



HEALTH • HYGIENE • HOME

03 May 2016

Mr. Karim Ghezraoui
Chief a.i., Special Procedures Branch
Office of the High Commissioner for Human Rights
Email: registry@ohchr.org

Dear Mr Ghezraoui,

Supplemental response to the UNSR letter on HS Issue

Following receipt of a letter from the UN Special Rapporteur on Human Rights for Hazardous Substances and Waste (the “UNSR”) on 12 February 2016 by our Korean business (“OxyRB”), we wrote to you on 12 April 2016 (our “Response Letter”, attached in Appendix 1 for ease of reference).

Since the date of our Response Letter, we have made a number of important announcements in relation to the HS issue which are outlined below. Unfortunately, at the time we wrote our Response Letter, we were unable to reveal details of these matters [due to applicable legal constraints].

Apology

On 21 April 2016 OxyRB expressed a sincere apology to those suffering and their families for the disappointment and anxiety due to the lack of a more timely communication related to the HS issue. We expressed our continuing commitment to resolve the HS issue, to co-operate with the prosecutor’s investigation, to investigate new allegations about conduct after the HS issue arose and to remain engaged with patient groups.

A copy of the statement in which this apology was originally made is attached in Appendix 2.

Compensation Plan

On [2] May 2016 OxyRB announced its intention to launch a Compensation Plan, which will focus on OxyRB HS users in category 1 and category 2 as classified by the Korean government in the first and second investigation. It is OxyRB’s sincere hope that the third investigation which is under way will be completed as soon as possible so it can help bring about closure for affected victims.

OxyRB will establish a panel of independent experts to ensure swift and appropriate compensation and it is OxyRB’s intention to have the panel established by July 2016. We will make every effort to ensure all users of OxyRB’s HS products are aware of the Plan and have the necessary support and access to file a claim. The detailed design of the final Plan will be crafted following consultation with patient representatives to ensure their voices are heard.

We have also indicated our support for a co-ordinated industry-wide approach to compensation.

A copy of the statement in which the launch of this Compensation Plan was announced is attached in Appendix 3.



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Humanitarian Fund

As outlined in our Response Letter, OxyRB launched a Humanitarian Fund in 2013 with the intention of providing those involved with immediate support. The Humanitarian Fund was originally funded to an amount of 5 billion KRW, and on 21 April 2016, together with its apology, OxyRB announced that it intends to add another 5 billion KRW to the fund. We propose to make the Humanitarian Fund, both the original 5 billion KRW announced in 2014, and the additional 5 billion KRW announced on April 21st, 2016 available for additional relief and assistance to those who have suffered. We would like to consult closely with the patients on how to best take this forward.

We respectfully request the UNSR to recognize the above set of actions as evidence of our commitment to address the HS issue in a responsible way.

Yours sincerely

Patty O'Hayer
Global Head of Communications & External Affairs

Attached are the following Appendices:

- Appendix 1 Response Letter
- Appendix 2 OxyRB press release dated 21 April 2016
- Appendix 3 OxyRB press release dated [2] May 2016

12th April 2016

Mr. Karim Ghezraoui
Chief a.i., Special Procedures Branch
Office of the High Commissioner for Human Rights

Email: registry@ohchr.org

Dear Mr Ghezraoui

Response to the UNSR letter on HS Issue

RB would like to acknowledge the letter of the UN Special Rapporteur on Human Rights for Hazardous Substances and Waste (the “UNSR”), which was received by our Korean business (“RBK”) on 12 February 2016. That letter highlights areas of enquiry in relation to RBK’s support for human rights and demonstration of safety measures undertaken in relation to serious adverse health impacts reported to be associated with exposure to hazardous chemicals found in humidifier sterilizers (the “HS issue”).

RB holds the utmost respect for the institutions of the UN and for the role of the Special Rapporteur. We would like to reiterate the seriousness and urgency with which we are seeking to address the HS issue, in accordance with the 2011 UN Guiding Principles on Business and Human Rights (the “UNGP”) under the “Protect, Respect and Remedy” framework to which we subscribe.

As a global business with operations in over 60 countries, over 37,000 employees and an extensive supply chain, we recognise the important role that businesses play in society and the responsibility that comes with that role to do our best to ensure that the human rights of all our internal and external partners are respected. Taking this responsibility seriously makes it possible for consumers to have confidence and trust in our brands to not only perform but also protect health and wellbeing. Additionally, we require all suppliers who do business with RB to adhere to a clear policy to respect human rights and agree to a proactive compliance programme.

We have a long history in Korea as a Korean company and the highest respect for the Korean people. We have expressed our sincere condolences to the families and patients affected and we acknowledge the depth of their grief. We recognize the agonizing impact of this tragedy on Korean society as a whole. RBK has worked hard and will continue to work hard to respond appropriately and to gain the trust of all stakeholders.

In keeping with the Third Pillar of the UNGP (access to remedy for victims of business-related impacts), we continue to marshal global and local resources to respond as flexibly as possible to the HS issue. This is why, in 2013, RBK launched the Humanitarian Fund with the intention of providing those involved with immediate support, notwithstanding the issue of causation remaining in dispute. This has not been used as intended, as patient groups have required that RBK admit liability prior to any drawdown, which RBK cannot do given the matters in dispute. However, RBK is continuing to dialogue and meet regularly with a variety of stakeholders, including patients, NGOs and government officials. Our engagement included the meeting hosted by RBK on 19 October 2015 with the UNSR

during the course of his visit to the Republic of Korea. RB continues to request the Korean government to find a use for the Humanitarian Fund consistent with RB's intention that it be used to provide assistance to those who have suffered lung damage.

As communicated during our meeting, due to the complex and technical nature of the HS cases and the potential number of related parties, RB believes that the Korean courts are the forum best equipped to handle this matter and conduct a comprehensive and fair review of the issues for all parties. RBK has cooperated and engaged fully with the court process. In support of the UNGP, it is our belief that "effective judicial mechanisms are at the core of ensuring access to remedy" due to their "impartiality, integrity and ability to accord due process".

The Republic of Korea benefits from robust legal institutions. According to the 2014 Worldwide Governance Indicators compiled by the World Bank, the Republic of Korea ranks in the 80th percentile or above globally for both regulatory quality and rule of law observance. Therefore we have every confidence that working within the legal process in the Republic of Korea will bring about the most satisfactory solutions for those involved.

Remedy

There is still considerable question on causation, but RBK has worked to bring about resolution of this issue via the court and the court mediation process. Further, the potential to claim has been well advertised over the years and continues to be the subject of public notices that set out the process for making claims.

We recognise that the legal process may be longer than all parties would like, but meaningful progress is being made, which has included the court assisting the parties to reach amicable terms.

While we have serious issues with the Ministry of Environment (Korean Centre of Disease Control or "KCDC") methodology, it is common practice in any litigation or remedy process involving multiple claimants to try and have an objective, standardised method for classification of claims by reference to the quality of the evidence in each case. Given the complexity of the HS issue and the fact that liability has not been determined at any level, the KCDC methodology has still been useful (where there has been an opportunity for amicable resolution) in assisting RBK to focus on category 1 (KCDC very likely cases) and category 2 (KCDC somewhat likely cases). At the time of writing, these classifications have facilitated resolution in 80% of the court cases.

Current Approach

The HS issue arose during the period prior to 2011. RBK withdrew the HS product voluntarily as soon as it became aware of the concerns raised, and the Government subsequently issued a recall some three months later, so there can be no question of any further possible adverse incidents.

The UNSR has also asked RB to explain its approach currently to safety management and to address the scope for any further possible adverse incidents. We set this out below as regards our present processes, but we emphasise that throughout our operations we have sought to always apply procedures that are legally compliant and consistent with good industry practice. As practice and legal requirements have evolved, we have adapted our approach to reflect these changes.

RB takes a variety of steps to ensure that its products do not cause adverse impacts, as outlined below. For example, we undertake product and raw material safety assessments during product development. We have global product safety governance systems to facilitate early identification of issues and a robust and consistent response to protect our customers.

Like other corporates of its scale and sectoral focus, RB strives for continuous improvement in this area as in all its regulatory and sustainability commitments. Scientific and regulatory approaches to product stewardship have developed rapidly over the past 15 years. RB's approach reflects these changes, its own learning from product issues and in particular its re-orientation towards healthcare products. In the last two years, reflecting its focus on healthcare, RB has reviewed, reshaped, and expanded all its product safety systems to ensure that they are fully aligned with the additional requirements in the healthcare sector.

It is worth noting that RB has completed a review of its entire Korean product portfolio to ensure all products not only meet, but exceed all Korean legislative requirements. We recognize and support the efforts of the Government to tighten existing legislation as seen in the introduction of K-REACH to ensure that the Republic of Korea has the highest level of safety standards in the world.

More generally, we have strengthened our approach to human rights beyond Korea. In 2016 we are conducting a global communications campaign on human rights to raise awareness across both our manufacturing and non-manufacturing staff. We have also strengthened governance globally with the creation of a board level committee on Sustainability and Responsibility.

In conclusion, we respectfully request the UNSR to recognize the above set of actions as evidence of our commitment to continue to address the HS issue in a responsible way, consistent with the UNGP.

Yours sincerely



Patty O'Hayer
Global Head of Communications & External Affairs

Attached in Appendix I is an outline of our approach on human rights.

Appendix 1

Human Rights

At the core of RB is our purpose to create innovative solutions for healthier lives and happier homes. Safety is paramount to this vision and we strive to use legislative standards as a minimum requirement.

RB believes that human rights are a universal requirement and is committed to upholding those rights expressed in the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and the International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work. We are also committed to following the UN Guiding Principles on Business and Human Rights and the Organisation for Economic Co-operation and Development's (OECD's) Guidelines for Multinational Enterprises.

RB has established a range of mechanisms that use cross-functional support to engage on human rights with suppliers and to identify and address any issues identified. These measures focus on our own operations and supply chain and include due diligence, self assessments, audits, internal and external training and other capacity building initiatives.

We recognise the important role that businesses play in society and the responsibility we have in ensuring that human rights are respected. Our commitment to respecting human rights is publically disclosed through our Code of Business Conduct and our Global Manufacturing Standard for responsible production. These policies are applicable to all employees and are communicated to contractors of, and suppliers of goods and services to, RB. We also encourage our suppliers to communicate our requirements within their supply chains.

RB acknowledges the growing importance and complexity of the issue of human rights and we are committed to continuously improving our approach using the UNGP as guidance and to encouraging our suppliers to do the same. RB takes any adverse human rights impacts extremely seriously and will directly engage in the remediation of any impacts that it identifies as ones it has caused or contributed to.

Our Compliance Monitoring Programme

Since 2012, we have implemented a global compliance monitoring programme where we proactively monitor compliance with our requirements through direct engagement with all RB's manufacturing facilities, third party manufacturers, Distribution Centres located in the developing markets region and selected high risk packaging and raw material suppliers through completion of self-assessments, risk assessments, independent social audits, and online and in person training. This is managed by RB's Global Sustainability team with support from RB's Supply function.

Some of the key initiatives implemented since 2012 are:

- Integrating contract clauses into all contracts generated through RB's contract management tool.
- Establishing RB site and supplier auditing and effective response to audit actions.

- Creating compulsory eLearning on our human rights policy and compliance programme for RB factory management and colleagues in Procurement and Supply Services for the developing markets region.
- Conducting supplier conferences / workshops on HR with key suppliers in Dubai (2013), India (2014), Mexico (2015) and China (2015). We plan to conduct another conference / workshop in Brazil in 2016.

RB is also a member of AIM-Progress, a forum of leading FMCG companies that enable and promote responsible sourcing practices and sustainability supply chains. Through this forum we seek to improve our capabilities to implement robust responsible sourcing programmes, effectively assure compliance within our supply chains and strive to go beyond compliance. Further information on AIM-Progress can be found here:

<http://www.aim-progress.com/>

Since the launch of our human rights programme in 2012, we have made significant progress in integrating human rights into business operations and developing our compliance monitoring programme. However, we recognised that we can always do more. Therefore, in 2015, we conducted a full strategic review of our requirements, 2020 targets, and compliance programme against industry best practices and the UNGP. The review identified opportunities for improvement in each of these areas which will further enhance RB's approach to ensuring that human rights within our operations and supply chain are respected. Some of the recommendations which we have implemented or plan to implement in 2016 include:

- Refreshing our policy and associated detailed requirements.
- Increasing the scope of our compliance monitoring programme.
- Conducting an internal global communications campaign on human rights to raise awareness.
- Establishing a Sustainability Committee of the Board.
- Exploring the establishment of a Supplier Whistle-blower line.

Oxy RB Apologizes and Takes Responsibility

May 2, 2016 - Seoul, Korea: Oxy RB would like to offer a heart-felt and sincere apology to all victims and their families who have suffered lung injury as a result of the HS issue. Oxy RB announced today that it accepts responsibility for the role that Oxy HS product played and the delay in providing adequate remedy. We also would like to apologize sincerely to our consumers, customers, our past and present employees and all members of Korean society for damaging their trust and confidence in us. We commit to work very hard to make amends and regain the confidence of Korean society.

We announce today our intention to provide comprehensive remedy to those impacted as outlined below:

- Oxy RB will provide a **Compensation Plan** for all category 1 and 2 Oxy HS users
- In addition we propose to make the **Humanitarian Fund** available to provide assistance to those who have suffered as a result of the HS issue.

Compensation Plan

The Compensation Plan will focus on Oxy HS product users in category 1 and category 2 (very likely or likely) as classified by the Korean Centre for Disease Control (KCDC) and the Ministry of the Environment (MoE). Our sincere hope is that the investigation is concluded as soon as possible so we can help bring about closure for all affected victims.

We need to ensure that all victims are provided with a clear mechanism which can determine a timely and fair remedy. We will establish a panel of independent experts and it is our intention to have this established by July 2016. We will make every effort to ensure all category 1 & category 2 users of Oxy HS products are aware of the Plan and have necessary support and access to file a claim. The detailed design of the final Plan will be crafted in consultation with victims to ensure their voices are heard.

Many consumers have used a combination of products and deserve equal treatment for any harm caused. We therefore believe an industry approach is the best route to provide those who have suffered with an objective and transparent mechanism for compensation. We invite other manufacturers to join in this Compensation Plan.

Humanitarian Fund

In addition, we are aware that there are many people who believe they have suffered as a result of the HS issue. We propose to make the Humanitarian Fund, both the original 5 billion KRW announced in 2014, and the additional 5 billion KRW announced on April 20th, 2016 available for additional relief and assistance. We would like to consult closely with patients on how to best take this forward.

We would also like to take this opportunity to clarify our stance on the very recent allegations related to our company conduct. We take these accusations very seriously and confirm that RB does not condone any wrongful behavior. We have a strict Code of Business Conduct which all employees are accountable for upholding. While we are cooperating closely with the prosecutors, we are also conducting our own investigation to get to the bottom of this issue. If we find evidence of wrongdoing

we will take swift and immediate corrective action.

We are deeply sorry. We want to make amends. Oxy RB is making improvements to our safety process which will help signal any potential issue and ensure corrective action is swiftly taken. We want to reassure consumers that we are taking steps to ensure something like this can never happen again. We remain committed to Korea and Korean consumers and will work hard to regain their trust.

Nevertheless, we understand that despite our efforts, nothing can completely ease the pain and suffering. It is our duty to help resolve the HS issue as all those impacted have suffered for far too long and we will fulfill that commitment.

Ata Safdar, GM Oxy RB.

Oxy RB Korea would like to express our sincere apology to those suffering and their families for the disappointment and anxiety due to the lack of a more timely communication related to the HS issue. We sincerely acknowledged this tragedy and expressed our sympathy during our presentation to the National Assembly in 2013 and remain resolute to get to the bottom of what is a very difficult and complex issue and seek to alleviate suffering of all victims.

We have a long and established safety track record and have never before faced an issue like this. Nevertheless, we deeply acknowledge and recognize our social responsibility to respond on the HS matter and we have tried hard to engage with, and listen to, the needs of victims. While we understand that despite our best efforts, nothing can ease the pain and suffering, we do recognise it is our duty to help resolve the issue in a timely manner if at all possible.

To this end we have worked diligently within the court process to engage in the resolution of claims and we can confirm that many of the cases have been settled via the court appointed mediation process. We believe that this can provide an appropriate and expedited resolution mechanism for those who have been suffering, and is one in which we have great confidence.

That was why we had also contributed to an unconditional humanitarian fund of KRW five billion for HS-related patients in cooperation with KEPA and MOE in 2014. We would like to announce our intention to add another KRW Five Billion to the fund.

We acknowledge and welcome that some of the other manufacturers are also now taking steps to pursue a solution. For our part, we will continue to cooperate earnestly with all investigations and will continue to engage proactively in discussions to support HS patients and their families.

Over the past week, there have been a number of allegations as to our conduct in connection with the HS legal action. We take these allegations very seriously and do not condone any such behaviour. We will continue to cooperate fully with all pending investigations.

We humbly ask you to accept our heartfelt condolences and sorrow for all the pain and suffering of those affected by this tragedy. We will continue to work hard to find a solution and rebuild the confidence of Korean consumers.