

**Date: September 16, 2024**

**Advisory Committee on Investment Responsibility**

**Decision Memorandum regarding Proposal Number 1 submitted on May 8, 2024.**

**BACKGROUND & SUBMISSION**

The Advisory Committee on Investment Responsibility (ACIR) serves as a liaison between the USC community and the Investment Committee of the Board of Trustees. The ACIR reviews environmental, social, and governance-related (ESG) issues/proposals raised by the university community, Investment Office, or the Investment Committee. The ACIR is composed of two staff members, two faculty members, two alumni, and two students (one graduate student and one undergraduate student).

The ACIR received a proposal from a university community member on May 8, 2024. The full proposal is reproduced at the end of this document, but in summary, it “aims to compel the USC Board of Trustees, the USC Investment Committee, and the USC Chief Investment Officer to take [the following actions:]”

“First, USC should pull out of direct investments in controversial weapons manufacturers, military contractors, and international law violators by implementing negative screening methods outlined in this submission. Additionally, USC should utilize the screening websites and tools provided to determine companies and funds eligible for divestment, while implementing the 10% threshold for pooled funds such as ETFs and mutual funds.

To protect returns and ensure the growth of the endowment in perpetuity, a portion of the divested funds should be invested in ex-weapons funds, available for research through As You Sow’s WeaponsFreeFunds. Furthermore, the Investment Committee should use existing frameworks built through the divestment in fossil fuels to facilitate divestment, subsequent to the methodology outlined in this proposal.”

The ACIR reviewed the proposal in detail in its standing meeting on July 19, 2024, and in an off-cycle meeting on August 23, 2024, and reached the following decision.

**ANALYSIS**

**The ACIR evaluated the proposal based on the following criteria:**

- **Community Alignment:** The degree of alignment or dissent within our university community regarding the proposal's positions.
  - **ACIR analysis:** A key factor the ACIR considered is whether there is broad and compelling alignment within our diverse community around the issues and recommendations in the proposal. Regarding the portions of the proposal related to the Israel-Gaza conflict, the ACIR did not find a broad and compelling consensus within our community. The events of the past year have shown vehement

disagreement and ongoing debate regarding these issues, which have deeply and painfully impacted many in our university community on all sides. As for the portions of the proposal related to the defense industry and weapons manufacturing, the ACIR similarly found a lack of consensus, noting that the university has robust programs for students, staff and faculty in military service organizations and that many members of the community perform research or seek work relating to these industries. The ACIR further noted that some companies covered by the proposal may serve multiple industries and objectives, including space travel and commercial airline travel.

- **University Mission and Endowment Purpose:** The degree of alignment between the proposal's recommendations and the endowment's purpose of perpetually supporting the university's educational mission. This includes funding scholarships, financial aid, research, facilities, and programs for students, faculty, and staff.
- **ACIR analysis:** Although the ACIR acknowledged that the proposal addresses significant political and moral issues the ACIR did not find a sufficiently strong connection between the recommendations and the university's mission of education, research, and student development. Additionally, the proposal's scope raised concerns regarding potential negative impact on the endowment and, consequently, the university and its long-term mission. The Investment Committee has a fiduciary responsibility to ensure the endowment generates sufficient returns, so that it can execute its mission, in perpetuity, for both current and future students.
- **Institutional Role:** The proposal's alignment with the university's commitment to viewpoint diversity, free speech, and robust debate through institutional neutrality and restraint.
  - **ACIR analysis:** Key factors in the review of the proposal included its broad scope, its impact on our diverse community, and the potential to suppress robust debate on critical issues. Because actions taken through the endowment would be perceived as a form of institutional statement, the ACIR considered whether adopting the proposal's positions would support our community's commitment to fostering diverse viewpoints or instead have the effect of isolating or silencing certain points of view. Given that the proposal is grounded in contested political and moral issues, adopting the recommendations could stifle debate and marginalize voices within our community, and would be inconsistent with the university's commitment to institutional restraint and neutrality.
- **Scope/Practical Considerations:** The feasibility of implementing the proposal within the existing management framework and practices for the endowment.
  - **ACIR analysis:** While the practicalities of implementing the terms of a proposal are matters left to the Investment Committee of the Board of Trustees and the Investment Office, the ACIR considered the potential implications raised by the proposal's breadth. The endowment is primarily invested through commingled funds with external investment managers. The restrictions set forth in the proposal would limit

the pool of diverse and qualified external managers available to manage the endowment, thereby impeding the endowment's ability to maximize long-term returns.

**ACIR Decision**

Based on the criteria and analysis above, the ACIR concludes that the May 8, 2024 proposal should not be recommended to the Investment Committee.

# Proposal Received by ACIR

This ACIR Community Proposal was submitted on May 8, 2024.

USC Community Affiliation (student, staff, faculty, alumni, etc.): Student

**Topic for Consideration:** Divestment from the Defense Industry

## Summary of Issues or Areas of Concern

This submission aims to compel the USC Board of Trustees, the USC Investment Committee, and the USC Chief Investment Officer to take actions as outlined in the section on Recommendations.

Over the course of this past month there has been unprecedented support for the University to divest from war manufacturers across students, faculty, and alumni. These calls are motivated by a significant increase in international conflict and human suffering over the last five years, particularly the illegal occupation of Palestine and Israel's killing of nearly 40,000 people in Gaza according to Uppsala Conflict Data Program.

This submission argues that it is in the interest of the Investment Committee to adhere to University Bylaws in responsible investing. The University has set forth values of responsible investing, defined in terms of environmental, social, and governance compliance, in its Statement on Investment Responsibility, which the University is mandated to follow as stated in its Bylaws (Section 4.8, b, 4).

This submission begins by leveraging a growing body of research showing that investments in the defense industry consistently violate values of ESG investing and values of the University including integrity and sustainability. We have also compiled a presently growing database of

evidence, illuminating genocide and apartheid in Occupied Palestine, along with tangible steps to protect USC's reputation and to hold states and companies who benefit from human rights abuses accountable. Then, counter arguments are introduced, analyzed, and refuted. Finally, this submission outlines tangible next steps pushing the University to follow its defined values through practices that uphold and prioritize the Investment Committee's fiduciary responsibility.

With regard to USC's investments in the defense industry, the most salient area of concern pertains to ethical considerations in relation to the US-supported Israeli war on Gaza. On October 22, 2022, the UN Committee of Inquiry determined Israel's occupation of Palestinian territory as unlawful. Since then, Human Rights Watch has noted five categories of violations of international human rights law and humanitarian law: unlawful killings, forceful displacement, abusive detention, unjustified restrictions on movement, and the development of settlements.

While we will avoid detailing the complex structures of apartheid as outlined in Resolution 2202 A (XXI) of the General Assembly of the United Nations, leading human rights organizations have charged Israel with the crime of apartheid following these violations, including Israeli human rights organizations Yesh Din and B'Tselem, as well as Human Rights Watch and Amnesty International. Full reports can be found on each organizations' respective websites.

In a similar vein, we point at the International Court of Justice, who has ruled that Israel faces a plausible case of genocide. Additionally, the UN Special Rapporteur has described Israel's actions within occupied Gaza as a genocide. Further support is provided in the Key Data section.

We argue that supporting companies aiding in these unlawful activities are in violation of USC's core mission of "develop[ing] human beings and society as a whole through the cultivation and enrichment of the human mind and spirit." The ownership of equity through the endowment of companies like Boeing, who manufactures bombs, fighter jets, and other military technology for the IDF, or General Dynamics, who supplies the Israeli military with weapons used against Palestinian civilians, clearly opposes the advancement of society. USC has pledged to enrich and cultivate, not destroy and impoverish. We urge the committee to honor consistency and reject hypocrisy by divesting from defense.

Second, USC's connections to major companies in the defense industry raises Environmental,

Social, and Governance (ESG) concerns. ESG factors are crucial in modern investment strategies, especially for institutions like USC who are committed to responsible investing as demonstrated by the formation of the Advisory Committee on Investment Responsibility. The defense industry often faces challenges related to environmental sustainability (e.g., pollution and resource depletion), social issues (e.g. the monetary promotion of violence, as well as human rights abuses) and governance (e.g. transparency and ethical business practices).

In addition to the social harm outlined in the previous argument, USC’s investments help perpetuate environmental degradation. As reported by The Guardian, the defense sector generated 281,000 metric tons of carbon dioxide via carpet bombing of the occupied Gaza Strip in only two months of war. The ecological devastation of agricultural land, potable water sources, and air quality is in violation with international humanitarian law, as Articles 35(3) and 55(1) of the Additional Protocol I to the 1949 Geneva Conventions prohibit warfare that may cause “widespread, long-term and severe damage to the natural environment.”

These ethical and environmental implications must be considered first and foremost when such grievous human rights violations are being committed with the active participation of the companies in which USC invests.

Note on the “Defense Industry” and “Weapons Manufacturers”: The U.S. Bureau of Labor Statistics does not list either on their list of industries, and companies playing a crucial role in supplying Israel with means to commit atrocities against civilians are spread across multiple industries and subindustries. In the context of this submission, the Defense Industry or Weapons Manufacturers will refer to weapons and military equipment manufacturers as defined by The American Friends Service Committee: any company that provides products or services to military bodies, organizations, or groups that are used to facilitate or undertake violent acts against civilians or violations of international law. This definition pertains to the Israeli/Palestinian conflict, and further qualifications for divestment are outlined in the Key Data Section.

## Key Data and Footnotes

### Genocide & Human Rights Violations

Article II of the UN 1948 Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.” (1)

South Africa referred Israel to the International Court of Justice for an investigation into the incitement and crime of genocide against Palestinians in Gaza. Noting statements made by Israeli government officials and testimonies of the deplorable humanitarian conditions in Gaza, the judges wrote that “in the Court’s view, the facts and circumstances mentioned are sufficient to conclude that at least some of the rights claimed by South Africa and for which it is seeking protection are plausible.”

The final ruling reflected that sentiment, affirming the international community’s recognition of the human rights violations being committed in Gaza.

To elaborate on the humanitarian crisis in Gaza, we refer to the Council of Foreign Affairs. They estimate the death toll to be 34,000, with around 66,000 injured (3). 120 journalists and over 150 UN employees have been killed—the largest number of aid workers killed in any conflict in UN history. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reports that as of December 2023, 65,000 homes had been destroyed, forcibly displacing 1.9 million Palestinians. Electricity, safe drinking water, and food has been cut off, with roughly 90% of Gazans facing crisis levels of food insecurity (4). They also face a shortage of key medical supplies, with only 12 out of 36 of Gaza’s hospitals even partially functional. This prevents civilians from accessing life saving care. Furthermore, it is our responsibility as an educational institution to acknowledge and condemn the scholasticide that Israel has been committing in Gaza. According to the United Nations Human Rights Office of the High Commissioner (OHCHR), more than 5,479 students, 261 teachers and 95 university professors have been killed in Gaza, and over 7,819 students and 756 teachers have been injured (5). Approximately 60% of educational facilities have been damaged or destroyed and at least 625,000 students lack access to education. Israa University, the last remaining university in Gaza was demolished by the Israeli military on January 17th.

USC’s inaction implies complicity in these atrocities—therefore we implore the ACIR to divest from companies and funds that directly deal in business with Israel.

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### Financial Action

Divestment using financially sound principles that fulfill the Investment Committee's fiduciary responsibility is possible. To address the ethical concerns raised and to specify divestment candidates, we have compiled a set of negative screening criteria and questions from the OHCHR.

USC should disinvest from direct investments if any of the companies violate the following:

- "Provide products or services that contribute to the maintenance of the Israeli military occupation of Gaza and the West Bank;
- Provide products or services to the maintenance and expansion of Israeli settlements in the occupied Palestinian territories;
- Establish facilities or operations in Israeli settlements in the occupied Palestinian territories;
- Provide products or services that contribute to the maintenance and construction of the Separation Wall;
- Provide products or services that contribute to violent acts against either Israeli or Palestinian civilians." (6)
  
- Does the company maintain contracts selling weapons (e.g.: guns, explosives, white phosphorus) or vehicles (e.g.: tanks) to the Israeli Defense Forces? – Violates A, E
- Does the company sell reconnaissance tools used by Israeli Defense Forces (e.g.: drones or surveillance software)? – Violates A, B
- Does the company sell weapons or vehicles used by Israeli Defence Forces police? – Violates E
- Does the company sell demolition equipment (i.e., bulldozers) used in the illegal destruction of land and homes in East Jerusalem, the West Bank, and/or the Golan Heights? – Violates A, B, E
- Does the company sell construction equipment used in the illegal construction of settlements in East Jerusalem, the West Bank, and/or the Golan Heights? – Violates B, C
- Does the company have operating offices or production plants in illegally settled areas of East Jerusalem, the West Bank, and/or the Golan Heights? – Violates B, C
- Does the company sell products (building materials) or services (construction co.) that contribute to the maintenance and construction of the Separation



Wall? – Violates D

- Does the company divert essential resources (e.g.: water) from the occupied territories and contribute to the systematic deprivation of Palestinians in these territories? – Violates E

Adherence to these criteria is essential to avoid contributing to the illegal human rights violations in Occupied Palestine.

In addition to direct divestment, USC has a duty to divest from pooled funds that comprise of those aiding human rights violations—applying a threshold of 10% of pooled fund exposure to companies violating the divestment criteria is reasonable.

The American Friends Service Committee’s website includes a screening tool to evaluate portfolios of mixed asset investments, including ETFs and mutual funds. The tool evaluates total fund assets invested in occupation companies, with more information provided for individual funds and companies. (7,8). Additionally, our 10% threshold is developed from existing negative-screening funds like Montpiesser, which determine exclusions from investment based on their percent revenue exposure to arms (9). In conjunction with the AFSC screening tool, this threshold will prevent USC from remaining complicit in illegal acts.

(1)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-prevention-and-punishment-crime-genocide>

(2) <https://static01.nyt.com/newsgraphics/documenttools/e9d8337ab5ae1d92/72977573-full.pdf>

(3) <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict>

(4) <https://www.cfr.org/in-brief/israel-hamas-war-humanitarian-crisis-gaza>

(5)

<https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>

(6)

<https://reliefweb.int/report/occupied-palestinian-territory/ohchr-update-database-all-business-enterprises-involved-activities-detailed-paragraph-96-report-independent-international-fact-finding-mission-30-june-2023>

(7) <https://investigate.afsc.org/about>

(8) <https://investigate.afsc.org/>

(9) [https://montpensier.com/wp-content/uploads/documents/exclusion\\_policy.pdf](https://montpensier.com/wp-content/uploads/documents/exclusion_policy.pdf)

## Explanation of counterargument(s)

Counter argument I: Fossil fuels, which in addition to its ethical, environmental, and social impacts, had a negative financial prediction in 2019 when the Board of Trustees committed to divesting. However, divesting from defense is not a financially savvy move - it is predicted to continue growing in value potentially bringing in significant profits and value to the university endowment.

Rebuttal: Ex-weapons funds are fully diversified and offer similar long-run performance in comparison to non-screened funds. According to Schroder's report, "Demystifying negative screens: The full implications of ESG exclusions," exclusions do not have a large impact on returns when plotting the MSCI World Index against funds ex-fossil fuels, ex-tobacco, and ex-weapons. We acknowledge that there is a short run impact caused by screened funds'

reactions to outperformance of certain industries and macroeconomic factors—both positive and negative. For instance, ex-weapons funds tend to do >2% worse when global industrials outperform, but perform better when global healthcare and global growth outperforms. These effects average out in the long run—we urge the Investment Committee to focus on the long term nature of their investments rather than short term fluctuations.

This claim is also supported by a peer reviewed journal article published by Bingley: Emerald Publishing regarding the factors influencing Socially Responsible Investment (SRI) funds. The study found that these funds produce similar risk-adjusted returns relative to established indices such as the S&P 500 Index, Russell 2000 Index, Barclays US Aggregate Bond Index, and the MSCI World Index. The article also outlines how funds with more management experience, as well as funds that implement negative screening rather than positive have higher returns. This further supports the negative screening list as outlined in Key Data.

Furthermore, there are multiple screening tools that facilitate the divestment from weapons. The American Friends Service Committee (AFSC):  
(<https://investigate.afsc.org/>)

The AFSC has a history of providing aid to vulnerable populations—from helping thousands of Jewish refugees escape Nazis in WWII to organizing against apartheid in South Africa. The organization won the Nobel Peace Prize in 1947 for their human and compiles research, publications, and data to promote social responsibility

Who Profits: <https://www.whoprofits.org/companies/all>

Who Profits Research Center is an independent research center dedicated to exposing the commercial involvement of Israeli and international corporations in the ongoing Israeli occupation of Palestinian and Syrian land and population. Who Profits collaborates with international human rights organizations such as Human Rights Watch, Amnesty International, and the United Nations Office of the High Commissioner for Human Rights.

UN Office of the High Commissioner for Human Rights “HRC Resolution 31/36 Database”: <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session31/database-hrc3136>

The Office of the High Commissioner for Human Rights (OHCHR) is a United Nations agency responsible for promoting and protecting human rights around the world. Established in 1993, it operates under the authority of the UN General Assembly and is guided by the principles outlined in the Universal Declaration of Human Rights. The OHCHR receives support and cooperation from member states of the United Nations, as well as from regional organizations, international NGOs, and civil society groups.

As You Sow’s WeaponsFreeFunds:

[https://weaponfreefunds.org/funds?dsc=false&srt=grade\\_military](https://weaponfreefunds.org/funds?dsc=false&srt=grade_military)

Founded in 1992, As You Sow is a nonprofit organization based in the United States that focuses on corporate responsibility and shareholder advocacy. As You Sow is directly engaged in promoting social responsibility with nonprofit organizations like Greenpeace and Human Rights Watch, as well as academic institutions, government agencies and large multinational corporations.

Using these tools will alleviate logistical problems and reinforce a financially sound divestment plan.

Counter argument II: The Investment Committee has a fiduciary responsibility to maintain the growth of the endowment. Ethical considerations are secondary to financial ones.

Rebuttal II: Not only has negative screening proved to not significantly harm growth, the fiduciary role of the committee reaches beyond ensuring sufficient returns. It extends to protect the best interests of the endowment, which includes upholding USC’s value of integrity and service to its community. There has been unprecedented stakeholder support for divestment from students, faculty, and alumni—the school’s best interest is shaped by its people and its people are calling for divestment.

Furthermore, the United Nations Principles for Responsible Investment (PRI) published a report in January 2024 outlining the importance of human rights as a framework for determining the responsibility of financial investments. PRI outlines corporate responsibility adhering to the United Nations Guiding Principles on Business and Human Rights:

“Business enterprises including institutional investors should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights outcomes with which they are involved.”

Clearly, USC’s fiduciary responsibility extends much further than growth and encompasses ethical and legal considerations.

## Conclusion and recommended action

First, USC should pull out of direct investments in controversial weapons manufacturers, military contractors, and international law violators by implementing negative screening methods outlined in this submission. Additionally, USC should utilize the screening websites and tools provided to determine companies and funds eligible for divestment, while implementing the 10% threshold for pooled funds such as ETFs and mutual funds.

To protect returns and ensure the growth of the endowment in perpetuity, a portion of the divested funds should be invested in ex-weapons funds, available for research through As You Sow’s WeaponsFreeFunds. Furthermore, the Investment Committee should use existing frameworks built through the divestment in fossil fuels to facilitate divestment, subsequent to the methodology outlined in this proposal.