

Mike Hsu
Chairman and Chief Executive Officer
Kimberly-Clark Worldwide, Inc.
351 Phelps Dr,
Irving, Texas,
United States of America

RE: Kimberly-Clark Worldwide, Inc.'s business operations in Russia

March 23, 2023

Dear Mr. Hsu and Kimberly-Clark Worldwide, Inc. Leadership Team,

We write to you as [B4Ukraine](#), a coalition of Ukrainian and international civil society organizations working to curtail the financial resources enabling the Russian invasion of Ukraine. We expect companies to demonstrate opposition to Russia's war of aggression, public support for the people, democracy, and territorial integrity of Ukraine, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs). At stake is not only the sovereignty and territorial integrity of a democratic Ukraine, but also the continuity of the rules-based international order and the prosperity of the global economy.

We request an urgent dialogue regarding potential inconsistencies between Kimberly-Clark Worldwide, Inc.'s (Kimberly-Clark's) stated policies on human rights and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

We acknowledge that Kimberly-Clark has policies in place to guide the company toward ethical behaviour. In its Human Rights Policy, the company clearly indicates its commitment to supporting and promoting human rights.¹ The Human Rights and Social Compliance standards state that Kimberly-Clark aims to hold itself and the company's suppliers accountable, and to identify and address emerging human rights issues and escalations.² According to the company:

"The objective of our social compliance standards is to proactively manage salient human rights risks across our supply chain."³

Kimberly-Clark's commitment to human rights is further emphasised in the company's Code of Conduct, Modern Slavery Statements, and the Global Sustainability Progress Report.⁴

¹ Kimberly-Clark, "Human Rights Policy," July 18, 2018, <https://www.kimberly-clark.com/-/media/kimberly/pdf/ethics-and-governance/human-rights-policy.pdf?l%E2%80%99=en> (accessed March 22, 2023).

² Kimberly-Clark, "Human Rights and Social Compliance," <https://www.kimberly-clark.com/en-us/esg/2030-ambition/esg-article/human-rights-and-social-compliance> (accessed March 22, 2023).

³ Ibid.

⁴ Kimberly-Clark, "Code of Conduct," <https://www.kimberly-clark.com/en-us/investors/corporate-governance/code-of-conduct> (accessed March 22, 2023); "Addressing Modern Slavery in our Supply Chain," <https://www.kimberly-clark.com/-/media/kimberly/pdf/kc-global-statement-august-2022.pdf?la=en-us>

In 2010, Kimberly-Clark became a signatory to the United Nations Global Compact and its 10 fundamental values related to Human Rights, labour standards, the environment, and the fight against corruption.⁵

It has been over one year since Russia invaded Ukraine and the devastating impacts continue to shock the global conscience and shake the global economy. Russia is violating international humanitarian law (IHL), including war crimes and crimes against humanity, through attacks on civilians and civilian infrastructure (e.g., mass executions, sexual violence, torture, and forcible transfer of civilians). More than 22,000 Ukrainians have been killed and injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times.

On September 21, President Vladimir Putin escalated the war by announcing a “partial mobilisation” of the Russian population. The accompanying legislation ([Article 9 of Federal Law No. 31-FZ](#)) mandates all organisations, including the 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if at least one of the employees is eligible for military service.⁶ They must also assist with delivering the military summons to their employees, ensure the delivery of equipment to assembly points or military units, and provide information, buildings, communications, land plots, transport, and other material means of support to the war effort.

A new decree issued by President Vladimir Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and implement external management in companies that don't fulfil state defence contracts under conditions of martial law. By specifying the process of appointing Russian government representatives to manage businesses that fail to meet state orders, the latest Decree effectively creates a scenario of "partial nationalization."⁷

This legislation entails new and significant legal risks for companies remaining in Russia, including potential civil and criminal liability under comprehensive sanctions regimes and recent international jurisprudence holding corporations and their officers responsible for human rights abuses abroad.⁸

(accessed March 22, 2023); “Global Sustainability Progress Report,” <https://www.kimberly-clark.com/-/media/kimberly/pdf/key-download-pdf/kc-2021-sustainability-report.pdf> (accessed March 22, 2023).

⁵ 4 United Nations Global Compact, “Kimberly-Clark,” <https://unglobalcompact.org/what-is-gc/participants/12661-Kimberly-Clark-Corporation> (accessed March 22, 2023).

⁶ Federal Law No. 31-FZ of February 26, 1997 “On mobilization training and mobilization in the Russian Federation” (as amended), <https://base.garant.ru/136945/> (accessed January 2, 2022).

⁷ B4Ukraine, “New Kremlin regulation raises risks for the 1600 international companies left in Russia,” March 7, 2023, <https://b4ukraine.org/whats-new/new-kremlin-regulations> (accessed March 13, 2023).

⁸ International companies remaining in Russia are now at a greater risk of violating sanctions regimes as implementation of the legislation will likely involve transacting with sanctioned individuals or entities. Furthermore, new domestic civil and criminal cases against companies involved in violations of international law demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g., Lafarge case, Lundin case, Castel Group indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) Victoria Riello and Larissa Furtwengler, “Corporate Criminal Liability for International Crimes: France and Sweden Are Poised To Take Historic Steps Forward,” September 6, 2021, <https://www.justsecurity.org/78097/corporate-criminal-liability-for-human-rights-violations-france-and-sweden-are-poised-to-take-historic-steps-forward/> (accessed January 2, 2022); The Sentry, “Breaking: France Opens War Crimes Inquiry Focused on Iconic Food and Beverage Conglomerate,” July 1, 2022, <https://thesentry.org/2022/07/01/7216/breaking-france-opens-war-crimes-inquiry-focused-iconic-food-beverage-conglomerate/> (accessed January 2, 2022); Rfi, “French technology firm charged over Libya cyber-spying,” July 2, 2022, <https://www.rfi.fr/en/business-and-tech/20210701-french-tech-firm-charged-over-libya-cyber-spying> (accessed January 2, 2022); Preston Lim, “Canadian Supreme Court Allows Corporate Liability for International Law Violations,” Lawfare, March 12, 2022, <https://www.lawfareblog.com/canadian-supreme->

Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁹

In response to this unprovoked and unjustified war¹⁰ many companies have left Russia. According to the Kyiv School of Economics Institute's (KSE) #LeaveRussia [company tracker](#), Kimberly-Clark has decided to scale back some of its Russian operations, while continuing others.¹¹

In March 2022, Kimberly-Clark issued a statement expressing solidarity with the people of Ukraine and calling for a “peaceful resolution to this war.”¹² The company contributed to the humanitarian aid efforts in Ukraine and in neighbouring countries, pledging financial aid, as well as hygiene and health products. However, in the same statement, Kimberly-Clark declared that it is continuing its operations in Russia.¹³ The company has substantially curtailed all media, advertising and promotional activity, and suspended all capital investments in its Stupino Russia facility, but is still producing “essential items, specifically baby diapers and feminine pads.”¹⁴

Prior to the invasion, Kimberly-Clark had significant business operations in Russia. The company has been heavily investing in the country since 1996, and in 2019 Kimberly-Clark invested \$80 million into the Stupino factory, increasing its capacity by up to 40%, making the plant the largest Kimberly-Clark manufacturing facility in Central and Eastern Europe.¹⁵ While the company stopped capital investments in Stupino, it did not stop manufacturing. Furthermore, Kimberly-Clark is still searching for new employees in Russia.¹⁶

The company continued its engagement in Russia even after the destruction of its warehouse in Ukraine¹⁷ and, as the company notes in its 2022 Annual Report, increasing input costs, supply chain complexities, reduced consumer demand, restricted access to financial institutions, increased monetary, currency and payment controls, as well as increased risk of cyber-attacks.¹⁸

[court-allows-corporate-liability-international-law-violations](#) (accessed January 2, 2022); Sherpa, “Aiding and abetting war crimes in Yemen: Criminal complaint submitted against French arms companies,” June 2, 2022, <https://www.asso-sherpa.org/aiding-and-abetting-war-crimes-in-yemen-criminal-complaint-submitted-against-french-arms-companies> (accessed January 2, 2022).

⁹ Venable LLP, “Do You Contract with State Governments? If So, Beware of Emerging State Sanctions’ Obligations Related to Russia and Belarus,” *JD Supra*, June 3, 2022, <https://www.jdsupra.com/legalnews/do-you-contract-with-state-governments-6537229/> (accessed January 2, 2022).

¹⁰ The UN General Assembly condemned Russia’s “aggression against Ukraine” and demanded that Moscow “unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

¹¹ KSE, Leave Russia, “Kimberly-Clark,” <https://leave-russia.org/kimberly-clark> (accessed March 22, 2023).

¹² Kimberly-Clark, “Kimberly-Clark Response To The War In Ukraine,” March 9, 2022 <https://www.news.kimberly-clark.com/2022-03-09-Kimberly-Clark-Response-to-the-War-in-Ukraine> (accessed March 23, 2023).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Petra Godesa, “These are the American companies still doing business with Russia,” *Grunge*, February 2, 2023, <https://www.grunge.com/800534/these-are-the-american-companies-still-doing-business-with-russia/> (accessed March 22, 2023).

¹⁶ Kimberly-Clark Careers, “Original Thinkers at Kimberly-Clark in the Russian Federation,” <https://www.careers.kimberly-clark.com/en/russian-federation> (accessed March 22, 2023).

¹⁷ EBA, “Kimberly-Clark is resuming operations in Ukraine and working to ensure uninterrupted access of Ukrainian consumers to critical goods,” May 16, 2022, <https://eba.com.ua/kimberly-clark-vidnovlyuye-diyalnist-v-ukrayini-ta-pratsyuje-nad-zabezpechennyam-bezperebijnogo-dostupu-ukrayinskyh-spozhyvachiv-do-krytychno-vazhlyvyh-tovariv/> (accessed March 22, 2023).

¹⁸ Kimberly-Clark, “2022 Annual Report,” <https://investor.kimberly-clark.com/news-releases/news-release-details/kimberly-clark-announces-year-end-2022-results-and-2023-outlook> (accessed March 22, 2023).

We understand that Kimberly-Clark claims that its reason for continuing operations in the country is providing essential goods: “Consistent with the humanitarian nature of our products, we are focused on producing essential items, specifically baby diapers and feminine pads, which are critical to the health and hygiene of women, girls and babies.”¹⁹

However, the ‘essentiality argument’ has come under increasing scrutiny.²⁰

We are writing now to seek clarification on several points regarding Kimberly-Clark’s policy on essential goods, as follows:

Can Kimberly-Clark provide its definition and list of goods it considers essential in light of the particular circumstances of this conflict?

Has Kimberly-Clark considered whether its goods can be replaced with local substitutes?

Has Kimberly-Clark considered all the circumstances and complexities of the war in Ukraine in determining to continue providing these goods within Russia?

We are requesting a clarification from Kimberly-Clark on whether it intends to continue operating in the Russian market. These activities and the tax contribution to the Russian economy risk enabling and financing Russia’s violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating Kimberly-Clark’s commitment to abiding by the UNGPs. It remains to be seen how directly Kimberly-Clark will be impacted by the partial nationalisation, partial mobilisation, and the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

We seek to understand how Kimberly-Clark has conducted and continues to conduct heightened human rights due diligence and how the findings of such a process have resulted in these continued business activities and relationships. As noted by the UNGPs:

...the more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship. In any case, for as long as the abuse continues and the enterprise remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial or legal – of the continuing connection.

In consideration of the above points and B4Ukraine’s Declaration,²¹ we request an urgent dialogue with Kimberly-Clark’s relevant senior management and staff to discuss the company’s ongoing activities and relationships in Russia, associated risks to the people of Ukraine and the company, and potential steps to prevent/mitigate these risks. Please contact B4Ukraine at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, April 6th, 2023.

Please do not hesitate to get in touch if you require any further information.

Sincerely,

The B4Ukraine Coalition

¹⁹ Kimberly-Clark (n 12).

²⁰ B4Ukraine, “Companies claim they stay in Russia to provide essential goods to locals. But is that really true?,” <https://b4ukraine.org/what-we-do/companies-claim-they-stay-in-russia> (accessed March 22, 2023).

²¹ B4Ukraine, “About,” <https://businessforukraine.info/about> (accessed January 2, 2022).