Cluster Munitions Legislation in the Netherlands

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1. Introduction
2. Overview of countries with legislation
3. The Dutch legislation
4. Identification of companies involved in cluster munitions
5. Recommendations
We help clients turn vast quantities of environmental, social and governance information into insightful, value-added analysis to enable more informed investment and business decisions.

- Offices in Amsterdam (HQ), Boston, Frankfurt, Paris, Singapore, Timisoara and Toronto. Representative offices in Bogota, Bucharest, Brussels, Copenhagen, London and San Francisco.

- Over 140 staff (70+ analysts).

- Over 300 institutional clients globally

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Where is Legislation Happening?

A Global Trend

- France and the UK have provided ministerial statements that investments in cluster munitions are prohibited

- Convention on Cluster Munitions signed

- Convention on Cluster Munitions comes into force
What is the Scope of the Legislation?

- Non-Dutch Financial Institutions
- Dutch Financial Institutions
- Dutch Foreign Offices

**Scope:**
- Insurance
- Investments
- Loans
- Savings

**Pending (mid-2013):**
- Hedge Funds
- Private Equity funds

**Exempted:**
- Clearing houses
What is prohibited? What is exempted?

**Prohibited:**
- Buying or offering financial Instruments from Company X on own account or through other (non-Dutch) parties
- Providing loans to Company X
- Acquiring capital in Company X

**Exempted:**
- Indexes or third-party funds that consist of less than 5% of companies with involvement
- Financing projects of Company X, which are not used for the production, sale or distribution of cluster munitions
When is a Company Involved?

The Dutch legislation applies the following criteria for involvement:

- Production, sale or distribution of (essential parts of) cluster munitions
- A company that owns more than 50% of an aforementioned company
Who is Producing Cluster Munitions?

Cluster Munition Production

* States Parties and signatories to the Convention on Cluster Munitions which produced cluster munitions in the past are indicated in italics.

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What is the Definition of a Cluster Munition?

Convention on Cluster Munitions art. 2:
“Cluster munition” means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms, and includes those explosive submunitions. It does not mean the following:
(a) A munition or submunition designed to dispense flares, smoke, pyrotechnics or chaff; or a munition designed exclusively for an air defence role;
(b) A munition or submunition designed to produce electrical or electronic effects;
(c) A munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics:
   I. Each munition contains fewer than ten explosive submunitions;
   II. Each explosive submunition weighs more than four kilograms;
   III. Each explosive submunition is designed to detect and engage a single target object;
   IV. Each explosive submunition is equipped with an electronic self-destruction mechanism;
   V. Each explosive submunition is equipped with an electronic self-deactivating feature.
What is Sustainalytics’ research process?

Controversial weapons
- Activity type
- Product or service type
- Dedicated vs. non-dedicated
- Key vs. non-key
- Ownership (owns, owned by)

Research principles
- Research and review
- High quality resources
- Company contact
- Review Committee

Sources
- Company information
- Company dialogue
- Specialized websites and databases
- Visiting weapon exhibitions
The Controversial Weapons Radar (CWR)

- Research on companies’ involvement in the development, production, maintenance or trade of seven types of controversial weapons;
- Anti-personnel mines, biological and chemical weapons, cluster weapons, depleted uranium ammunition, nuclear weapons and white phosphorus weapons;
- These weapons are considered controversial due to the disproportionate and indiscriminate impact they have on civilians, often many years after the conflict have ended;
- Coverage of all public and private companies worldwide;
- Quarterly updates;
- Transparent methodology and inclusion of all sources;
- Company feedback process;
- Team of four analysts.
What are the next steps?

1. **Understand the issue and legislation**: get legal and compliance expertise;

2. **Define a policy**: create a policy containing the scope, definitions and criteria on how you will comply with the legislation;

3. **Implement**: translate the policy to the organization, identify all potential relationships with cluster munitions producers; apply clear implementation procedures throughout your organization;

4. **Provide justification**: dialogue with internal and external stakeholders; report on progress;

5. **Evaluate**: evaluate if the policy still matches the legal, societal and organizational reality.
Key Takeaways

- Legislation prohibiting the financing of cluster munitions is becoming more common practice
- Differences in legislation per country
- Legislation in other countries also impact UK investors
- Challenge to identify companies involved in cluster munitions
- Translating legislation into your organization important
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