

George Economou
TMS Tankers Ltd.
109, Kifissias Ave. & Sina str.,
GR-151 24 Maroussi
Greece

RE: TMS Tankers Ltd.'s business operations in Russia

February 27, 2023

Dear Mr. Economou,

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 TMS Tankers Ltd.'s (TMS Tankers) ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

We acknowledge that TMS Tankers has policies in place to guide the company toward ethical behaviour. According to the company's Environmental & Energy Management Policy, TMS Tankers "is committed to complying with all local, national and international rules and regulations and legal obligations, including industry recommendations, guidelines and codes of practice as setting the standards for minimum performance."¹ While we understand that this stated commitment refers to the company's environmental and energy policies, we hope that TMS Tankers would share the sentiment and drive for respecting internationally recognised human rights, principles, voluntary and obligatory codes of conduct, the UNGPs, the UN Global Compact, the OECD Guidelines, and the norms of international humanitarian and human rights law.

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 18,000 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

¹ TMS Tankers, "Environmental & Energy Management Policy," <https://www.tms-tankers.com/ghse.html> (accessed February 9, 2023).

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.² 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.

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.³ Companies may be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁴

In response to this unprovoked and unjustified war⁵ many companies have left Russia. According to the Kyiv School of Economics Institute's (KSE) #LeaveRussia [company tracker](#), TMS Tankers has decided to stay and continue its operations with Russia.⁶ Since the beginning of the illegal invasion of Ukraine on February 24, 2022, calculations show that Russia's income has dropped but the volume of exports has remained relatively stable despite sanctions.⁷ While many European and American traders, oil companies and maritime service providers have terminated business with Russian

² 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).

³ 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.iustsecurity.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-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).

⁴ 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).

⁵ 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."

⁶ KSE, Leave Russia, "TMS Tankers Ltd.," <https://leave-russia.org/tms-tankers> (accessed February 9, 2023).

⁷ Dmitry Zhdannikov, Chen Aizhu, and Nidhi Verma, "Lost Russian oil revenue is bonanza for shippers and refiners," *The Japan Times*, February 8, 2023, <https://www.japantimes.co.jp/news/2023/02/08/business/russia-oil-revenue-shippers/> (accessed February 9, 2023).

shipping entities since the Ukraine invasion, analysis shows Greece's biggest shipowners have increased exposure.⁸ A report from Global Witness confirms this, stating:

"Of the product carried by Western shipping companies, 91% was carried on Greek-owned tankers. After Russian-owned Sovcomflot, tankers owned by the Greek shipowners – Economou Group of Companies, Andreas Martinos & family, Dimitris Prokopiou & family, Diamantis Diamantides & family – were the next top shippers of Russian oil and oil products since February 24th. Tankers owned by these shipowners collectively carried 172 million barrels of oil and oil products."⁹

In summary, since the start of the invasion, the bulk of Russian exports are handled by Greek shipowners, of which TMS Tankers holds the majority.¹⁰ For example, TMS Tankers shipped the largest volume of crude or products out of key ports of Primorsk, Novorossiysk, Ust-Luga and St Petersburg ports in April 2022, with 16 tankers totalling 1.9m dwt.¹¹ In January 2023, forty per cent of tankers tracked at key Russian oil export ports were owned by Greek companies.¹²

TMS Tankers Ltd. provide "comprehensive ship management services including technical management and supervision of maintenance, inspections and repairs, safety, quality and environmental compliance, crew management and training, as well as purchasing, [...] management services including operations, post-fixture administration, accounting, freight invoicing and insurance."¹³

In June, TMS Tankers' *Daytona* carrying Russian oil products, was detained by the U.S. Customs and Border Protection Agency, to investigate the cargo which originated in Kazakhstan, but sailed from the Russian Taman peninsula in the Black Sea.¹⁴ While the tanker provided certificates of origin and documentation proving that the cargo abided by Russian restrictions, the encounter showed the stringency of sanctions against Russia.¹⁵ The brush did not dissuade TMS Tankers from furthering its business with Russia. In January 2023 alone, Greek-owned ships handled at least 21 voyages of Russian crude to a variety of destinations, and TMS Tankers-owned the *Lovina*, loaded crude at

⁸ Michelle Wiese Bockmann, "Russian sanctions provide opportunity for Greek shipowners," *Lloyd's List*, April 29, 2022,

<https://lloydslist.maritimeintelligence.informa.com/LL1140633/Russian-sanctions-provide-opportunity-for-Greek-shipowners> (accessed February 9, 2023).

⁹ Global Witness, "One year on: Western companies traded 384 million barrels of Russian oil," February 24, 2023,

<https://www.globalwitness.org/en/campaigns/stop-russian-oil/one-year-western-companies-traded-384-million-barrels-russian-oil/> (accessed February 27, 2023).

¹⁰ Bockmann (n 8)..

¹¹ Ibid.

¹² Michelle Wiese Bockmann, "Greek-owned ships load last oil from Russia over January," *Lloyd's List*, January 30, 2023,

<https://lloydslist.maritimeintelligence.informa.com/LL1143801/Greek-owned-ships-load-last-oil-from-Russia-over-January> (accessed February 12, 2023).

¹³ *Don't Fund Russian Army*, "Greek shipowners transported more than 19 mln tons of Russian oil for a total amount of \$19 bln. 104 oil tankers,"

<https://dont-fund-russian.army/bloodygrecetankers.html?fbclid=IwAROP6Foe9VCC1VaGphjNqTPnDBirws7Y9TR-kJgWdMlI8nAnLucLqbTZys> (accessed February 9, 2023).

¹⁴ Anna Hirtenstein, "Oil Tanker Is Stopped by U.S. in Transit From Russian Port to New Orleans," *The Wall Street Journal*, June 28, 2022,

<https://www.wsj.com/articles/oil-tanker-is-stopped-by-u-s-on-transit-from-russian-port-to-new-orleans-11656429086> (accessed February 9, 2023).

¹⁵ Michelle Wiese Bockmann, "Three Russia-loaded tankers sail to US," *Lloyd's List*, August 16, 2022,

<https://lloydslist.maritimeintelligence.informa.com/LL1141953/Three-Russia-loaded-tankers-sail-to-US> (accessed February 9, 2023).

Russia's Primorsk port and sailed to India.¹⁶ Between February 24 and August 31, TMS Tankers exported the most oil, gas and coal out of all European companies, totaling 8.7 million tonnes DWT.¹⁷

As oil is the principal source of income for the Kremlin, shipowners who assist Moscow in earning from it support Russia and its war in Ukraine. As a result, the Ukrainian National Agency for Prevention of Corruption (NAPC) has included TMS Tankers in the list of international sponsors of the war.¹⁸ The basis for this decision was the information provided by the Economic Security Council of Ukraine, which notes the company's significant contribution to the Russian economy.¹⁹ Likewise, George Economou, the owner of TMS Tankers, George Kourelis, the General Manager of TMS Tankers, and Daniel - Costin Şindrilaru, the Chief Officer of TMS Tankers, were personally included on the list as individual sponsors of war.²⁰

Due to these developments, we are requesting a clarification from TMS Tankers regarding its position on the Russian market. The company's activities risk enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating TMS Tankers' obligations to the UNGPs. It remains to be seen how directly TMS Tankers will be impacted by the 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 TMS Tankers has conducted and continues to conduct heightened human rights due diligence and how the findings of such a process has 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 TMS Tankers' 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, March 13th, 2023.

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

¹⁶ *Reuters*, "Western tankers ramp up Russian oil shipments under price cap," February 1, 2023, <https://www.reuters.com/business/energy/western-tankers-ramp-up-russian-oil-shipments-under-price-cap-2023-02-01/> (accessed February 9, 2023).

¹⁷ Chris Matthews et al., "European ships bolster Russian fossil fuel trade despite looming EU sanctions," *Reporters United*, September 29, 2022, <https://www.reportersunited.gr/en/9775/european-ships-bolster-russian-fossil-fuel-trade-despite-looming-eu-sanctions/> (accessed February 12, 2023).

¹⁸ NAPC, War & Sanctions, "International Sponsors of War," <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 8, 2023).

¹⁹ *Ibid.*

²⁰ *Ibid.*

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

Sincerely,

The B4Ukraine Coalition