

Dame Emma Walmsley
Chief Executive Officer
GlaxoSmithKlein PLC (GSK)
980 Great West Road, Brentford,
Middlesex, TW8 9GS,
United Kingdom

July 28, 2023

RE: GSK's business operations in Russia

Dear Ms. Walmsley,

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. In the spirit of respect for the fundamental rights of all people, the rules-based international order, and a prosperous global economy, we expect companies to demonstrate public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, and alignment with the UN Guiding Principles on Business and Human Rights (UNGPs).

We request an urgent dialogue regarding potential inconsistencies between GSK's obligations under international humanitarian and human rights law and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms.

It has been 16 months 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, forcible transfer of civilians). More than 25,000 Ukrainian civilians 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. In recognition of the severity of abuses, in March 2023 the International Criminal Court issued an arrest warrant for Vladimir Putin to answer war crimes charges for an alleged scheme to deport Ukrainian children to Russia.¹

Moreover, as outlined below, recent developments in Russia point to an expanding universe of financial, legal, and reputational risks facing remaining companies.

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 more than 1,500 international companies that are currently operating on a full or limited scale in Russia, to conduct military registration of the staff if

¹ International Criminal Court, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova," March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (accessed March 22, 2023).

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.

A new decree issued by President 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.³ 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."

With new legislation introducing partial mobilisation, nationalisation, and potentially martial law in Russia, it is highly likely that corporations will be unable to prevent or mitigate negative human rights impacts; an obligation imposed on companies by the United Nations Guiding Principles on Business and Human Rights. As such, continuing to conduct business in Russia entails significant legal risks for companies, 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.⁴ By remaining in Russia, companies face the rising risk of criminal liability for complicity in international crimes, which can be prosecuted by domestic courts outside Russia under the doctrine of "universal jurisdiction."⁵ Companies may also be exposed to financially

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 November 14, 2022).

³ Decree of the President of the Russian Federation No. 139 dated March 3, 2023 "On Certain Issues of Carrying Out the Activities of Business Companies Participating in the Fulfilment of the State Defense Order", <http://publication.pravo.gov.ru/Document/View/0001202303030004> (accessed March 22, 2023).

⁴ 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," *Just Security*, 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 November 14, 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 November 14, 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 November 14, 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 November 14, 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 November 14, 2022).

⁵ For example, ongoing proceedings in the US and France against the French multinational Lafarge for complicity in human rights violations in Syria. The Paris Court of Appeal, "La Cour d'appel de Paris confirme la mise en état de la multinationale française Lafarge pour complicité de crimes contre l'humanité commis par l'Etat islamique," May 18, 2022, <https://www.doughtystreet.co.uk/sites/default/files/media/document/Press%20release%20french%20version.pdf> (accessed March 22, 2023); United States Attorney's Office, Eastern District of New York, "Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations," October 18, 2022, <https://www.justice.gov/usao-edny/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terroris> (accessed March 22, 2023).

material risks through operational restrictions, such as limitations of future government contracts.⁶

Firms which continue to trade with Russia also face high levels of risk attached to financial transactions. On 24 February 2023, the Financial Action Task Force (FATF) suspended Russia's membership as a result of the war, calling on all actors in the international financial system to exercise extreme caution in all dealings with Russia.⁷ In practice, the decision means that all international banks will scrutinise all Russian payments, making financial transactions more expensive, lengthy, with no guarantee that the transaction will occur at all.⁸ Although FATF has not yet blacklisted Russia, it highlighted the consensus among its 36 member countries that "the Russian federation's actions represent a gross violation of the commitment to international cooperation upon which FATF Members have agreed to implement and support the FATF Standards."⁹ Previous practice shows that noncooperative behaviour is one of the reasons for FATF blacklisting. As a result, companies should examine and mitigate the high levels of risk attached to financial transactions with Russia and based on that risk, companies should reconsider all ongoing business operations related to Russia.

A recent report shows that Russia poses a "real threat to global financial integrity, as well as to national security more broadly."¹⁰ Additionally, the revelation by the Russian president confirming that the internationally recognized transnational criminal organization known as the "Wagner Group" is funded by the Russian government has brought to light a range of alarming risks related to money laundering, terrorist financing, and other financial crimes for businesses involved in or working with Russia.¹¹ It is now a distinct possibility that businesses continuing their operations and paying taxes in Russia may be providing financial support to the Wagner Group, a notorious paramilitary organization.

Additionally, the Ukrainian government's [National Agency on Corruption Prevention](#) (NACP) has created a list of "foreign companies that, despite the international recognition of Russia as the aggressor state and the introduced sanctions restrictions, continue to cooperate with it."¹² These companies are recognised as "international sponsors of war" by the Ukrainian state. The listed entities will be included into the World-Check database to protect the global financial sector from Russian sponsors of war. Since banks and insurance companies use World-check to assess risks, companies on the list will be limited in freely accessing personal and corporate finances. So far there are 31 companies on the list, with NACP noting that it includes "international companies that

⁶ 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).

⁷ FATF, "FATF Statement on the Russian Federation," February 24, 2023, <https://www.fatf-gafi.org/en/publications/Fatfgeneral/fatf-statement-russian-federation.html> (accessed March 14, 2023).

⁸ Liudmyla Sliptsova, "Russia's membership in the FATF suspended. What does this mean and how ruinous is this for the aggressor's economy?," *Mind*, February 27, 2023, <https://mind.ua/en/publications/20253993-russias-membership-in-the-fatf-suspended-what-does-this-mean-and-how-ruinous-is-this-for-the-aggre> (accessed March 14, 2023).

⁹ FATF (n 7).

¹⁰ Themis, "Russia; Country Risk Report," June 2023, <https://themisservices.co.uk/country-risk-report-russia> (accessed June 26, 2023).

¹¹ Telegram, "Встреча Путина с военными и его заявления по поводу ЧВК "Вагнер," June 27, 2023, https://t.me/rian_ru/207202 (accessed July 3, 2023).

¹² NACP, "International Sponsors of War," <https://sanctions.nazk.gov.ua/en/boycott/> (accessed February 6, 2023).

provide the public and private sector with goods and services of critical purpose, as well as [those that] contribute to the Russian budget.”¹³

In response to this unprovoked and unjustified war¹⁴ many companies have already left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), GSK has decided to stay and continue its operations in Russia.

In spring 2022, GSK issued a statement which confirms that the company will “continue to supply medicines and vaccines to Russia” and that it “will prioritise supply of products that are essential for people’s health” in Russia.¹⁵ GSK also notes that it is always compliant with sanctions.

We understand that certain life-saving medicine are essential and must be provided, however, GSK has reportedly increased its sales and profit volumes in Russia since the start of the invasion. GSK’s revenue in Russia has grown from \$347mn in 2021, to \$395mn in 2022. Can GSK confirm that its revenue in Russia amounted to \$395mn in 2022? How much tax has GSK paid in Russia in 2022 and 2023?

Moreover, GSK has increased the volume of product exports to Russia since the start of the invasion.¹⁶ The company has reportedly stopped selling supplements and vitamins in Russia,¹⁷ however, it has continued to import products like Aquafresh.¹⁸ We appreciate that GSK specified that it is taking into consideration medical criticality, patient need and availability of alternatives in determining the essentiality of its products.

However, we are requesting further clarity regarding GSK’s position on essentiality and its operations in Russia. Can GSK provide its definition and list of medicine it considers essential in light of the particular circumstances of this conflict? Can GSK provide a list of medicine that it stopped importing since the outbreak of the war because they are not considered essential? Has GSK considered that some of its goods can be replaced with local substitutes, such as toothpaste, and should therefore not be exported into Russia? Which stakeholders has GSK engaged with in determining these policies and decisions?

GSK has increased its exports into Russia in a time when many multinational businesses are curtailing their operations in the country so as not to contribute to the aggressor’s economy. How does GSK reconcile its moves to stop promotional activities and not start new clinical trials with its increasing exports and revenue in Russia? Has GSK considered all the circumstances and complexities of the Russo-Ukrainian war, including numerous human rights violations and war

¹³ NACP, “Companies from the NACP list of “International Sponsors of War” are now in the World-check database, used worldwide for reviewing counterparties,” September 7, 2022, <https://nazk.gov.ua/en/news/companies-from-the-nacp-list-of-international-sponsors-of-war-are-now-in-the-world-check-database-used-worldwide-for-reviewing-counterparties/?highlight=sponsor+of+war> (accessed February 6, 2023).

¹⁴ 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.”

¹⁵ GSK, “Our response to the situation in Ukraine,” <https://www.gsk.com/en-gb/media/our-response-to-the-situation-in-ukraine/> (accessed July 28, 2023).

¹⁶ KSE, “Leave Russia - GSK,” <https://leave-russia.org/glaxosmithkline> (accessed July 28, 2023).

¹⁷ Pushkala Aripaka, “GSK stops sales of supplement, vitamin to Russia,” *Reuters*, April 6, 2022, <https://www.reuters.com/business/healthcare-pharmaceuticals/drugmaker-gsk-cuts-ties-with-russia-government-over-ukraine-crisis-2022-04-06/> (accessed July 28, 2023).

¹⁸ Squeezing Putin, “GSK (GlaxoSmithKline) Exports into Russia,” May 24, 2022, <https://squeezingputin.com/support.html#GSK24May23> (accessed July 28, 2023).

crimes committed in Ukraine, as well as the fact that Russia is an aggressor state, in determining to continue providing some of its goods within Russia?

We understand that GSK has obligations towards its 250 employees in Russia. These are laid out under the United Nations Guiding Principles on Business and Human Rights and in the wider international human rights legal and regulatory framework. Can GSK clarify how it has used this framework to minimise the risks and impacts to its employees, particularly in light of the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required? Has GSK received any such requests, and if so, how has the company responded to them? What is GSK doing to safeguard its employees from mobilisation? Have any of your employees been mobilised and, if so, what was GSK's role in the process?

Other companies have faced challenges and still committed to, and exited, Russia. Some pharmaceutical companies have scaled back their operations in Russia. While GSK emphasises its donations and humanitarian relief in Ukraine, it has increased its revenue and sales in an aggressor state, even after 16 months of war, over 99,000 reported war crimes, over 25,000 Ukrainian civilians killed or injured, and with the head of the Russian state indicted by the ICC for alleged war crimes.

In consideration of the above points and B4Ukraine's [Declaration](#), we request an urgent dialogue with GSK's relevant senior management and staff to discuss the company's ongoing activities and relationships in Russia and associated risks to the people of Ukraine and the company. Please contact the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET August 11th, 2023.

Sincerely,

The B4Ukraine Coalition