disadvantages: Most of the time they know little about sustainability and know a lot about window-dressing. Often their goal is to reduce and manage the harm that you could potentially bring to them. They often use the “don’t target us” message.

Advantages

This department is often the first to feel pressure by public campaigns. They take responsibility for any damage to the image of their company, and therefore may do things to protect or improve this image.

National government

The 2008-2009 financial crisis and the following government bailout of banks has changed the financial landscape. Many banks now have government shareholders. This creates a new situation with opportunities for governments to ensure that financial institutions abide by international conventions which the government has signed. Governments can use their position as a shareholder to change the bank’s policy on cluster munitions, ensuring none of the bank’s money is invested in producers of cluster munitions. As such, they lead the way in providing good examples to other financial institutions. Of course, to lobby for legislative initiatives that prohibit investments in producers of cluster munitions is a far more effective way to stop investments in your country by targeting your government. Governments cannot afford to maintain double standards by opposing the use of cluster munitions and signing the Convention on Cluster Munitions, while continuing to allow investments or even by being directly involved in investing in cluster munition production.

The report shows some examples of governmental best practices: several government-managed pension funds are listed in the Hall of Fame. These countries show their commitment to end the production of cluster munitions and act accordingly by not investing government-managed pension money in producers of cluster munitions.

You will find more information on this in the ‘focus on governments’ section.

1.5 HOW TO RESPOND TO FREQUENTLY HEARD REACTIONS BY BANKS

Financial institutions will use several arguments to convince their clients, and you as a campaigner, that they are committed to doing their best on the issue. Below you can find a few tips how to react to their arguments and how to ask the right questions.

- ***Referring to general principles***

Banks often refer to general principles when asked to their involvement with weapons producers: The UN Principles of Responsible Investment, their Code of Conduct, the Equator Principles, the Sustainable Report, etc. These documents show the bank’s commitment to ethical financing. Yet, subscribing to codes of conduct or principles does not mean they are implemented in practice. These statements of intent are no guarantee for ethical investment.

Asking how they implement this concretely can help to get a better understanding. Conducting research on their investment practice can provide you with hard evidence as to whether these principles are fully implemented or not.

- ***Corporate loans are not intended to finance cluster munitions***

Banks sometimes dispute the applicability of their cluster munitions policy to commercial banking services by stating that “a working capital facility is not intended to finance the cluster munition production itself”. This means the policy does not apply to providing money for general corporate purposes. This is a major flaw in the policy, because a financial institution cannot guarantee that the financial services it provides to a company will not be used to produce cluster munitions. It is common for weapons producers to finance their cluster munitions facilities from their general corporate capital.

There is no way to prevent a company from (legally) reallocating capital within a group. Adding stipulations to a general corporate loan prohibiting the companies' use of the funds to prevent it being used to produce cluster munitions, or restricting the financing of a company to civilian projects, does not stop this money releasing other funds which could be used in practice to finance cluster munition production.

Moreover, we have not yet come across project financing for cluster munitions facilities, which is when funding is given specifically for the purpose of cluster munition production. Excluding only project financing specifically for cluster munitions is therefore a hollow excuse: these banks only end project financing which is never used by cluster munitions producers.

A company producing cluster munitions that causes the devastating effects of this weapon should not be a business partner.

- ***Banks are neutral***

Some financial institutions argue that financing or investing is a neutral activity. They claim to be neutral, therefore not being able to choose sides, and being obligated to offer the services their clients ask for. Investing in a company however is clearly an active and supportive effort to raise the capital that is needed to fulfill the plans this company has made. Any financial service delivered to a company by a financial institution is in fact giving approval of the activities of this company. Moreover it is providing crucial and necessary support to the company, so that it is able to carry out its projects. Banks are not neutral.

- ***Cluster munition production is a marginal activity of the company***

“Only 2% of the company’s turnover is related to the production of cluster bombs”. The fact that it is only a marginal activity makes the company eligible for financial services and loans according to the policies of some financial institutions. But 2% of a company’s turnover can be a huge amount of financial support depending on the size and overall turnover of the company. Most companies that produce cluster munitions are also involved in civil projects so this argument will mean that the majority of cluster munition producing companies would be eligible for investment from financial institutions under this policy. Moreover, there is no such thing as proportional ethics!

- ***It is impossible to check which companies are cluster munition producers***

Asset managers sell and buy shares and bonds in many companies and claim that they do not have the means to check quickly and cost effectively if these companies are cluster munition producers. Close cooperation and information sharing with NGOs and non-financial or Socially Responsible Investment (SRI) advisors can result in clear and updated lists of companies showing which companies produce cluster munitions. National legislation which includes a black list of companies that is updated frequently is another solution to this problem

- ***The investments are made by subsidiaries, not by us.***

It is important to look at the investments made by the group and the policy of the group. The investment policy is usually stipulated by the group. Revenues made by the subsidiaries contribute to the revenue of the group. Moreover, it is difficult to control where money from the group is

invested. In short, a banking group is responsible for the investments of all their subsidiaries. As a banking group always presents itself as a group in its communication to customers, it's logical we look at them the same way.

- ***The investments are for third parties, not for our own account***

Several banks have a policy that only takes into account their own involvement, meaning the policy only applies to the money a bank invests on its own behalf and none of the money invested on behalf of its clients is covered by the bank's policy. This is a major flaw because a large amount of the money that a financial institution invests belongs to third parties.

Moreover, it is inconsistent for a financial institution to profit from selling investments in cluster munition producers to others, while not wanting to invest its own funds in cluster munitions producers. By investing money that belongs to third parties banks facilitate the financing of producers of cluster munitions.

Banks argue that they do not want to make ethical choices on behalf of their clients. This is a weak argument, considering that most banks refuse to be transparent about the companies they invest in. When a client is not informed about the companies a bank invests in, the client cannot make an informed choice.

- ***We only allow investments by funds following an index***

Most financial institutions make an exception for financial institutions following an index. These funds track a certain index and thereby invest in companies of this index. They argue that it is impossible to implement a divestment policy on these funds. Still, some financial institutions have a policy that follows index funds. Danske Bank, for example, excludes companies producing cluster munitions from the index they track. KBC and Storebrand do the same.

- ***Bank secrets***

"We are bound by a duty of confidentiality. We can't publish the names of the companies we're investing in". The duty of confidentiality is a duty that banks impose on themselves. There is nobody who forbids the publication of the names of the companies they invest in. Banks like Triodos and ASN stipulate the publication right in their contracts with companies. Banks like ASN and Banca Etica publish the list of companies on their website. Moreover, for investment funds, there is an obligation to publish investments included in the fund.

- ***We engage with companies***

Financial Institutions argue that engagement is a positive approach towards harmful companies, and financial institutions often claim that setting up a dialogue with the company provides an opportunity for change. It is difficult to check the effectiveness of this policy, as most of the time there is no transparency about efforts to engage, which means it is impossible to know whether and in what way the engagement procedure is going.

The difficulties with these procedures are:

- In general, it is not clearly stated how a company needs to change, and more importantly in what period of time.
- It is not always clear what the financial institution will do if a company does not change. Engaging with companies is fruitless without seriously considering excluding companies that do not change, and if the investor will not apply the pressure necessary for a company to change.
- Being an active shareholder has not until now changed much in the company's policy. Active ownership of banks often does not go further than asking for the company's sustainability report, asking for more general information and asking for independent governors. These actions are far away from demanding a good policy or ending the production of cluster munitions, or from threatening to restrain their money if nothing changes.
- Engagement can be used as an excuse to continue investing in interesting business partners, which do not fit a bank's policy on cluster munitions.

- ***We do not have a mandate from our clients***

“Clients ask us to get the biggest revenue possible. They do not ask us to stop financing companies involved in cluster munitions”. The reality of the situation is that banks decide where they invest their money, and since they are often not transparent about their investments, it is difficult for clients to know which companies are being financed. In reality, the majority of customers don’t want their money to be invested in producers of illegal weapons. Financial institutions should implement transparent policies which enable customers to make an informed choice.

- ***Referring to the person/committee responsible for implementing the policy***

Having a person or committee responsible is a good sign. A good policy is still needed, since only comprehensive policies provide guidelines and procedures. Furthermore, implementing a policy is a way to be transparent to clients. Without a policy it is difficult to be accountable for your actions.

- ***Clients have the option to choose sustainable products***

Having a big supply of sustainable products does not restrain a bank from having investments in cluster munitions. This argument means that a bank still considers investments in cluster munition producers as clean investments: a client can ask for cluster munition-free investments, but as a bank, it is still acceptable to invest in cluster munition producers.

- ***A lot of sustainable products invest in our bank***

“Our bank is considered best in its class by several sustainable researchers”. This argument is not valid. Screening agencies of sustainable products most of the time don’t set good enough standards by the social, ecological and ethical components of the investment policy of the bank. The screening is mostly focussed on the internal social and ecological policy of the bank for their own CO2 reduction, their staffing policy, etc. There are even some SRI products that don’t exclude investments in cluster munitions producers.

2. FOCUS ON GOVERNMENTS

Governments have an important role in ensuring that all companies, including financial institutions, operating within their jurisdiction are compliant with national and international law. Therefore governments, particularly governments of States that have joined the Convention on Cluster Munitions (CCM), have an important role in ensuring that financial institutions within their country are not investing in cluster munitions – a weapon that has been banned by that State under international law.

2.1 WHAT ARE WE ASKING GOVERNMENTS TO DO?

Although the CCM does not explicitly ban investments in cluster munition producers, it bans “assistance” in the production of cluster munitions under Article 1(c) of the Convention on Cluster Munitions which states that: *“Each State Party undertakes never under any circumstances to assist, encourage or induce anyone to engage in any activity prohibited to a State Party under this Convention”*.

Interpret the prohibition on “assistance” to cover investments

Whilst it is not explicitly stated, the prohibition on assistance in Article 1(c) should be read to prohibit investments in cluster munition producers. Providing financial assistance and financial services to companies producing cluster munitions is a clear example of “assistance” in the production of cluster munitions, which is banned under the Convention. Several States have also stated that they interpret the Convention on Cluster Munitions to prohibit investments in cluster munition producers, including Lebanon, Mexico, Norway and Rwanda.

Signatory States and States Parties to the Convention on Cluster Munitions should state that they interpret the Convention to prohibit investments in cluster munition producers. States can do this by writing a letter to the CMC, as well as announcing it in public statements or at conferences on

the Convention. Getting States to announce this interpretation of the CCM is the first step in our disinvestment campaign. All States should also enshrine this interpretation in national legislation.

Enact national legislation banning investments

To be fully compliant with an interpretation of the Convention's prohibition on investments, and to ensure that any financial institutions based in that particular country do not invest in cluster munition producing countries the government must pass national legislation prohibiting investments in cluster munitions. As of October 2009, 3 states have banned investment in cluster munitions by passing national legislation: Belgium, Ireland and Luxembourg. Other states have started a process to ban investments: Denmark and Switzerland are debating the issue in parliament right now.

Whilst this a very positive move by these States there are various weaknesses in either the legislation or the implementation of it. You can read more about this in the report.

States should pass comprehensive legislation banning all investments in cluster munition producers. Legislation should:

- Explicitly prohibit the investments in the producers of cluster munitions and/or key components for cluster munitions of explosive submunitions, using the definition of a cluster munition as defined in the CCM;
- Explicitely ban investments in all company's activities.
- Cover investment by any financial institution within that country's jurisdiction including both public and private funding;
- Include sanctions for those financial institutions that do not abide by this legislation;
- Have a comprehensive definition of the term 'investment' that encompasses all of the bank's activities including commercial banking, investment banking and asset management, for both their own account and for third parties;
- Effectively cover all investments without any exception or other loophole
- Clearly state how the legislation will be monitored and implemented.

Monitor and implement the legislation

States must also monitor and implement their national legislation for it to have full effect.

States should make clear in their legislation how the investments will be monitored and how the legislation will be implemented. An effective way to ensure full compliance with the legislation is to include an obligation for the government to draw up a list of cluster munition producers. This list must be regularly checked and audited. Having a public list of producers of cluster munitions makes it easier for financial institutions to implement the law, and they are all required to use the same list of producers. Moreover, it is important to put pressure on companies producing cluster munitions to end production.

These are some counter arguments often heard by governments who argue against producing a public list of companies that produce cluster munitions.

- ***Our government does not want to cause a 'situation' with the country that is producing cluster munitions***

Ensuring compliance with humanitarian law must be prioritised over State relations. The government has signed up to ensuring an end for all time to the suffering and casualties caused by cluster munitions. Under Article 21 of the Convention on Cluster Munitions, *all* States Parties have an obligation to encourage States not party to join the Convention and to promote the norm set by the Convention. Targeting countries that are still actively producing cluster munitions and urging them to cease production and adhere to the global norm developing against cluster munitions is a treaty obligation.

The only way to ensure that financial institutions in this country are not funding cluster munition producers is to determine which companies are producing cluster munitions and to make this list publicly available so that financial institutions can ensure that they are fulfilling these requirements.

Moreover, a government should follow public opinion on the matter, and not that of non-signatory states. There is increasing international consensus against cluster munitions which means making sure companies who produce cluster munitions end this activity, no matter where they are based.

- ***There is a risk that our government will be pursued by a producing company***

Governments are often concerned about falsely accusing a company of producing cluster munitions, damaging that company's image and presenting factually incorrect information that could result in being sued by that company. However, publishing a list does not mean that the government cannot contact the company in advance to give the company your findings and ask for their reactions. In doing so you can check your findings with them and make sure the list you make public is accurate.

2.2 WHO SHALL I TARGET?

Signatory States and States Parties to the Convention

States that have signed the Convention on Cluster Munitions have shown a moral and ethical commitment to bringing an end for all time to the harm caused by cluster munitions. All States that have ratified the Convention (which all signatory States are expected to do and most are in the process of doing already) have also made a legally-binding commitment. Therefore signatory States and States Parties should have both the political will and legal obligation to ensure that any activities carried out under their jurisdiction are not contravening the aims and purpose of the Convention by facilitating the production of cluster munitions. However, even some signatory States and States Parties will provide arguments not to prohibit investments, some of these arguments and counter-arguments are in the section 3 of this guide 'frequently heard reactions by governments'. But ultimately, governments that have signed onto the ban do not want to get bad press and be seen to not be fulfilling their obligations.

Most States are required to pass national implementing legislation on the Convention on Cluster Munitions. For some States this legislation must be completed before the State can ratify the Convention. Several States are currently drawing up national implementing legislation which provides a good opportunity to lobby to get an inclusion on a prohibition on investments. However if it is not possible to get a prohibition on investments in the implementing legislation, separate legislation can also be drawn up specifically on prohibiting investments in cluster munitions.

Non-signatory States

The main aim with the government of non-signatory States is to convince them to sign or accede to the Convention on Cluster Munitions. This is the most important step which will ensure that they ban the use, production, stockpiling and transfer of cluster munitions. After achieving this, it can then be strategic and effective to lobby the government to explicitly ban investments in cluster munitions.

However, this is not to say that the disinvestment campaign is not a useful tool in non-signatory States. Targeting governments by putting pressure on financial institutions and therefore indirectly on producers of cluster munitions can have help to get financial institutions to lead the way by disinvesting, and also help to end cluster munition production. Targeting financial institutions can also be an effective way of engaging the public. These overall efforts can help to provide a compelling argument for signatory States to sign the Convention.

You can download a template letter from the CMC to send to non-signatory States:

<http://www.stopclustermunitions.org/take-action/government/>

Government ministries

Various government ministries can be targeted to lobby for legislation prohibiting investment in cluster munition producers. In most countries it is the Ministry of Foreign Affairs that is the primary Ministry responsible for decisions related to the Convention on Cluster Munitions. It is often the

Ministry of Foreign Affairs that leads on the development of national implementing legislation and coordinates on this with other Ministries such as Defence.

The Ministry of Finance and/or the Ministry of Business, or related Ministries, will also be involved decisions related specifically to the investment side of the legislation. Ministries of Justice and Ministries of the Interior can also be involved in issues related to legislation.

With the ongoing financial crisis governments in many countries have shares in banks and other financial institutions. This creates an additional responsibility on the part of government to ensure that any activity carried out by companies that it has shares in, or is a public financial body, does not contravene or undermine political decisions by the government.

Members of parliament (MPs)

In most countries parliamentarians have an important role in both influencing and enacting legislation. Many parliamentarians have been actively involved in supporting a comprehensive ban on cluster munitions and working to get their governments to sign and ratify the Convention on Cluster Munitions.

Members of parliament can ask parliamentary questions to seek information regarding the government's involvement in cluster munition producers and its policy towards this. Parliamentarians can discuss and start initiatives to build support among other MPs in parliamentary committees. Parliamentarians can table motions for parliamentary debates on the issue of investment in cluster munition producers which requires the government to formulate its position and provide a response. Legislation in most countries requires parliamentary approval and so MPs play an important role in helping to ensure that legislation banning investment in cluster munition producers is enacted.

2.3 HOW TO RESPOND TO FREQUENTLY HEARD REACTIONS FROM GOVERNMENTS

These are some counter arguments to the arguments most frequently heard by governments on why specific legislation banning investments in cluster munitions is not needed. You should also refer to the 'frequently heard reactions by financial institutions' as the process to establish legislation will involve talking to the banks and other financial institutions.

- ***Funding the production of cluster munitions is covered by other general rules and criminal law***

It is important to have separate legislation where investment in cluster munitions is explicitly and comprehensively banned. Having general rules that could imply a ban on investments are not a strong legal basis to ensure that it covers a prohibition on financial support to cluster munition producers.

- ***We will do our best to ensure that we do not invest in cluster munitions but it cannot be enshrined in legislation***

The only way to ensure that funding the production of cluster munitions is enforced and punishable by law is to draw up legislation specifically prohibiting investment in cluster munitions producers.

- ***Deciding whether investment in a cluster munition producer constitutes 'assistance' and contravenes the law will be established on a case-by-case basis***

Governments should set clear guidelines for financial institutions to follow and implement, which means they do not need to check every new case. Clear guidelines make implementation of the law far more efficient. A black list is even more helpful.

- ***The Convention on Cluster Munitions is an agreement between governments, not between individuals or companies: financial institutions are responsible for implementing a policy that bans investments in producers of cluster munitions.***

Legislation that implements international law is applicable to all companies and citizens in that country. This legislation must make clear all activities prohibited under the Convention on Cluster

Munitions and ensure that it covers funding the production of cluster munitions which constitutes as 'assistance', and as such is prohibited under the CCM.

Financial institutions need and benefit from clear guidelines laid down by their government. By drawing up national legislation governments are supporting the financial institutions that have already implemented a comprehensive policy and force other financial institutions to live up to the same high standard.

In cases where governments partially own financial institutions they have an even greater responsibility to ensure that these financial institutions are not undermining government policy.

- ***Our country has already drawn up national implementing legislation (i.e. it is too late)***
Separate legislation can be drawn up that specifically bans investment in cluster munitions.

- ***We can regulate the use of or own public funds, but we can't or won't prohibit private investments.***

It is irresponsible and inconsistent to disinvest public funds but continue to allow private investors to breach these rules and understandings. To ensure that the ban on investments is comprehensive and far-reaching, legislation must cover all types of investments: public, private as well as that of local government including councils and municipalities.

Governments can achieve this by enforcing adequate regulations and by publishing a list of the companies that produce cluster munitions that is accessible to all investors.

- ***Our legislation will prohibit 'known' investments but we cannot be responsible in cases we are unknowingly invest in cluster munitions***

As with the example given above, a publicly available list of cluster munition producers will help to ensure that there are no investments in producing companies. This will need to be audited to ensure that it is enforced properly.

3. FOCUS ON PUBLIC AND MEDIA

3.1 ENGAGING THE PUBLIC

Disinvestment campaigns can be useful tools to engage members of the public and in previous disinvestment campaigns have been crucial in bringing about change. Almost every member of the public has a bank account or pension fund: if their bank or pension fund is investing in cluster munitions then so are they.

There is increased awareness among the public over how financial institutions behave and how they invest their customers' money. This is both a result of the financial crisis but also because more people are concerned about ethical investment generally. Most people would be shocked to know that their money is funding cluster bomb production.

Banks have a large customer base which also means a large number of potential campaign supporters. If enough people take action and express concern over their bank or pension fund investing in cluster bombs and threaten to withdraw their funds and close their bank accounts unless the company disinvests, this can have a real impact.

Harnessing this outrage and engaging people to take action can help to bring about a positive change in policy and practice of both banks and governments. Disinvestment campaign can be a useful tool to engage public supporters in broader campaigning efforts against cluster bombs. Ideas for campaign actions are below based on the activities organised by CMC members previously. Social media and networking are also useful ways to engage the public in campaign actions.

3.2 ENGAGING THE MEDIA

The divestment campaign presents an interesting opportunity to engage financial and business media as well as political media, including radio, print media, journals and publications as well as online publications.

The financial crisis can also present an opportunity for highlighting the decisions that financial institutions make, which includes ethical decisions.

Engaging media through the angle of the divestment campaign can help to bring attention to other issues related to cluster munitions and the Convention on Cluster Munitions. Securing media attention for your divestment campaign can have a real impact on pressuring financial institutions to divest: financial institutions do not want bad press. The case studies below show how media attention helped to bring about positive change.

3.3 IDEAS FOR CAMPAIGN ACTIONS

PUBLIC ACTIONS

Organise a public outside action outside banks and other financial institutions that are investing in cluster bombs.

- In **Belgium** campaigners staged a demining demonstration in AXA's headquarters urging AXA to divest and to "clean up its investments".
- In the **Netherlands** campaigners dressed up as the lions, the logo of the Dutch ING bank, holding they types of weapons that the bank invests in to attract media attention. Campaigners (and the lions!) delivered their divestment report to executives at the bank. You can see a short film here: <http://www.oxfamnovib.nl/id.html?lang=EN&id=12486>
- In **New Zealand** campaigners held a protest outside New Zealand's Superannuation Fund.



- In **New Zealand** campaigners held a public talk and screened a film on divestment with speakers from the New Zealand parliament, the Norwegian Pension Fund and campaigners involved in research and campaigning on divestment issues to raise awareness.



LETTER AND POSTCARD ACTIONS

Mobilize organisations and supporters in your country to send letters to financial institutions that are investing in cluster bombs and to the government. Template letters are available on the website at <http://www.stopexplosiveinvestments.org/take-action/campaign-toolkit>

- In **France**, campaigners engaged supporters in a postcard action targeting AXA and calling on it to divestment from cluster munitions.

SOCIAL MEDIA AND NETWORKING

Social media, networking, multimedia and blogging are useful tools to engage a broad public audience and inspire people to take action in a quick and effective way. Tools such as Facebook, Twitter and You Tube can provide useful forums to share simple campaign messages and calls to action. These forums are often good ways to promote online email and web-based actions such as online petitions and email actions.

- **Facebook** is a useful for sending out links to online actions, short pieces of news and information as well as campaign messages. It can be sent out via groups and causes such as the existing 'Ban Cluster Bombs International' group or by setting up new groups specifically on the divestment campaign in your country and recruiting supporters to it. Messages and actions can also be sent out to your friends on Facebook asking them to take part in an action or event.
- **Twitter** is similar to a blog and can be used to send short campaign messages and news as well as links to actions (within the limit of 140 characters) to 'followers' of a particular twitter feed, such as CMC's #banclusterbombs twitter feed.
- **You Tube** can be used to post short films about divestment and the cluster bomb campaign to raise awareness and promote calls to action.
- **Online and web-based actions** including petitions and email actions can be set up to target decision-makers in financial institutions and governments. Standard emails calling on banks and governments to divest from cluster bombs can be set up online and promoted to hundreds or thousands of people to take the action within just a couple of minutes.

PARLIAMENTARY ACTION

Parliamentarians have been key supporters in national divestment campaign actions. They have asked questions in parliament, initiated parliamentary debates, tabled motions and lobbied for legislation banning investment. Several campaigners have worked closely with parliamentarians on their divestment campaigns, see the case study in section 4.

- In **Switzerland**, campaigners engaged parliamentarians to table a parliamentary motion on divestment from cluster munitions that was debated in the Swiss parliament.

PRESS CONFERENCES AND MEDIA OUTREACH

Holding press conferences and reaching out to both financial and political media can help to get coverage of the divestment issue in your country. Securing media coverage of investments in and divestments from cluster munitions has been an important tool for all campaigners who have organised divestment campaign actions.

CARTOONS

Cartoonists have helped to raise awareness of banks investing in cluster munitions. It's a topic that can be effectively conveyed through the use of cartoons and helps to reach a wide audience.

- In the **Netherlands**, cartoonist René Leisink, drew the cartoon below to raise awareness of Dutch banks investments in weapons. It was published in 'De Pers' in July 2009 following a national report launch that included a chapter on investments in cluster munitions.



Translation:

Title: *"Banks invest in weapon producers"*

Bank employee: *"At least he is using a weapon from one of our producers"*

AD BUSTING

Ad busting is when corporate logos or adverts are changed making a spoof or parody of their advertisement to make a statement.

- In **Belgium**, campaigners have targeted a range of banks in their ad busting campaigns which were placed in newspapers and used in campaign actions. Take a look at them below.



Translation:

Invest in the arms industry

*Protect today
You're living tomorrow*

Arm ING

Dare go too far

4. CASE STUDIES

BELGIUM

Belgium was the first country in the world to explicitly ban investments in cluster munitions producers through national law. That didn't happen from one day to the next and relied on campaigning by NGOs, support from Belgian political parties and financial institutions, and media coverage. Without the perseverance of some politicians and the commitment of the representatives of the financial institutions there probably wouldn't have been possible. Here's a short report on how this came about.

It started with a public campaign and the launch of a report by an NGO that targeted Belgian banks because of their involvement in investments in producers of anti-personnel mines. This report got a lot of media attention, received public indignation and support from politicians in government. The Belgian parliamentary committee on finance was looking at the implementation of European guidelines for investments funds. A member of parliament submitted an amendment that prohibited investment funds in anti-personnel mine producers. This amendment got approved by the parliament quickly as nobody dared or tried to defend these types of investments because of the public outcry it was receiving.

NGO's started to ask "why doesn't this investment ban count for other investments and investors other than investment funds?" This led to a draft law that banned investments in anti-personnel mines for all investors and all investment products. The argument was clear and simple: "it doesn't matter for a victim of these weapons if the funding of bombs is due to investment funds or by other means of investment."

The financial sector, that is normally resistant to any kind of rules restricting their activities, could only say they were not against this rule, but that it should be workable. By lobbying friendly members of parliament the sector made sure the draft law got re-worked. NGOs provided critiques on the draft law.

The flaws identified by banks as well as NGOs, and the fact that the banks didn't refuse an investment ban on principle, made a somehow peculiar partnership possible. NGOs met with banks and a network of social investors to prepare an amended version of the draft law. NGOs built close contacts with banks that already had a ban on such investments to help overcome

arguments put forward by reluctant banks. 90% of the approved law came from the proposal put forward by NGOs and banks.

When the new draft law proposal was discussed, renewed public indignation surrounding cluster munitions was used in combination with an action targeting politicians. Campaigners referred to the European Parliamentary resolution on a mine free world (July 2005) to ban investments in controversial weapons like anti-personnel mines and cluster munitions, and the draft law to ban investments in anti-personnel mines was extended to an investment ban in cluster munitions. The representatives of the banks didn't oppose this addition, which meant disinvesting from a much larger group of companies and potential business partners. However they did stick to their position that investments in index funds should not be prohibited following a special hearing where some banks states that it would be technically impossible to ban cluster munitions producers from of index funds. The legislation consequently makes an exception for index funds. Since then, several financial institutions have banned cluster munitions producers from index funds, showing that this can be done.

The work is not done yet: the law still requires implementation. In the Belgian case, implementing decrees needed to be published. Despite unanimous approval, several parliamentary interventions and campaign actions were needed to find out which minister would be responsible for implementation as well as explaining how it would be monitored and implemented. Responsibility has been assigned to the Minister of Justice, who has promised implementation by the end of 2009.

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Netwerk Vlaanderen has also successfully campaigned to get financial institutions to disinvest from cluster munitions producers. Their campaign "My Money, Clear Conscience?" (2003 – 2004) produced 2 reports demonstrating the investments of financial institutions on cluster munitions and other controversial weapons. As a result of their campaigning around these reports it forced 4 bank groups (AXA, Dexia, Fortis and ING) to withdraw their investments in cluster munitions and KBC to completely end its investments. Read the full report on the "My money, Clear Conscience?" campaign here:

<http://www.netwerkvlaanderen.be/en/files/documenten/campaigns/banksandweapons/ReportApril2005Eng.pdf>

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FRANCE

After three years of work and two public campaigns, disinvestment campaigning in France has successfully influenced Axa, BNP Paribas, Société Générale, Crédit Agricole, Banque Populaire and Natixis to adopt the "no investment/no financing" policy. AXA went one step further, and completed the disinvestment program.

In May 2009, an initiative with "Fédération des Banques Françaises" (FBF) and "Fédération Française des Sociétés d'assurance" (FFSA) was launched with the objective of converting the "no investment / no financing" policy adopted by the largest French Banks and by AXA into a rule applicable to all French banks and insurance companies. Campaigners are currently working with the banks on the implementation of these policies. This work is seen by campaigners as a first step towards similar work with the European Banking Federation (EBF) and with the European insurance and reinsurance federation (CEA).

These are some lessons learned from the disinvestment campaign in France:

1. Collaborate with other NGOs (Amnesty International and Handicap International worked together in France with Netwerk Vlaanderen). This was effective and efficient as each NGO brought complementary competencies to the campaign.

2. Seek out and take advantage of opportunities to engage in dialogue including private discussions with the companies before launching a public campaign. The threat of the launch of a public campaign (and in some cases the actual launch of a public campaign as was the case for AXA) when private discussions were not leading to the expected results was helpful. Amnesty International's activist base gave weight to our arguments in private discussions.
3. Give a tight schedule with deadlines for financial companies to deliver results. We used Oslo Process event dates and anniversaries, including anniversaries of events.
4. Make sure you build up a good level of technical knowledge of the internal workings and technical dimensions of banks and insurance companies. This allows for a constructive dialogue on an equal footing.
5. Have a clear focus on a specific topic (such as disinvest from / stop financing cluster munitions) without broader attacks on banks and insurance companies. This was appreciated by the investment companies we were speaking to and helped to achieve results for our campaign.
6. Not showing any flexibility whatsoever in negotiations on the heart of the matter ("adopt an explicit policy of no investment in / no financing of cluster munitions manufacturers") combined with a reasonable degree of flexibility and a realistic approach on the actual implementation of the adopted policy (in the real world, disinvesting takes time and we showed and said that we knew that). Here again, this pragmatic approach was appreciated by the investment companies we were speaking to and bought us a significant amount of good will from them which helped us be totally inflexible on the principle we wanted to achieve.
7. Make sure that 1) the policy adopted by banks and insurance companies covers proprietary as well as third party investment and, more generally, any form of financing, 2) that it becomes a public policy (among other things by being published on the banks' and insurance companies' web site) and 3) that it ends up being reflected in the banks' and insurance companies' internal rules or codes of conduct and therefore can be controlled by the banks and insurance companies' internal auditors.
8. Display public documents on www.business-humanrights.org to increase transparency on the exchanges between NGOs and companies, as well as to raise awareness among the Corporate Social Responsibility community.

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NETHERLANDS

In March 2007, IKV Pax Christi was involved in carrying out research for the documentary "the cluster bomb feeling" by Jos van Dongen. This documentary showed that the majority of Dutch financial institutions, and most notably pension funds, were investing in cluster bombs. The public outrage that was caused by this documentary was huge and many financial institutions realised that they should come up with changes soon. The fact that many clients did not think about what happens with their savings or investments, and to show them what actually happens with for example their pension money, has proven to be a very powerful tool. IKV Pax Christi targeted pension funds after the film was released, and many have since changed their policies. In general, the biggest fear of financial institutions is that it a public campaign will damage their image. Public awareness however has proved to be necessary in many cases to cause any serious change within financial institutions' policies and practice.

In June 2009, IKV Pax Christi was involved in a research publication with the Eerlijke Bankwijzer (a coalition of Oxfam Novib, Amnesty, Milieudefensie, and FNV) on investments from banks in The Netherlands in controversial arms and controversial arms trade. The research, which focused on policy and the implementation of this policy with regard to controversial weapons, received a lot of attention and focused on the difference between policy and practice. IKV Pax Christi had meetings with the banks that were found to be involved with producers of cluster munitions, and some banks have changed their policy and/or disinvested from companies. It has lead to engagement procedures in other cases.

They then partnered with Netwerk Vlaanderen to publish a report on financial links with companies that produce cluster munitions world wide. This State of the Art Report presented information on investments in producers of cluster munitions worldwide and was picked up by international media.

These reports not only resulted in media coverage and appointments with financial institutions, but also led to policy change by pension funds and banks and greater awareness among clients.

In November 2009, IKV Pax Christi publishes a report that covers investments of banks and pension funds in The Netherlands in companies that produce cluster munitions. IKV Pax Christi organized an expert meeting with representatives from Dutch financial institutions, civil society, members of parliament and academics to provide a platform to discuss the report findings and to open the discussion about legislation to ban investments in cluster munitions.

Members in the Netherlands predict that the biggest challenge will be to get the parliament to discuss disinvestment at the same time that ratification of the CCM will be discussed at the end of 2009.

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