

12th April 2016

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

Email: [registry@ohchr.org](mailto: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.