February 3, 2023

RE: Ball Corporation’s business operations in Russia

Dear Mr. Fisher,

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. The coalition expects 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. Such support will also demonstrate respect for the fundamental human rights of all people, the rules-based international order, and a prosperous global economy.

We are encouraged by Ball Corporation’s decision to withdraw from Russia in response to this unprovoked and unjustified war. Having sold its Russian beverage packaging business in September, the company has joined the growing ranks of multinational companies which, according to the Kyiv School of Economics Institute’s #LeaveRussia company tracker, have exited the Russian market, thus minimising the risks of enabling and financing Russia’s violations of international humanitarian and human rights law during the ongoing invasion and occupation of Ukraine.

As you may well be aware, Russia continues to commit war crimes and crimes against humanity through attacks on civilians and civilian infrastructure, mass executions, the bombing of schools, hospitals, and apartment buildings, sexual violence, torture, and forcible transfer of civilians. More than 18,000 Ukrainians have been killed or injured and millions more have been forced to flee their homes, creating one of the largest humanitarian and refugee crises of modern times.

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3 The UN Working Group on Transnational Corporations, Business, human rights and conflict-affected regions states: “Businesses are not neutral actors; their presence is not without impact. Even if business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics.”
On September 21, 2022, 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 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 at least one of the employees is eligible for military service. 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. Companies may also be exposed to financially material risks through operational restrictions such as limitations of future government contracts. By remaining in Russia, companies may not only be exposed to these risks but may also become directly complicit in war crimes.

In addition to these risks, any re-entry into the Russia market would now bring further exposure to the heightened legal, regulatory, operational, and financial risks associated with companies being required to provide direct support to the internationally sanctioned Russian military.

We request a dialogue with Ball Corporation’s senior management and staff to discuss how the company may exert its influence with other companies and consider its potential future relationship.

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7 Nataliya Popovych and Bennett Freeman, "Russia’s Putin is forcing foreign-owned companies to participate in his conscription campaign. It’s time to get out," Fortune, October 13, 2022, https://fortune.com/2022/10/13/russia-putin-foreign-owned-companies-conscription-campaign-sanctions-ukraine-war-international-europe-popovych-freeman/ (accessed November 14, 2022).
with Russia as well as Ukraine. Please contact B4Ukraine at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, February 17th, 2023.

Sincerely,

The B4Ukraine Coalition