

Brian Sikes
Chief Executive Officer
Cargill, Incorporated
PO Box 9300
Minneapolis, MN 55440-9300

CC: Cargill's Executive Team and Board of Directors

January 16, 2023

RE: Cargill Incorporated operations in Russia

Dear Mr. Sikes and Cargill 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 public support for the people, democracy, and territorial integrity of Ukraine, opposition to Russia's war of aggression, alignment with the UN Guiding Principles on Business and Human Rights (UNGPs), and the international rules-based order.

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

As declared in Cargill's Commitment on Human Rights:¹

We promote and respect human rights as outlined in the Universal Declaration of Human Rights and the UN Sustainable Development Goals. We are a participant in the UN Global Compact. We take guidance from the UN Guiding Principles on Business and Human Rights and the International Labour Organisation Fundamental Principles and Rights at Work. These frameworks call on us to engage in due diligence and take action to remedy issues where identified in our workplaces, supply chains and extended communities.

Cargill's commitment to human rights is further confirmed in the company's Guiding Principles and Code of Conduct,² as well as the 2022 ESG Report³ which clearly states:

¹ Cargill, "Cargill Commitment on Human Rights," February 2019, <https://www.cargill.com/doc/1432136529974/cargill-commitment-on-human-rights.pdf> (accessed December 5, 2022).

² Cargill, "Our Guiding Principles Cargill Code of Conduct," 2022, <https://www.cargill.com/doc/1432076403017/guiding-principles-en.pdf> (accessed December 5, 2022).

³ Cargill, "2022 ESG Report," 2022, <https://www.cargill.com/sustainability/2022-esg-report> (accessed December 5, 2022).

We take guidance from international standards and declarations, including the United Nations Guiding Principles on Business and Human Rights (UNGPs), the International Bill of Human Rights, and the International Labour Organization (ILO) Fundamental Principles and Rights at Work. As a signatory company of the United Nations Global Compact, we also are committed to promoting human rights.

It has been more than ten months since Russia invaded Ukraine and the devastating impacts continue to shock the world. Russia is committing war crimes and crimes against humanity through attacks on civilians and civilian infrastructure, including 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 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.⁴ 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. Companies may also be exposed to financially material risks through operational restrictions, such as limitations of future government contracts.⁵

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.⁶

⁴ 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 September 9, 2022).

⁵ 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 September 26, 2022).

⁶ The new legislation creates significant risk of international companies violating sanctions regimes as providing direct services and goods to Russian actors involved in executing the invasion will likely involve transacting with sanctioned individuals or entities. Furthermore, several domestic civil and criminal cases against companies involved in violations of international law, including supporting governmental war crimes and crimes against humanity, demonstrate the risk of significant liability for facilitating state-sponsored human rights abuses abroad (e.g. Lafarge case, Lundin case, Castel Group indictment, Amesys Indictment, Nevsun holding, and Dassault Aviation, Thales, and MBDA France criminal complaint.) See, *France 24*, “French court upholds Syria ‘complicity in crimes against humanity’ charge against Lafarge,” May 18, 2022, <https://www.france24.com/en/live-news/20220518-paris-court-upholds-charges-of-complicity-in-crimes-against-humanity-linked-to-lafarge-s-cement-plant-in-syria> (accessed September 26, 2022); 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 September 26, 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 September 26, 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 September 26, 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>

In response to this unprovoked and unjustified war, more than 160 companies have fully left Russia with hundreds more taking steps to do so. Yet, according to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), while Cargill scaled back some operations in Russia, other areas of Cargill's business continue despite the mounting risks of enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine.⁷

According to the March 11 Statement on Cargill Operations in Eastern Europe⁸ and March 30 Cargill statement on the situation in Eastern Europe,⁹ the company has stopped investment and scaled back some business activities, while food and feed facilities continue. However, Cargill has not specified exactly which products and facilities are continuing to operate in Russia, bringing into question Cargill's statements that it is only continuing "essential" work.¹⁰ Professor Jeffrey A Sonnenfeld of Yale University noted that the vague nature of Cargill's statements gives the "illusory" perception that the company is dedicated to opposing Russia's war, while continuing business as usual.¹¹

Prior to the war, the Ukrainian exports of wheat and grain were flourishing, while Russian exports were falling. As local media sources report, Russian exports increased dramatically because of the war, providing further financial resources to support Russia's unlawful invasion of Ukraine.¹² Cargill is a key actor in this development.

Since the beginning of the invasion, Cargill has exported over 336,000 tons of grain from Russia, as well as large volumes of sunflower oil.¹³ After a Russian missile hit a Cargill chartered ship *Yasa Jupiter* in the Black Sea, the company responded by closing significant operations in Ukraine due to the security risks.¹⁴ However, at the same time, the company continued much larger business operations in Russia. With the soaring prices of wheat, maize, barley, and cereal, Cargill has

(accessed September 26, 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 September 26, 2022).

⁷ 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."

⁸ Cargill, "Statement on Cargill Operations in Eastern Europe," March 11, 2022, <https://www.cargill.com/story/statement-on-cargill-operations-in-eastern-europe> (accessed December 5, 2022).

⁹ Cargill, "Cargill statement on situation in Eastern Europe," March 30, 2022, <https://www.cargill.com/story/cargill-statement-on-situation-in-ukraine> (accessed December 5, 2022).

¹⁰ Meredith Lee, "'Too big to fail': White House careful not to target food companies as it pressures Putin," *Politico*, March 25, 2022, <https://www.politico.com/news/2022/03/25/white-house-food-companies-russia-00020293> (accessed December 5, 2022).

¹¹ Sebastian Shehadi, "Are some companies just pretending to leave Russia?" *Investment Monitor*, June 13, 2022, <https://www.investmentmonitor.ai/special-focus/ukraine-crisis/companies-pretending-leave-russia-investment> (accessed December 5, 2022).

¹² Tom Ball, "Russia is winning battle to control the world's wheat," *The Times*, May 28, 2022, <https://www.thetimes.co.uk/article/russia-is-winning-battle-to-control-the-worlds-wheat-wzvctlhjm> (accessed December 5, 2022).

¹³ Aine Quinn, "Trader Keeps Russian Wheat Flowing as War Sparks Food Dilemma," *Bloomberg*, July 28, 2022, <https://www.bloomberg.com/news/articles/2022-07-28/trader-keeps-russian-wheat-flowing-as-war-sparks-food-dilemma> (accessed December 5, 2022).

¹⁴ Chloe Sorvino, "Cargill Dodges Russian Missiles But Vows To Keep Feeding Both Sides Of The Ukraine War," *Forbes*, March 29, 2022, <https://www.forbes.com/sites/chloesorvino/2022/03/29/cargill-dodges-russian-missiles-but-vows-to-keep-feeding-both-sides-of-the-ukraine-war/?sh=7657b03c795c> (accessed December 5, 2022).

announced record profits, with the 2022 fiscal year revenue jumping by 23 percent from the previous year to \$165 billion.¹⁵

Cargill is also one of the 100 largest companies in Russia by revenue and has at least four operating plants in Russia, with at least 1,500 employees in Russia.¹⁶ As such, Cargill contributes approximately \$18 million to the Russian economy.¹⁷ This makes Cargill a significant taxpayer in the country and therefore the company risks indirectly enabling and financing Russia's violations of IHL and human rights law during the ongoing invasion and occupation of Ukraine and violating its own human rights commitments. It remains to be seen how directly Cargill 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 the status of Cargill's exposure to Russia and how it has conducted and continues to conduct heightened human rights due diligence, per its stated policy and the UNGPs concerning due diligence in conflict-affected areas, 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](#), we request an urgent dialogue with Cargill'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, January 30th, 2023.

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

Sincerely,

The B4Ukraine Coalition

¹⁵ Karl Plume, "Cargill fiscal 2022 revenue jumps 23% to record \$165 billion," Reuter, August 9, 2022, <https://www.reuters.com/markets/commodities/cargill-fiscal-2022-revenue-jumps-23-165-billion-2022-08-10/> (accessed December 5, 2022).

¹⁶ KSE Institute, "Cargill," <https://leave-russia.org/cargill> (accessed December 5, 2022).

¹⁷ Ibid.