

Dirk Van de Put,
Chief Executive Officer,
Mondelēz International
905 W Fulton Market,
Chicago,
IL 60607

May 8th, 2023

RE: Mondelēz's business operations in Russia

Dear Mr. Van de Put,

We are writing to follow up on our previous correspondence with Mondelēz dated 28th October 2022 and 24th March 2023 regarding potential inconsistencies between Mondelēz's obligations, as articulated in the UN Guiding Principles on Business and Human Rights (UNGPs), and the company's ongoing business operations and relationships in Russia that may contribute to, or be linked with, human rights harms. In your responses to our previous outreach, you have not answered the questions posed in our letters, directing us to your statement on Ukraine.¹ We are writing once again to formally notify Mondelēz on the serious and increasing risks the company faces by continuing its operations in Russia that may amount to complicity in human rights abuses committed by Russia.²

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 committing 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 23,375 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.³

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"

¹ Mondelēz, "Our Statement on War in Ukraine," March 9, 2022, <https://www.mondelezinternational.com/News/Statement-on-War-in-Ukraine> (accessed May 3, 2023).

² Andrew Clapham and Scott Jerbi, "Categories of Corporate Complicity in Human Rights Abuses," March 21-22, 2001, <https://media.business-humanrights.org/media/documents/files/reports-and-materials/Clapham-Jerbi-paper.htm> (accessed May 4, 2023).

³ 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).

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.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.

A new decree issued by President Putin on March 3, 2023, enables the Russian government to suspend shareholders' rights and impose external management on companies that do not fulfil state defence contracts under conditions of martial law.⁵ By appointing Russian government representatives to manage businesses that fail to meet state orders, the latest Decree effectively creates a scenario of "partial nationalisation."

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 UNGPs. 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.⁶ 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."⁷

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 November 14, 2022).

⁵ 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).

⁶ 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).

⁷ 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

Companies may also be exposed to financially material risks through operational restrictions, such as limitations on future government contracts and nationalisation of their assets.⁸

Firms continuing to conduct business in or 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.⁹ 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.¹⁰ 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."¹¹ 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, reconsider all ongoing business operations related to Russia.

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 24 companies on the list, but the NACP notes that it will be expanded with "international companies that 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 war,¹⁴ many companies have already left Russia. According to the Kyiv School of Economics Institute's #LeaveRussia [company tracker](#), Mondelēz has decided to stay and continue its operations.

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).

⁸ 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).

⁹ 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).

¹⁰ 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).

¹¹ FATF (n 9).

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

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/?hilite=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."

Considering these risks and the company's continued presence in Russia, we would like to pose the following questions to Mondelēz:

1. Mondelēz stated that it is "scaling back all non-essential activities in Russia while helping maintain continuity of the food supply."¹⁵ The company also said that it would continue to deliver food supplies to the country, and the CEO of Mondelēz notes: "We sell chocolate and biscuits. In some countries, the biscuits are considered as part of a normal diet [...] [In] many countries, biscuits are a breakfast item. And so, we do feel that we supply products to the normal consumer in Russia."¹⁶
 - **Can Mondelēz provide its definition and list of goods it considers essential in light of the particular circumstances of this conflict?**
 - **Can Mondelēz provide a list of goods that it stopped producing since the outbreak of the war because they are not considered essential?**
 - **Has Mondelēz considered whether its goods can be replaced with local substitutes?**
 - **Which stakeholders has Mondelēz engaged with in determining its policies and the decision to stay in the market?**

2. While we do not deny that some goods and foodstuffs are essential in preventing food shortage and undernutrition of the local population, products like Oreo, Toblerone, Milka, chewing gum, lollipops, chocolates, and other sweets that Mondelēz produces and sells in the Russian market cannot and are not considered essential. Mondelēz's CEO further confirms this by calling the company's products "affordable indulgences."¹⁷ In determining which products are essential, businesses should consider the nutritional needs of the affected population, focusing on nutrient dense foods, such as foods rich in proteins, vitamins, and minerals, including a mix of cereals (such as maize, wheat, rice, or millet), pulses (such as lentils, beans, chickpeas, or peas), oil, and fresh or processed fruits and vegetables.¹⁸ Businesses should also consider the availability of other sources of food, the availability of local substitutes, and the potential human rights risks and impacts associated with their operations.
 - **Has Mondelēz considered all the circumstances and complexities of the Russo-Ukrainian war, including numerous human rights violations and war crimes committed in Ukraine, in determining to continue providing these goods within Russia?**

3. **How has Mondelēz practised due diligence in preventing the direct supply of its products to the Russian military? Does Mondelēz have policies, mechanisms, and tools in place to carry out enhanced due diligence of supply chains, intermediaries, customers, and end-users to prevent the supply of goods to the Russian army? If so, how were they utilised for defining business connections that involve the Russian government, its agencies, and state-controlled or sanctioned organisations?** As a reminder, Bonduelle and Auchan have recently faced backlash

¹⁵ Mondelēz (n 1).

¹⁶ Dylan Croll, "Mondelez CEO explains why the snacking giant still does business in Russia," *Yahoo! Finance*, October 13, 2022, <https://finance.yahoo.com/news/mondelez-ceo-why-were-still-doing-business-in-russia-204049695.html?guccounter=1> (accessed May 4, 2023).

¹⁷ Reuters, "LIVE: Reuters Newsmaker with Mondelez International CEO and Chairman Dirk Van de Put," YouTube, <https://www.youtube.com/watch?v=xn2K9LmpNGE> (accessed May 5, 2023).

¹⁸ While a unified list of all essential foods does not exist in the international regulatory framework, there are sources which could be applied through analogy in determining which foodstuffs are considered essential (in conjunction with other international business and human rights legislative and regulatory documents): Sphere, "The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response," 2018, <https://spherestandards.org/handbook-2018/> (accessed May 4, 2023); WHO, "Technical note Supplementary foods for the management of moderate acute malnutrition in infants and children 6–59 months of age," 2012, <https://apps.who.int/iris/handle/10665/75836> (accessed May 4, 2023).

because their goods were sent to Russian troops in Ukraine, some with notes wishing "a speedy victory."¹⁹ Both companies deny these allegations.

4. We understand and agree that Mondelēz has obligations towards its 3,000 employees in Russia. These are laid out under the UNGPs and in the wider international human rights legal and regulatory framework.
 - **Can Mondelēz clarify how it has used this framework to minimise the risks and impacts to its employees?**
 - **How has the company applied heightened human rights due diligence to its operations in Russia considering the new Russian legislation requiring businesses to help conduct military registration, deliver the summons to its employees, and provide resources where required?**
 - **Has Mondelēz received any such requests, and if so, how has the company responded to them?**
 - **What is Mondelēz doing to safeguard its employees from mobilisation?**
 - **Have any of your employees been mobilised and, if so, what was Mondelēz's role in the process?**

5. The safety of employees is and should be a considerable point of concern and obligations for companies. But in light of the specific context of the illegal war on Ukraine, there are other options for the safeguarding of employees that can and have been used by other international companies in Russia. Many companies have offered relocation packages, or contractual clauses which condition the continued employment and safety of employees remaining in Russia. For example, if Mondelēz had decided to sell its Russian business it could have included contractual clauses to ensure the continued safety of its employees, as previously exemplified by the actions of the French Publicis Groupe who employed 1,200 people in the country.
 - **Has Mondelēz considered any of these or other options before deciding to continue operations in Russia?**

6. **Further concerning the safety and wellbeing of your employees, how does Mondelēz reconcile the calls of its employees to leave the Russian market with its decision to continue business operations in the country?** As per media reporting, Mondelēz employees sent a petition to CEO Dirk Van de Put to stop all business in Russia, noting that Mondelēz's workers "strongly oppose" the company's decision to remain in Russia.²⁰

7. **How does Mondelēz justify continuing operations and profiting in the country which caused the destruction of its Ukrainian plant, affecting the lives of its Ukrainian employees?**²¹

¹⁹ Euromaidan Press, "Bonduelle accused of gifting 10,000 food kits to Russian troops; French office denies," January 3, 2023, <https://euromaidanpress.com/2023/01/03/french-bonduelle-gifts-10000-food-kits-to-russian-troops-wishes-them-victory/> (accessed May 4, 2023); Business and Human Rights Resource Centre, "New evidence reveals Auchan was fully aware of destination of its goods supplied to Russian army," March 3, 2023, <https://www.business-humanrights.org/en/latest-news/russia-auchan-allegedly-supports-soldiers-fighting-in-ukraine-despite-french-management-denials-recent-investigation-reveals-more-proofs/> (accessed May 4, 2023).

²⁰ Jessica DiNapoli and Richa Naidu, "Oreo-maker, Nestle, Pepsi face pressure from European employees over Russia," *Reuters*, April 14, 2022, <https://www.reuters.com/business/oreo-maker-nestle-pepsi-face-pressure-european-employees-over-russia-2022-04-14/> (accessed May 4, 2023).

²¹ Latifundist.com, "Mondelēz factory in Sumy region destroyed by russian army," April 6, 2022, <https://latifundist.com/en/novosti/58713-vijska-rf-znishchili-fabriku-mondelez-u-trosvyantsi> (accessed May 4, 2023).

8. Mondelez is one of the largest foreign companies still operating in Russia and is the Russian market leader in chocolate, sweets, and biscuits. In 2022, the company's annual revenue in Russia hit \$1.3bn, with Mondelez alleged to have paid about \$170m in taxes to the Russian state in 2020, according to the KSE Institute. With that amount of money, the Kremlin could have obtained 26 Kalibr cruise missiles that have been used to terrorise Ukrainian civilians. This could make the company indirectly involved in financing Russian aggression since corporate taxes are currently estimated to make up approximately 10% of Russia's GDP — enough to fund 43% of Russia's military budget.²² Therefore, taxes paid by companies who stay in Russia indirectly contribute to the war.
 - **How much tax has Mondelez paid in 2022 and 2023?**

9. According to the latest available data, Mondelez has increased its imports to Russia since the start of the war, in comparison to correlating figures from 2021. The imports of Milka, Oreo, Halls, and other products seem to be on the rise, with Milka imports rising to over \$15 million a year into the invasion.²³ Furthermore, data shows that Mondelez's financial performance has increased significantly compared to 2021. In 2022, the company's revenue increased by 38%, while its profit increased by 303% (the net profit amounted to ₺27,1 billion), and Mondelez's capital increased by 159%.²⁴ Further analysis of Mondelez's exports to Russia show an increase by 49% in 2022 compared to 2021, taking into account adjusted prices. Additionally, the increase in sheer volume of shipments for 2022 as compared to 2021 is 52.6%, seemingly confirming the hypothesis that the main source of increased value of shipments to Russia is the increased volume and not the higher prices.²⁵
 - **How does Mondelez explain these increases, particularly with regard to the company's statements that it means to "make the country completely standalone from a supply chain standpoint"²⁶ and that it is "scaling back all non-essential activities"?**

10. Mondelez boasts an impressive portfolio of globally recognized and beloved brands such as Oreo, Milka, and Toblerone. By choosing to continue operating in Russia, the company inadvertently grants the regime a sense of legitimacy and approval. By leveraging the power and reputation of its brands, Mondelez indirectly expresses support for the regime's actions, which could be interpreted as condoning the war. The continued presence of Mondelez's brands in the Russian market creates a perceived association between the company and its widely known brands and the Russian government, which may not align with the values of its customers. Some brands have recognised this, and while some are also continuing operations in Russia, Nestlé has suspended the production of its most famous product, the KitKat chocolate.
 - **How is Mondelez ensuring that it does not align itself and the names of its brands with the war and the Putin regime?**

11. Other companies have faced legal, administrative, and ethical challenges and still committed to, and exited, Russia. Mondelez has decided to stay in the country, even after over one year since the start of the war, over 80,000 reported war crimes, over 23,000 Ukrainian civilians killed or injured, and with the head of the Russian state indicted by the International Criminal Court for alleged war crimes, namely the abduction of Ukrainian children.

²² B4Ukraine, "11 dead, 87 injured in the latest Russian terrorist attack on Ukraine. Multinationals must stop enabling Russian aggression" <https://b4ukraine.org/whats-new/latest-russian-terrorist-attack> (accessed May 8, 2023).

²³ Squeezing Putin, "Mondelez Exports into Russia," May 7, 2023, <https://squeezingputin.com/support.html#Mondelez4May23> (accessed May 8, 2023).

²⁴ ExcheckPro, "LLC Mon'dalis Rus," <https://excheck.pro/company/3321020710> (accessed May 5, 2023).

²⁵ The full detailed analysis can be found on Squeezing Putin (n 23).

²⁶ Dylan Croll (n 16).

- **Considering these developments and the rising number of reported human rights abuses and war crimes, has Mondelēz considered fully exiting Russia so as not to be even indirectly or remotely associated with these crimes?**

Mondelez's activities in Russia risk enabling and financing Russia's violations of international humanitarian and human rights law during the ongoing invasion and occupation of Ukraine.

We seek to understand the status of Mondelēz's exposure to Russia and how Mondelēz has conducted and continues to conduct heightened human rights due diligence, and how the findings of such a process have resulted in its 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 Mondelēz'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 the B4Ukraine Coalition at contact@b4ukraine.org to schedule a call. We kindly ask for your response by 5:00pm CET, May 12th, 2023.

Sincerely,

The B4Ukraine Coalition