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# Four Case Studies on Corporate Social Responsibility: Do Conflicts Affect a Company's Corporate Social Responsibility Policy?

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## 1. Introduction

### *1.1. Background and objectives*

This article will discuss the different Corporate Social Responsibility (CSR) issues that emerged within four multinationals (Apple, Canon, Coca-Cola and Walmart). There is no clear definition of CSR. In *Corporate Social Responsibility, Legal and semi-legal frameworks supporting CSR* Lambooy gives an overview of several definitions of CSR.[1] The European Commission defines CSR as 'the responsibility of enterprises for their impacts on society'.[2] This is the definition which is the most suitable for the context of the article's research question. As this article will focus on companies from the US and Japan, the authors also provide an overview of the focus on CSR from the US and Japanese perspective. In the US there is no governmental regulation regarding CSR or business best practices. Instead, according to findings from Bennett American, companies have a marked tendency to use codes of conduct.[3] The American CSR perspective could be described as following a principles-based approach, with codes of conduct that prescribe values and principles which company members as a whole should aspire to follow. In contrast, Japanese companies prefer to focus on areas where their contributions can be statistically measured. Interest in social aspects of CSR is significantly less pronounced than in other industrialized countries.[4] In Japan there are no specific provisions regulating CSR. However, the 1988 law that promotes specific non-profit activities is of major significance in this context.[5]

Early notions of CSR on an academic level can be traced back to the 1960s. In 1991 Carroll presented CSR as a multi-layered concept that consists of four interrelated aspects: economic, legal, ethical and philanthropic responsibilities.[6] Carroll proposed a pyramid that analyses the dimension of CSR. It starts

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1 T.E. Lambooy, *Corporate Social Responsibility. Legal and semi-legal frameworks supporting CSR*, 2010, pp. 10-12.

2 European Commission, *Communication from the Commission to the European Economic and Social Committee and the Committee of the regions: A renewed EU strategy 2011-14 for Corporate Social Responsibility*, COM(2011) 681 final, p. 6.

3 C. Langlois & B- Schlegelmilch, 'Do Corporate Codes of Ethics Reflect National Character? Evidence from Europe and the United States', 1990 *Journal of International Business Studies* 21, no. 4, pp. 519-539.

4 'Japan: CSR, The role of CSR', <http://www.csr-weltweit.de/en/country-profiles/profile/japan/index.nc.html#content-part-stellenwert> (last visited 15 June 2012).

5 'Japan: CSR, Basic conditions', <http://www.csr-weltweit.de/en/country-profiles/profile/japan/index.nc.html#content-part-rahmenbedingungen> (last visited 15 June 2012).

6 A.B. Carroll, 'The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders',

with economic responsibilities; companies are created to provide goods and services to the public and to make a profit. This is the foundation upon which the other three responsibilities rest. The second layer consists of the legal responsibilities of a company. The ethical responsibilities are practices that have not been codified into the law. Societal members expect a company to do what is right and fair. Lastly, at the top of the pyramid companies have a philanthropic responsibility. Business organisations are expected to be good corporate citizens and to improve the quality of life.

Multinationals and their operations slowly began to be scrutinised by different segments of society from the beginning of 2000.[7] CSR has evolved into a complex concept that is now a key component of the corporate decision-making of a number of multinationals that are considered to be the frontrunners in integrating CSR. However, this evolution came with a cost that various corporations had to pay. Campaigns and public scandals involving issues ranging from environmental pollution to child labour and racial discrimination resulted in unwanted media attention. This raises the question of whether reputation damage is a main motivation behind the adoption of CSR policies by a multinational.

Due to the lack of public regulations regarding corporate best practices in most countries, sustainability reporting has become increasingly relevant. Although there is no specific regulation of CSR, according to the Modernisation Directive (2003/51/EC) large companies are obliged to include financial and non-financial key performance indicators in their annual report. In this context an annual report is considered a directors' report. Together with the balance sheet and a profit and loss account it represents the annual accounts.[8] The annual report also includes information on environmental and employee matters.[9] According to the Securities Exchange Act of 1934, the US Securities and Exchange Commission (hereafter SEC) requires public companies to disclose and report on certain types of business and financial data to the SEC and the company's stockholders. The SEC has issued an interpretative release to guide US public companies on the disclosure requirements related to climate change.[10] Transparency in corporate practices seems desirable for stakeholders.[11]

However, nowadays leading multinationals voluntarily prepare sustainability reports based on the Global Reporting Initiative (GRI) Guidelines.[12] The GRI Guidelines are a set of guidelines for businesses created to stimulate socially-responsible corporate behaviour. The GRI was initiated in 1997 by the UN Environment Programme (UNEP) and CERES. The GRI has developed reporting guidelines for companies to assist them in disclosing non-financial information about the way they pursue their activities. The guidelines address environmental and social conduct, but also include other subjects, e.g. corruption and human rights.

This article provides an overview of four case studies regarding different multinationals, namely Apple, Canon, Coca-Cola and Walmart. These companies have been involved in CSR conflicts in different areas. This article will investigate whether the conflicts have affected the CSR policy of these multinationals and whether the companies subsequently set concrete targets. Coca-Cola, for example, has set a target to reduce its overall carbon footprint by 15% by 2020, compared to its 2007 baseline.

Two Dutch researchers, Alex van de Zwart and Professor Rob van Tulder, of Rotterdam Erasmus University, conducted a study into civil society campaigns.[13] Their research shows that companies that have been 'on thin ice' usually become leaders in the business sector concerning CSR issues. The multinationals Apple, Coca-Cola and Walmart have been involved in environmental and social conflicts. Coca-Cola was boycotted in India because the local communities were suffering from droughts. In 1992 Walmart was caught using child labour in factories in Bangladesh. In May 2010 newspapers reported on the suicides at Apple's manufacturer for iPhones and iPads, Foxconn. Overall Canon has a detailed and clear CSR report and has not faced any major scandals such as Coca-Cola, Walmart and Apple.

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1991 *Business Horizons* 34, no. 4, pp. 39-48.

7 See Lambooy, supra note 1, p. 33.

8 See Lambooy, supra note 1, p. 147.

9 Art. 46(1) Modernisation Directive (2003/51/EC).

10 Securities and Exchange Commission, *Commission guidance regarding to disclosure related to climate change*, 8 February 2010, <www.sec.gov/rules/interp/2010/33-9106.pdf> (last visited 31 March 2012).

11 See Lambooy, supra note 1, pp.147-168.

12 See GRI website <www.globalreporting.org> (last visited 22 April 2012).

13 R. van Tulder & A. van der Zwart, *International Business-Society Management – Linking Corporate Responsibility and Globalisation*, 2006.

### *1.2. Methodology*

The four cases will be compared by studying a CSR conflict that each one of the multinationals faced and that became, to a certain extent, a turning point for the CSR policies of these multinationals. Each of the multinationals' response to the conflict will be analysed, how the company resolved the conflict and whether the company implemented specific CSR policies with measurable targets as a response to the conflict. The research is based on desk research. The article makes use of publicly available information on the company's website, online newspapers and non-governmental organization (NGO) reports, as well as academic journals and books.

The parent companies of the multinationals are based in different countries: Japan and the US. This means that different legal systems and jurisdictions are applicable. This article will not look at the legal systems of the US and Japan concerning the disclosure of annual reports and sustainability reports, since this exceeds the scope of the article.

## 2. Coca-Cola

### *2.1. Coca-Cola's profile*

Coca-Cola started its business in 1886 as a local soda producer in Atlanta, Georgia (US) selling about nine beverages per day. By the 1920s, the company had begun expanding internationally, selling its products first in the Caribbean and Canadian markets and then moving in consecutive decades to Asia, Europe, South America and the Soviet Union. By the end of the 20th century, the company was selling its products in almost every country in the world. In 2005 it became the largest manufacturer, distributor and marketer of non-alcoholic beverages and syrups in the world.[14] Coca-Cola is a publicly-held company listed on the New York Stock Exchange (NYSE).[15]

### *2.2. Coca-Cola's CSR policies and reporting*

In 2007 Coca-Cola launched its sustainability framework *Live Positively* embedded in the system at all levels, from production and packaging to distribution. The company's CSR policy *Live Positively* establishes seven core areas where the company sets itself measurable goals to improve the business' sustainability practices. The core areas are beverage benefits, active healthy living, the community, energy and climate, sustainable packaging, water stewardship and the workplace.

Coca-Cola has a Code of Business Conduct which aims at providing guidelines to its employees on – amongst other things – competition issues and anti-corruption.[16] The company has adopted international CSR guidelines such as Global Compact[17] and Ruggie's Protect, Respect and Remedy Framework (Ruggie's Framework),[18] but these guidelines do not seem to be integrated into the Code of Business. However, these CSR initiatives are included in other activities or policies of the company. For instance, the UN Global Compact principles are cross-referenced in the company's annual Sustainability Reviews[19] and Ruggie's Framework is partly adopted in the company's 'Human Right Statement'.[20] After

14 The Coca-Cola Company, '2010 Annual Review', <http://www.thecoca-colacompany.com/ourcompany/ar/pdf/TCCC_2010_Annual_Review.pdf> (last visited 1 December 2011).

15 Coca-Cola company's profile at the NYSE: <http://www.nyse.com/listed/ko.html> (last visited 10 April 2012).

16 The Coca-Cola Company, 'Code of Business Conduct', <http://www.thecoca-colacompany.com/ourcompany/pdf/COBC_English.pdf> (last visited 2 December 2011).

17 Global Compact is an initiative created in 1999 under the leadership of the former UN Secretary-General, Kofi Annan. It establishes ten principles for conducting responsible business covering the areas of human rights, labour, the environment and anti-corruption. See <www.unglobalcompact.org> (last visited 29 March 2012).

18 The 'Protect, Respect and Remedy' Framework is an initiative devised by John Ruggie, Special Representative of the UN Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises. It lays the foundation for a system for better managing business and human rights challenges. It is based on three pillars: the State's duty to protect human rights, the corporate responsibility to respect human rights, and access to an effective remedy for breaches of human rights. See <http://www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf> (last visited 29 March 2012).

19 The Coca-Cola Company, 'UN Global Compact', <http://www.thecoca-colacompany.com/citizenship/un_global_compact.html> (last visited 2 December 2011).

20 The Coca-Cola Company, 'Human Rights Statement', <http://www.thecoca-colacompany.com/citizenship/pdf/human_rights_statement.pdf> (last visited 6 October 2012).

the conflict in India, in 2007 Coca-Cola formed a partnership with the World Wildlife Fund (WWF)[21] and became a member of the CEO Water Mandate, as water is one of the company's main concerns.

Every year Coca-Cola publishes a directors' report denominated 'The Coca-Cola Company Annual Report'; the last one was published in March 2011 and comprises the company's activities during 2010.[22] In this report there is a small section dedicated to CSR and it includes a brief description of the initiatives in community development and water preservation that the company has developed. Since 2001, Coca-Cola also annually publishes a separate report devoted to CSR called 'The Coca-Cola Company Sustainability Review'. These reviews, which are published every two years, are verified and assured by a third party, the sustainability rating firm FIRA Sustainability Ltd.[23] This verification provides 'moderate assurance' on the reliability of the information reported by Coca-Cola. Both reports – the annual company review and the sustainability reports – are elaborated based on the GRI G3 guidelines, which were adopted by the company in 2001.[24] Due to its relevance to Coca-Cola's business, the company also annually reports on the progress of the water stewardship programme's targets.

### *2.3. Coca-Cola's conflicts*

Several campaigns and demonstrations followed the publication of a report issued by the Indian NGO Centre for Science and Environment (CSE) in 2003. The report provided evidence of the presence of pesticides, to a level exceeding European standards,[25] in a sample of a dozen Coca-Cola and PepsiCo beverages sold in India.[26] With that evidence at hand, the CSE called on the Indian government to implement legally enforceable water standards. The report gained ample public and media attention, resulting in almost immediate effects on Coca-Cola revenues.

The main allegations made by the NGO against Coca-Cola were that it sold products containing unacceptable levels of pesticides, it extracted large amounts of groundwater and it had polluted water sources.[27] These conflicts will be discussed under 2.3.1 and 2.3.2.

#### *2.3.1. The presence of pesticides*

Regarding the allegation about Coca-Cola beverages containing high levels of pesticide residues, the Indian government undertook various investigations. The government set up a Joint Committee[28] to carry out its own tests on the beverages. The tests also found the presence of pesticides that failed to meet European standards, but they were still considered safe under local standards. Therefore, it was concluded that Coca-Cola had not violated any national laws. However, the Indian government acknowledged the need to adopt appropriate and enforceable standards for carbonated beverages.[29]

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21 T. Lambooy, 'Corporate Social Responsibility: Sustainable Water Use', 2011 *Journal of Cleaner Production* 19, p. 855.

22 The Coca-Cola Company, 'The Coca-Cola Company 2010 Annual Review', <http://www.thecoca-colacompany.com/ourcompany/ar/pdf/TCCC_2010_Annual_Review.pdf> (last visited 28 November 2011).

23 The Coca-Cola Company, '2010/2011 Sustainability Report: Reasons to Believe', <http://www.thecoca-colacompany.com/sustainabilityreport/TCCC_2010_2011_Sustainability_Report_Full.pdf> (last visited 30 March 2012).

24 See GRI, supra note 12. Also see more on Coca-Cola's GRI reporting on The Coca-Cola Company, 'GRI Index', <http://www.thecoca-colacompany.com/citizenship/gri_index.html> (last visited 10 April 2012).

25 The CSE Report on pesticide residues in soft drinks in India used European norms on maximum admissible pesticide concentration, regulated by the European Economic Community's Directive (80/778/EEC) on the 'quality of water intended for human consumption'. This was the preferred standard by CSE because it sets a maximum admissible concentration for individual pesticides and related products in drinking water at 0.1 µg/L (0.0001 mg/L). Although the report mentions the existence of other international standards – such as those of the World Health Organization (WHO), the Food and Agriculture Organization (FAO) and the US Environment Protection Agency (USEPA) / Food and Drug Administration Act (FDA) – the report is not clear on why EU standards are more adequate to make their analysis in Coca-Cola beverages. See Centre for Science and Environment, infra note 26.

26 Centre for Science and Environment (CSE), 'CSE Study on Pesticide Residues in Soft Drinks', 2003 Media Reports, vol. 1, pp. 12-14, <http://www.cseindia.org/userfiles/SOFTDRINK.pdf> (last visited 19 March 2012).

27 J. Hills & R. Welford, 'Case Study: Coca-Cola and Water in India', 2005 *Corporate Social Responsibility and Environmental Management* 12, p. 168.

28 A Joint Committee (JC) is one of the highest ranking bodies which can be set up in India. In 2003 the Indian government decided to convene a JC to look specifically into the issue of dangerous levels of pesticides in soft drinks after the CSE report had exposed the results of studies yielding high levels of pesticide content in beverages in India. See Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages, infra note 29.

29 Joint Committee on Pesticide Residues in and Safety Standards for Soft Drinks, Fruit Juice and Other Beverages, 'Report', 4 February 2004, *Lok Sabha Secretariat*, pp. 158-161.

In 2006, after almost three years of ongoing allegations, the CSE published its second test on Coca-Cola drinks, also resulting in a high content of pesticide residues (24 times higher than European Union standards, which were proposed by the Bureau of Indian Standards to be implemented in India as well).[30] CSE published this test to prove that nothing had changed, alleging that the stricter standards for carbonated drinks and other beverages had either been lost in committees or blocked by powerful interests in the government.[31] Finally, in 2008 an independent study undertaken by The Energy and Resources Institute (TERI) ended the long-standing allegations by concluding that the water used in Coca-Cola in India is free of pesticides.[32] However, because the institute did not test the final product, other ingredients could have contained pesticides.[33]

*2.3.2. Water pollution and the over-extraction of groundwater.*

Coca-Cola was also accused of causing water shortages in – among other areas – the community of Plachimada in Kerala, southern India. In addition, Coca-Cola was accused of water pollution by discharging wastewater into fields and rivers surrounding Coca-Cola's plants in the same community. Groundwater and soil were polluted to an extent that Indian public health authorities saw the need to post signs around wells and hand pumps advising the community that the water was unfit for human consumption.[34]

In 2000, the company established its production operations in Plachimada. Local people claimed that they started experiencing water scarcity soon after the operations began. The state government initiated proceedings against Coca-Cola in 2003, and soon after that the High Court of Kerala prohibited Coca-Cola from over-extracting groundwater.[35] By 2004 the company had suspended its production operations, while it attempted to renew its licence to operate. Coca-Cola argued that patterns of decreasing rainfall were the main cause of the draught conditions experienced in the area. After a long judicial procedure and ongoing demonstrations, the company succeeded in obtaining the licence renewal to resume its operations.[36] In 2006 Coca-Cola's successful re-establishment of operations was reversed when the government of Kerala banned the manufacture and sale of Coca-Cola products in Kerala on the ground that it was unsafe due to its high content of pesticides.[37] However, the ban did not last for long and later that same year the High Court of India overturned Kerala's Court decision.[38] More recently, in March 2010, a state government panel recommended fining Coca-Cola's Indian subsidiary a total of $47 million because of the damage caused to the water and soil in Kerala.[39] Also, a special committee in charge of looking into claims by community members affected by the water pollution was set up.[40]

The long legal procedures against the Indian government that Coca-Cola had to face were not the only consequence of the conflict. The brand suffered a great loss of consumer trust and reputational damage in India and abroad.[41] In India there was an overall sales drop of 40% within two weeks after the release of the 2003 CSE report. The impact in annual sales was a decline of 15% in overall sales in 2003

30 M. Burnett & R. Welford, 'Case Study: Coca-Cola and Water in India: Episode 2', 2007 *Corporate Social Responsibility and Environment Management*, 14, no. 5, p. 301.
31 Down to Earth, 'The street fight', 15 August 2003, <http://www.downtoearth.org.in/content/street-fight> (last visited 21 March 2012).
32 See Burnett & Welford, supra note 30, p. 303.
33 'TERI report says Coke should shut Rajasthan plant', *Indian Express*, 16 January 2008, <http://www.indianexpress.com/news/teri-report-says-coke-should-shut-rajasthan/262199/> (last visited 18 April 2012).
34 See Hills & Welford, supra note 27, p. 169.
35 T. Banerjee, 'Right to Water: Some Theoretical Issues', 2010 *Contemporary Issues and Ideas in Social Sciences*, p. 11.
36 See the case at *Perumatty Grama Panchayat v. State of Kerala*, [2003] High Court of Kerala, <http://www.elaw.org/resources/text.asp?id=2551> (last visited 21 March 2012).
37 The Rights to Water and Sanitation, 'Case against Coca-Cola Kerala State: India', <http://www.righttowater.info/ways-to-influence/legal-approaches/case-against-coca-cola-kerala-state-india/> (last visited 21 March 2012).
38 'Today in Business: Cola Ban Overturned in India', *New York Times*, 23 September 2006, <http://query.nytimes.com/gst/fullpage.html?res=9E03E6DB1E31F930A1575AC0A9609C8B63&scp=40&sq=coca+cola+company+india&st=nyt> (last visited 18 March 2012).
39 'India: Pollution Fine Sought Against Coca-Cola', *New York Times*, 23 March 2010, <http://www.nytimes.com/2010/03/24/world/asia/24briefs-Indiabrf.html> (last visited 20 March 2012).
40 See Lambooy, supra note 1, p. 492.
41 For an anthropological perspective on the brand image damage to and the loss of consumer trust in Coca-Cola products in India see N. Vedwan, 'Pesticides in Coca-Cola and Pepsi: Consumerism, Brand Image, and Public Interest in a Globalizing India', 2007 *Cultural Anthropology* 22, no. 4, pp. 659-684.

– in comparison to prior annual growth rates of 25-30%.[42] This highly publicised conflict in India also caught the attention of consumers in the US. After a series of demonstrations by students who joined two activist groups in the US, ten American universities[43] temporarily stopped selling Coca-Cola products at their campus facilities.[44]

### *2.4. Coca-Cola's CSR policies post-conflicts*

Two years before the water conflict in India in 2003, Coca-Cola adopted the GRI Guidelines and started reporting on sustainability. By 2003, the company had already experienced a few CSR-related conflicts in other parts of the world.[45] However, none of them had the grave consequence of a loss of trust in the company and its products by consumers and the public in general.

According to Pirson and Malhotra, the main reason why this controversy ended so badly for Coca-Cola lies in its response to the problem.[46] Coca-Cola denied having produced beverages containing elevated levels of pesticides, as well as having over-exploited and polluted water resources.[47] By denying all claims and trying to prove its integrity, instead of demonstrating concern towards the situation, Coca-Cola failed to regain consumers' trust.[48] The Indian population viewed Coca-Cola as a corporate villain who cared more about profits than public health.[49] In comparison, previous conflicts experienced by the company in the US and Belgium were better handled because it included stakeholder engagement in its strategy.[50]

It appears that the company became aware of its mistake after the controversy had been ongoing for a couple of years. In 2008 Jeff Seabright, Coca-Cola's vice president of environment and water resources, recognized that the company had not adequately handled the controversy. He acknowledged that local communities' perception of their operation matters, and that for the company '(…) having goodwill in the community is an important thing'.[51]

Although Coca-Cola still denies most of the allegations, the reputational damage experienced after the controversy in India pushed Coca-Cola to take damage-control measures. Those measures at first consisted of statements to confirm Coca-Cola's integrity. For example, Coca-Cola dedicated a page in the Corporate Responsibility Review of 2006 to address the controversy. The statement consisted mainly of providing information supporting its good practices and water management of its operations in India.[52] But this statement did little to combat the declining sales and increasing losses exceeding investments.

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42 M. Pirson & D. Malhotra, *Unconventional Insights for Managing Stakeholder Trust*, 2008 Working Paper, Kennedy School of Government, pp. 9-10.

43 University of Michigan, New York University, Rutgers University in New Jersey and Santa Clara University in California, among others.

44 'U. of Michigan Becomes 10th College to Join Boycott of Coke', *New York Times*, 31 December 2005, <http://www.nytimes.com/2005/12/31/business/31coke.html> (last visited 2 April 2012).

45 For instance, in 1999 four African-American employees filed a suit at the District Court of Georgia making allegations of racial discrimination (see *Ingram et al. v. The Coca-Cola Company*, Case No. 1-98-CV-3679 (RWS)). Also in 1999, the Belgian government banned Coca-Cola's products for ten days due to reports of more than 240 people in Belgium and France experiencing intestinal problems after drinking Coke (see 'Business: The Company File. Belgium bans Coca-Cola', *BBC*, 14 June 1999, available at <http://news.bbc.co.uk/2/hi/europe/369089.stm> (last visited 20 March 2012)).

46 See Pirson & Malhotra, supra note 42, p. 9.

47 The Coca-Cola Company, 'Comment from the Coca-Cola Company on The Christian Aid Report', 20 January 2004, <http://www.the-coca-colacompany.com/dynamic/press_center/2004/01/comment-from-the-coca-cola-company-on-the-christian-aid-report.html> (last visited 20 March 2012)

48 See Pirson & Malhotra, supra note 42, pp. 9-10.

49 See Pirson & Malhotra, supra note 42, p. 9.

50 In the United States, even though the company settled and denied the charges in the settlement agreement, part of the agreement was the creation of a panel, a Task Force, constituted to engage with Coca-Cola's employees, to survey their discrimination concerns in the company, and to serve as a watchdog for 5 years to evaluate compliance with the settlement agreement (see 'First Annual Report of the Task Force', 2002, <http://www.thecoca-colacompany.com/ourcompany/pdf/task_force_report.pdf> (last visited 29 November 2011)). In Belgium, on the other hand, Coca-Cola took responsibility – even though it was later proved that the reported health problems had not been caused by Coca-Cola products. The company apologized and offered to cover the health-care costs of anyone who had been affected by the incident. The company also launched a massive marketing campaign, and generally demonstrated concern for its customers (see Pirson &Malhotra, supra note 42, p. 8).

51 'Water Pressure', *Time Magazine*, 12 June 2008, <http://www.time.com/time/magazine/article/0,9171,1814261,00.html> (last visited 21 March 2012).

52 For instance, it stated that from 1999 to 2006 operations in India reduced water consumption by 35 per cent, and had also helped to install more than 300 rainwater harvesting systems in 17 states. See The Coca-Cola Company '2006 Corporate Responsibility Review', 2007, p. 26, <http://www.thecoca-colacompany.com/citizenship/pdf/corporate_responsibility_review2006.pdf> (last visited 21 March 2012).

Coca-Cola gradually changed its strategy to include damage-control measures that addressed the Indian communities' grievances. In 2008 the company published its first environmental performance report on operations in India, which covered activities from 2004 to 2007.[53] It also created the Coca-Cola India Foundation, Anandana, which works with local communities and NGOs to address local water problems.[54] But perhaps the most outstanding change of strategy by Coca-Cola consisted of launching various community water projects in India. An example is the rainwater harvesting project, where Coca-Cola's operations partnered with the Central Ground Water Authority, the State Ground Water Boards, NGOs and communities to address water scarcity and depleting groundwater levels through rainwater harvesting techniques across 17 states in India. These techniques consist mainly of collecting and storing rainwater while preventing its evaporation and runoff for its efficient utilisation and conservation. The idea behind this is to capture large quantities of good quality water that could otherwise go to waste. By returning to the ecosystem the water used in its operations in India through water harvesting, the company expected that this project could eventually turn the company into a 'net zero' user of groundwater by 2009.[55] In the 2012 Water Stewardship and Replenish Report, Coca-Cola stated that its operations in India have 'achieved full balance between groundwater used in beverage production and that replenished to nature and communities – ahead of the global target'.[56]

It appears that the controversy in India was a learning experience for the company, and that it motivated the company to adopt a more proactive CSR policy on a global scale that focuses on water management. In June 2007, Coca-Cola implemented a water stewardship programme and committed itself to reduce its operational water footprint and to offset the water used in the Company's products through locally relevant projects.[57] To achieve those commitments Coca-Cola established three measurable objectives:

(1) Reducing water use by improving water efficiency by 20% over 2004 levels by 2012. The latest data available from 2010 shows a 16% improvement over the 2004 baseline.[58]
(2) Recycling water through wastewater treatment and returning all water used in manufacturing processes to the environment at a level that supports aquatic life and agriculture by the end of 2010. By September 2011, the progress observed concerning this target was 96%.[59]
(3) Replenishing water used by offsetting the litres of water used in finished beverages by 2020 through local projects that support communities and nature (i.e. watershed protection and rainwater harvesting).[60] Currently, Coca-Cola reports that it holds a global portfolio of 386 community water partnerships or community-based replenish projects.[61] By 2011, about 35% of the water used in finished beverages was replenished.[62]

It is noteworthy that Coca-Cola publishes, in addition and separate to the sustainability reports, an annual water report. In these reports the company publishes assessments of and the progress in its water initiatives. Some of the assessments are made by the Global Environment & Technology Foundation, an American NGO experienced in facilitating the creation of public-private partnerships.[63]

Also in 2007, Coca-Cola entered into a partnership with WWF. Its core objectives are increasing understanding on watersheds and water cycles to improve Coca-Cola's water usage, working with local communities in various locations worldwide, and developing a common framework to preserve water

53 Coca-Cola India, 'Towards Sustainability', 2008, <http://www.thecoca-colacompany.com/citizenship/pdf/india_env_rpt.pdf> (last visited 14 November 2012).
54 See Anandana at <http://www.yatn.net/aboutfoundatiom.html> (last visited 21 March 2012).
55 See Coca-Cola India, supra note 53, p. 12.
56 The Coca-Cola Company, 'The Water Stewardship and Replenish Report', 2012, p. 21, <http://www.thecoca-colacompany.com/citizenship/pdf/TCCC_WSRR_2012_FINAL.pdf> (last visited 3 April 2012).
57 A. Wright (Global Environment & Technology Foundation), 'Quantifying Water Access Benefits in Community Water Partnership Projects', 2009, <http://www.thecoca-colacompany.com/citizenship/pdf/sustainability_reports/2009_water_access_benefits.pdf> (last visited 3 April 2012).
58 See The Coca-Cola Company, supra note 56, p. 27.
59 Ibid.
60 See Wright, supra note 57.
61 See The Coca-Cola Company, supra note 56, Appendix A.
62 Ibid., p. 27
63 See Wright, supra note 57, p. 2.

sources.[64] Finally, and also in the same year, the company became a member of the public-private initiative CEO Water Mandate, which is a public-private initiative that assists companies in the development, implementation and disclosure of water sustainability policies and practices.[65]

## 3. Walmart

### *3.1. Walmart's profile*

Walmart Supercenters (hereafter Walmart) has a full offering of groceries and general merchandise in a single store. Walmart offers to its customers a one-stop shopping experience and is the largest private employer in the US as well as being the world's largest retailer.[66] It has more than 10,130 retail units under 69 different banners in 27 countries. They all share a common goal: 'Saving people money so they can live better'.[67] Walmart employs 2.2 million associates worldwide[68] and generated net sales of $ 443 billion during the fiscal year of 2012.

Walmart was founded in 1962, with the opening of the first Walmart discount store in Rogers, Arkansas (US). The company was incorporated as Wal-mart Stores, Inc. on 31 October 1969.[69] The company's shares began trading on OTC (Over-The-Counter) markets in 1970 and were listed on the NYSE two years later.[70]

### *3.2. Walmart's CSR policies and reporting*

Several authors have pointed to Walmart as an important emerging private actor in the transformation of lawmaking in the CSR field, referring to it as a 'global legislator.'[71] They highlight how Walmart is able to use its contractual relationships to regulate behaviour among its suppliers around the globe with respect to product quality, working conditions for the suppliers' employees, and ethical conduct.[72] Since 2007 Walmart publishes its annual report on its website. It was initially called the 'Global Sustainability Report' and later changed to 'Global Responsibility Report' in 2011. Mike Duke, Walmart's CEO (Chief Executive Officer), says 'This change reflects the new social and environmental dimensions we have added to our efforts (…) We believe transparency and accountability are part of being a good and responsible company.'[73] Walmart's annual report publishes its constant and progressive work towards social responsibility issues. The Global Responsibility Report 2011 is divided into three main reporting parameters: Environment, Social and Goals.

Walmart's 2011 report covers every corner of CSR issues. It points out how its successful 'Sustainability 360' model[74] has helped Walmart to be the retail leader in the market. It also communicates the significant progress made by and the new reduction goals of greenhouse gas emissions of its supply chain by 2015. Walmart's financial contributions in kind, such as investments in education, health, commitments to

64 See Lambooy, supra note 21, p. 855.

65 The Coca-Cola Company, 'CEO Water Mandate', <http://www.thecoca-colacompany.com/citizenship/water_mandate.html> (last visited 28 November 2011).

66 B. Farfan, 'Global Powers of retailing Names Biggest and Best Retail Chains Worlwide', <http://retailindustry.about.com/od/famousretailers/a/what-are-worlds-largest-retail-companies-retailers-chains-complete-list-2011-_2.htm> (last visited 30 November 2011).

67 Walmart, 'Walmart Corporate', <http://walmartstores.com/AboutUs/> (last visited 4 December 2011).

68 Ibid.

69 Ibid.

70 Ibid.

71 The sample totalled a number of 2,200 companies including the Global Fortune 250 (G250) companies and the 100 largest companies by revenue (N100) in 22 countries. The purpose of this survey was to track reporting trends in the world's largest companies. KPMG International, 'Survey of CSR Reporting 2008', p. 41, <http://www.kpmg.nl/Docs/Corporate_Site/Publicaties/Corp_responsibility_Survey_2008.pdf> (last visited 23 July 2010). See also M.P. Vandenbergh, 'The New Walmart Effect: the Role of Private Contracting in Global Governance', 2007 *UCLA Law Review* 54, p. 913.

72 It has been suggested that this transformation 'challenges the regulatory monopoly of states and may contribute to the construction of a global system of customary law as powerful as the English common law was in its day'. L. Catá Backer, 'Economic Globalisation and the Rise of Efficient Systems of Global Private Lawmaking: Walmart as Global Legislator', Symposium: Walmart: The New Superpower, 2007 *University of Connecticut Law Review* 39, no. 4, p. 1739.

73 Walmart, 'Walmart Global Responsibility Report', 2011, p. 1, <http://walmartstores.com/Sustainability/7951.aspx> (last visited 28 November 2011).

74 The Sustainability 360 Model engages more than 100,000 suppliers, 2 million associates and hundreds of millions of customers around the world to achieve Walmart goals. See Walmart, supra note 73, p. 9.

fight hunger, support for local farmers and access to healthier and affordable food, can also be found in Walmart's Global Responsibility Report 2011.

Walmart's current performance, policies and financial figures at first sight portray Walmart as a role model company on CSR.

### *3.3. Walmart's conflicts*

Walmart has faced many obstacles over the years. It seems that legal and social challenges have acted as important reasons for the development of its code of conduct and annual reporting. This statement can be illustrated in two relevant cases: *Walmart Stores Inc. v. Dukes et al.*[75] and the press reports accusing Walmart of using child labour.

#### *3.3.1. Walmart Stores Inc. v. Dukes et al.*

*Walmart Stores Inc. v. Dukes et al.* started a decade ago and is still being heard by the US Courts. It commenced as a national class action against Walmart. Plaintiffs Betty Dukes, Patricia Surgeson, Edith Arana ('plaintiffs'), on behalf of themselves and others similarly situated, allege that female employees in Walmart and Sam's Club retail stores were discriminated against based on their gender. They stated that they were discriminated against regarding pay and promotion to top management positions, thereby violating the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e et seq. of Title VII).[76] In 2004, the US District Court for the Northern District of California certified a national class of female employees challenging retail store pay and management promotion policies and practices under the Federal Rule of Civil Procedure Article 23(b)(2).[77] Walmart appealed to the Ninth Circuit in 2005, arguing that the seven lead plaintiffs were not typical or common of the class.[78] Walmart appealed to the Supreme Court in August 2010 after the US Court of Appeals for the Ninth Circuit upheld class certification.[79] Finally, the situation changed on 20 June 2011 when the US Supreme Court reversed the class certification.[80]

The Court held that the nationwide class certification approved by the lower courts was not consistent with the Federal Rule of Civil Procedure Article 23(a) governing class actions.[81] Justice Antonin Scalia concluded that the millions of plaintiffs and their claims did not have enough in common:[82] 'Without some glue holding the alleged reasons for all those decisions together, it will be impossible to say that examination of all the class members' claims for relief will produce a common answer to the crucial question why I was disfavored.'[83]

*Dukes v. Walmart Stores*, which in 2001 was estimated to comprise more than 1.5 million women, included all women employed by Walmart nationwide at any time after 26 December 1998.[84] It would have been the largest class action lawsuit in US history.[85]

Despite the Supreme Court resolution, time, money and efforts invested up to this point, the case did not end there. In October 2011, the plaintiffs' lawyers filed an amended lawsuit limiting the class to

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75 *Walmart Stores Inc. v. Dukes et al.* [2011], Case No. 10-277, SUPREME COURT OF THE UNITED STATES, Certeorari to the United States Court of Appeals for the Ninth Circuit, p. 1.

76 *Dukes v. Walmart Stores*, [2001], Case No. C-01-2252-CRB, PLAINTIFFS' FOURTH AMENDED COMPLAINT, Ninth Circuit, p. 2.

77 Ibid, p. 2

78 J.P. Putney, 'Women launch new discrimination claim against Wal-Mart', *Jurist*, 28 October 2011 <http://jurist.org/paperchase/2011/10/women-launch-new-discrimination-claim-against-Walmart-limited-to-california.php> (last visited 3 December 2011).

79 Ibid.

80 'The high court, issuing new guidelines for class actions and Title VII employment discrimination cases, held that the national class could not be certified, based on the facts it outlined in its opinion. The Supreme Court did not rule on the merits of the action, but only ruled that the class as certified could not proceed. It did not preclude prosecution of a class that was consistent with its newly announced guidelines and standards'. See *Dukes v. Walmart Stores*, supra note 76, p. 2.

81 F.A. Fahleson, '"When At First You Don't Succeed…" New State Wide Class Action To Test Dukes Standards', *dritoday*, 4 November 2011, <http://dritoday.org/post/e2809cWhen-At-First-You-Done28099t-Succeed-e2809d-New-Statewide-Class-Actions-to-Test-Dukes-Standard.aspx> (last visited 21 March 2012).

82 Ibid.

83 Ibid.

84 See *Walmart Stores Inc. v. Dukes et al*., supra note 75.

85 A. Silverman, 'Largest Discrimination Lawsuit in US History Gets Green Light: After years of delay, female Walmart workers may get their day in Court', *Turner Strategies*, 26 April 2010, p. 1. <http://www.walmartclass.com/staticdata/Dukes%20v.%20Walmart%20-%20En%20Banc%20Press%20Release.pdf> (last visited 21 March 2011).

female Walmart employees in California.[86] This suit is expected to be the first of many additional class-action lawsuits against the retailer at the state or regional level.[87] The new lawsuit, filed in the US District Court for the Northern District of California, alleges discriminatory practices against more than 90,000 women regarding pay and job promotion as well as requiring non-discriminatory pay and promotion criteria.[88]

### *3.3.2. Walmart caught using child labour in Bangladesh*

At the end of 2005, the Radio Canada programme Zone Libre made public the news that Walmart was using child labour at two factories in Bangladesh.[89] Children aged 10-14 years old were found to be working in the factories for less than $50 a month making products of the Walmart brand for export to Canada.[90]

Referring to Walmart's policy at that time consisting of cutting ties with suppliers when violations occurred, the NGO *Maquila Solidarity Network* said that 'cutting and running is the worst possible response to reports of child labour or other sweatshop abuses'.[91] Critiques said that it only discourages workers from telling the truth to factory auditors for fear of losing their jobs and encourages suppliers to hide abuses or to subcontract work to other factories that will escape inspection.[92]

Nevertheless, Walmart ceased business with the two factories immediately.[93] Walmart alleges that despite its effort to inspect all factories, it is difficult to enforce its own corporate code of conduct with thousands of subcontractors around the world.[94]

### ***3.4. Walmart's CSR policies post-conflicts***

Walmart developed its first Code of Conduct (COC) 'Standard for Suppliers' in 1992,[95] which mainly focuses on quality standards for suppliers only. However, Walmart's first general report ('Report on Ethical Sourcing'[96]), which includes suppliers, customers and associates, was generated in 2006. This report was elaborated after the filing of the lawsuit by the female employees in 2001 and the damaging campaigns and press publications accusing Walmart's suppliers in Bangladesh of using child labour. Walmart's reporting culture was imitated by the rest of the companies in the market. Nowadays, Walmart has been qualified as a 'global legislator' in CSR policies.[97]

The 2005 Report on Ethical Sourcing reported that Walmart had ceased to do business with 141 factories, primarily because of underage labour violations.[98] The Report also contains a chart with the main violations found during the audits. Gender discrimination was not mentioned at any stage throughout the whole document. Walmart's 2005 and 2012 COC 'Standard for Suppliers' explicitly establish that Walmart would not tolerate the use of child labour.[99] The 2005 COC sets the age of 14 as the minimum age for suppliers and subcontractors to hire workers.[100] It also specifies non-discrimination on

86 See *Dukes v. Walmart Stores*, supra note 76, pp. 2-3.
87 See *Walmart Stores Inc. v. Dukes et al.*, supra note 75.
88 See *Dukes v. Walmart Stores*, supra note 76.
89 Maquila Solidarity Network, 'Walmart caught using child labor in Bangladesh', 2005, <http://en.maquilasolidarity.org/currentcampaigns/Bangladesh/walmart?SESS89c5db41a82abcd7da7c9ac60e04ca5f=mrdvpcufw> (last visited 22 March 2012).
90 Ibid.
91 The Maquila Solidarity Network (MSN) is a labour and women's rights organization that supports the efforts of workers in global supply chains to improve wages and working conditions and a better quality of life. See MSN website <http://en.maquilasolidarity.org/> (last visited 1 October 2012).
92 Maquila Solidarity Network, 'Caught using child labour, Wal-Mart Cannot Run Away From its Responsibilities, Say Anti-Sweatshop Groups', 5 December 2005, <http://www.marketwire.com/press-release/caught-using-child-labour-wal-mart-cannot-run-away-from-its-responsibilities-say-anti-570656.htm> (last visited 29 June 2012).
93 'Walmart to cut ties with Bangladesh factories using child labour', *CBC News*, 30 November 200, <http://www.cbc.ca/news/world/story/2005/11/30/walmartbangladesh051130.html> (last visited 22 March 2012).
94 Ibid.
95 Walmart, '2005 Report on Ethical resources', 2011, p. 8, <http://www.walmartstores.com/sustainability/7951.aspx> (last visited 28 November 2011).
96 Ibid., p. 30.
97 See KPMG International, supra note 71.
98 See Walmart, supra note 95.
99 'All labor must be voluntary. Slave, child, underage, forced, bonded, or indentured labor will not be tolerated.' See Walmart. '2012 Standard for Suppliers', <http://www.walmartstores.com/suppliers/> (last visited 23 April 2012).
100 See Walmart, supra note 95, p. 29.

the basis of gender and other personal characteristics or beliefs. It is important to highlight that gender discrimination was not given any special treatment in the 2005 COC or in the general report.

Walmart's zero tolerance policy for underage workers was changed in 2005.[101] If a single underage worker was found in a factory, Walmart ceased business *ipso facto*. At the beginning of 2005, if two underage workers were found, the factory would receive a warning and had to change and correct in the follow-up audit.[102] If more than two underage workers were found or the company did not make corrections, the factory was permanently banned from Walmart's production. This decision was based on NGO advice from the Bangladesh case mentioned in the above section. If Walmart cuts business with these factories, many workers could be laid off for lack of production, suppliers will hide abuses and workers will not tell the truth to auditors in order not to lose their jobs. Walmart has a strict corporate code of conduct in the industry but according to investigations Walmart is not able to enforce its code in developing countries.[103]

Currently, Walmart publishes a full and complete report on CSR issues called 'Global Responsibility Report' which covers the three dimensions of 'People, Planet, Profit'.[104] This report emphasizes gender equality and a diverse workforce.[105] Walmart has a Gender Equality and Diversity gender policy that can be found in its 'Global Responsibility Annual Report'. In 2009, Walmart took the commitment one step further with the incorporation of the Advisory Board on Gender Equality and Diversity. The board is aimed at providing equal and enhanced opportunities for all in top leadership roles.[106] These policies have generated an increase in female officials and managers from 23,873 employees in 2005 to 25,246 employees in 2010.[107]

Walmart has also committed itself to achieving three goals in its Sustainability Report: using 100% renewable energy, creating zero waste, and selling products that sustain people and the environment. These criteria are established and measured by Walmart at the end of the 2012 report. Walmart indicates every year its completed goals and the progress in the ones that have not yet been achieved. An example of quantifiable measures is creating a zero waste Walmart by eliminating landfill waste from US stores by 2025.

Although Walmart does not follow the GRI Guidelines, it has measurable targets on audits. For instance, Walmart requires its suppliers who produce toys in China to sign up to the ICTI CARE Process.[108] The ICTI CARE Process was created by the international toy industry to achieve a safe and human working environment for toy factory workers worldwide. In addition, Walmart conducts internal validation audits by Walmart's Ethical Sourcing team. These validation audits ensure that the ICTI CARE process is properly implemented and that it meets Walmart's Standards for Suppliers.[109]

## 4. Apple

### *4.1. Apple's profile*

Apple Inc. (hereafter Apple) was established in 1977 and is registered on the NASDAQ Global Select Market exchange.[110] According to its Form 10-K[111] 'Apple designs, manufactures and markets mobile

101 Ibid., p. 24.
102 Ibid., p. 24.
103 G. Milovanović et al., N. Barac & A. Andjelković, 'Corporate Social Responsability in the Globalisation Era', 2009 *Economics and Organization* 6, no. 2, p. 92.
104 OECD-ILO, 'Overview of Selected Initiatives and Instruments Relevant to Corporate Social Responsibility', OECD-ILO Conference on CSR, Employment and Industrial Relations: Promoting Responsible Conduct in a Globalising Economy, Paris, 23-24 June 2008, pp. 5-6.
105 The Walmart Global Responsibility Report 2010 devotes special attention to the importance of women for Walmart.
106 Walmart, 'Walmart Global Responsibility Report : Social', 2011, p. 40, <http://walmartstores.com/Sustainability/7951.aspx> (last visited 28 November 2011).
107 Ibid.
108 The ICTI CARE Process allows buyers and suppliers to reduce their own auditing of labour standards and redirect their resources toward factory development and capacity building. Retrieved from Walmart Responsability Report 2011, p. 79. The ICTI Care Process policy can be found at <http://www.icti-care.org/process-policies/working-hours-policy-amendment.htm> (last visited 29 June 2012).
109 Ibid.
110 Apple Inc., Form 10-K, <http://investor.apple.com/> (last visited 26 March 2012).
111 According to the US Securities and Exchange Commission a Form 10-K 'provides a comprehensive overview of the company's business and financial condition and includes audited financial statements. Although similarly named, the annual report on Form 10-K is distinct

communications, media devices, personal computers and portable digital music players, and sells a variety of related software, services, peripherals, networking solutions, and third-party digital content and applications'.[112] Its products are sold through Apple's retail stores, online stores and third parties.

Apple is a world leader in producing innovative electronic goods and technology. In 2011 Apple's net sales were estimated at $108.2 million. Its net sales in 2011 increased by 60% compared to 2010.[113] Apple worldwide employs 60,400 full-time people and 2,900 temporary employees and contractors. The company utilizes outsourcing through the manufacturing of its products overseas; most of the factories are located in Asia.

### *4.2. Apple's CSR policies and reporting*

As required by the SEC, Apple has made the Form 10-K annual report available on its website. The Form 10-K contains – amongst other things – information on Apple's business strategy and organisation, the company's risk factors, legal proceedings and financial data. It also includes the business conduct policy of Apple: 'Apple conducts business ethically, honestly and in full compliance with all laws and regulations. This applies to every business decision in every area of the company worldwide'.[114] Furthermore, the business conducts deals with corporate governance, information disclosure, non-corruption and bribery, environmental health and safety.

Apple has considered the GRI G3.1 indices relating to the economy, the environment, human rights, society and labour for its publication on Governance, Product Environmental Reports, Recycling and Facilities Environmental Report and Supplier Responsibility. For Supplier Responsibility, Apple, for example, has taken into account the indicator which reports on measures it has taken to contribute to the elimination of child labour. With regard to Product Environmental Reports, Apple has used the EN26 performance indicator,[115] and sets out initiatives to lessen the environmental impact of its products. Apple designs its products with the aim of being as energy efficient as possible, and it is the only company that can claim all electronic goods are Energy Star qualified.[116] Apple's products have become more powerful while, at the same time, fewer materials are used and fewer carbon emissions are generated.

Almost all of Apple's products are outsourced for manufacturing overseas. On its Supplier Responsibility website Apple states: 'Apple is committed to the highest standards of social responsibility across our worldwide supply chain. We insist that all of our suppliers provide safe working conditions, treat workers with dignity and respect, and use environmentally responsible manufacturing processes. Our actions – from thorough site audits to industry-leading training programs – demonstrate this commitment'.[117]

The Supplier Code of Conduct (Supplier Code) outlines Apple's expectations for the suppliers it does business with.[118] As a condition for doing business with Apple, suppliers have to commit to the Supplier Code. For the Supplier Code, Apple has adopted the Electronics Industry Code of Conduct (EICC),[119] the guidelines and standards for the electronics sector. Through onsite audits Apple ensures that suppliers comply with the Supplier Code. The final assembly manufactures are audited every year and

from the 'annual report to shareholders,' which a company must send to its shareholders when it holds an annual meeting to elect directors', <http://www.sec.gov/answers/form10k.htm> (last visited 26 March 2012).

112 See Apple Inc., supra note 110.

113 From 2010 to 2011 the unit sales of the iPad increased by 334%, a number of 32.4 million. In 2011, 72.3 million iPhones were sold; compared to 2010, this was an increase of 81%. These numbers show an increase in demand for iPads and iPhones and are relevant in relation to the suicides at Foxconn, the manufacturer of iPhones and iPads.

114 See Apple Inc., supra note 110, p. 1.

115 EN26 Indicator Protocol: <https://www.globalreporting.org/reporting/guidelines-online/G31Online/StandardDisclosures/Environmental/Pages/EN26IndicatorProtocol.aspx> (last visited 16 June 2012).

116 Qualification for the Energy Star certificate can be found on: <http://www.energystar.gov/index.cfm/c=products.pr_how_earn> (last visited 26 March 2012).

117 Apple Inc.,'Apple Supplier Responsibility', <http://www.apple.com/supplierresponsibility/> (last visited 26 March 2012).

118 Apple consulted the following references in preparing the Code: Eco Management & Audit System, ILO International Labour Standards: <www.ilo.org/public/english/standards/norm/whatare/fundam/index.htm>, ISO 14001: <www.iso.org>, OECD Guidelines for Multinational Enterprises: <www.oecd.org>, United Nations Convention Against Corruption: <www.unodc.org/unodc/en/crime_convention_corruption.html>, United Nations Global Compact: <www.unglobalcompact.org>, Universal Declaration of Human Rights: <www.un.org/Overview/rights.html>, (last visited 26 March 2012).

119 Apple Inc., 'Electronic Industry Code of Conduct'. <http://www.eicc.info/eicc_code.shtml> (last visited 23 April 2012).

the components suppliers are audited arbitrarily. Apple obliges its suppliers to respect the human rights of its workers, to inform the workers of their rights, and to treat them with dignity and respect. Apple requires from its suppliers that they prevent discrimination, involuntary and underage labour, excessive working hours and that they pay workers with wages and benefits in accordance with the applicable laws and regulations.

### *4.3. Apple's conflicts*

The limited transparency of Apple's supplier sustainability policy has often been criticized in the media.[120] In February 2010 Apple also turned down two shareholders' sustainability proposals to establish a sustainability report on Apple's environmental policies and the impact that climate change has on the company. The other proposal was to establish a board of directors' sustainability committee.[121]

#### *4.3.1. Labour and human rights*

A well-known conflict involving Apple's suppliers is the suicides at Foxconn.[122] It is the largest contracted electronics manufacturer in the world, with dealings involving Dell and Sony.[123] Foxconn is the manufacturer of iPhones and iPads and employs over 900,000 workers, of whom 420,000 employees work at the Foxconn Shenzhen plant. This plant covers 15 factories, including dormitories, a hospital, a bank, a grocery store and restaurants. The workers live and work inside the complex.

In 2006 the Chinese local press reported on the excessively long working hours and the discrimination of mainland Chinese workers by Taiwanese superiors. In May 2010 several media sources reported several cases of suicide at Foxconn.[124] From 2009 to 2010 a total of 13 workers had committed suicide. The first worker, Sun Danyong, committed suicide after he had been interrogated on the loss of an iPhone 4 prototype that he had in his possession.[125] When the former CEO Steve Jobs was asked about the suicides at Foxconn, he responded: 'Foxconn is not a sweatshop.'[126]

During an undercover investigation it was discovered that the reason for the multiple suicides was related to internal management.[127] 'The facilities of Foxconn are fine, but the management is poor,' revealed Zhu Guangbing, who organised the investigation. According to Audrey Tsui,[128] a professor at the National University of Singapore Business School, Foxconn maintains a military-style management approach. The workers were not allowed to interact with each other. Workers who violated the rule were penalized with a fine or were held to be in contempt by the manager.

The weekly working hours of workers were up to 70 hours, ten hours above the maximum hours set by Apple's Supplier Code. The Foxconn factory has good facilities. The workers have access to swimming pools and tennis courts. Foxconn organises activities such as chess clubs, mountain climbing or fishing expeditions. But with a 70-hour workweek, employees did not have any time to enjoy these facilities.[129]

120 T. Branigan, 'Workers killed in blast at China plant of iPad maker Foxconn', *The Guardian*, 20 May 2011, <http://www.guardian.co.uk/technology/2011/may/20/foxconn-apple-blast-china> (last visited 27 March 2012). T. Culpen, 'Apple supplier Wintek may Boost Compensation for poisoned workers in China', *Bloomberg*, 23 February 2011, <http://www.bloomberg.com/news/2011-02-23/wintek-may-boost-compensation-for-workers-hurt-while-making-touch-panels.html> (last visited 27 March 2012). D. Barboza, 'Group criticizes Apple's environmental record in China', *New York Times*, 1 September 2011, <http://www.nytimes.com/2011/09/02/technology/apple-suppliers-causing-environmental-problems-chinese-group-says.html> (last visited 27 March 2012). P. Svensson, 'Independent group inspecting Apple suppliers', *USA Today*, 13 February 2012, <www.usatoday.com> (last visited 27 March 2012).

121 During the shareholders' meeting Al Gore was re-elected to the board. 'Supporters say Gore needed to urge Apple to do more in setting public environmental commitments and reports'. D. Schatsky, 'Apple Shoots Down Two Shareholder Sustainability Proposals', 26 February 2010, <http://www.environmentalleader.com/2010/02/26/apple-shoots-down-two-shareholder-sustainability-proposals/> (last visited 27 March 2011).

122 A subsidiary of *Hon Hai Precision Co. Ltd*. Taiwan.

123 Foxconn's latest CSR report 2010 can be found on its website <http://www.foxconn.com/CSR_REPORT.html> (last visited 1 October 2012).

124 M. Moore, 'Inside Foxconn's suicide factory', *The Telegraph*, 27 May 2010, <http://www.telegraph.co.uk/finance/chinabusiness/7773011/A-look-inside-the-Foxconn-suicide-factory.html>, (last visited 27 March 2012).

125 A. Tsui, 'Building resilience at work', Centre for Strategic Leadership, National University of Singapore, 21 October 2010.

126 'Steve Jobs says Foxconn in China "not a sweatshop" after worker deaths', *The Guardian*, 2 June 2010, <http://www.guardian.co.uk/technology/2010/jun/02/steve-jobs-foxconn-china-not-sweatshop> (last visited 27 March 2010).

127 See the documentary by Dreamworks China: <http://micgadget.com/16357/foxconn-worker-i-hope-to-become-a-boss/> (last visited 27 March 2012).

128 CV Audrey Tsui: <http://bschool.nus.edu/Departments/ManagementNOrganization/cv/AudreyTsui-2010.pdf> (last visited 27 March 2012).

129 See Moore, supra note 124.

However, interviews with several Foxconn workers by Dreamworks China revealed that not all the employees were dissatisfied. Some believed that the working conditions at smaller factories are worse. One of Foxconn's workers stated that employees at Foxconn thought the media had exaggerated the suicides regarding their connection to Foxconn and that possibly some suicides had a sentimental or romantic cause.[130]

In February 2011, the media reported the child labour issues had worsened at the suppliers for computers, iPods and iPhones.[131] Apple's Supplier Responsibility Report 2011 revealed 91 underage workers at the suppliers.

*4.3.2. Workers' health and safety*

Concerning workers' health and safety conditions at the suppliers, in May 2010 two workers were killed and sixteen employees were injured during an explosion at Foxconn. An Apple spokesperson stated: 'We are deeply saddened by the tragedy at Foxconn's plant in Chengdu, and our hearts go out to the victims and their families. We are working closely with Foxconn to understand what caused this terrible event'.[132] In the same month, The Guardian reported that workers from Wintek had been poisoned by n-hexane, a toxic chemical used to clean the touch screens of iPhones. The employees complained that the compensation Wintek offered for the health damage was not sufficient. The workers who did receive compensation were asked to resign from their jobs.[133]

### *4.4. Apple's CSR policy post-conflicts*

Apple makes sure that suppliers comply with the Supplier Code by conducting audits. The audits cover working and living conditions, health and safety but also environmental practices at the facilities. According to Apple's Supplier Responsibility Report 2010, Apple conducted 102 audits in 2009. In 2011 Apple conducted 229 audits, an increase of 80% compared to 2010. An audit is conducted by an Apple auditor and supported by local third-party auditors.[134]

In the Supplier Responsibility Report 2010, published in February 2011, Apple included a paragraph responding to the suicides at Foxconn.

In the Supplier Responsibility Report 2011, Apple reports that during inspections Apple discovered ten facilities with underage labour violations. One of the facilities had a large number of underage workers. Because the management did not want to address the problem, Apple terminated businesses with this facility.[135] Where underage labour has been discovered, suppliers are required to pay educational expenses, living stipends and lost wages for six months or until the worker reaches the age of sixteen.

In November 2010, Apple set up a training programme to prevent the future hiring of underage workers. The human resources managers are trained in Chinese labour law. Training human resources managers, however, will not solve child labour issues. When the costs of labour, energy and raw materials rise and there is a shortage of labour, factory owners are forced to cut costs or to find cheaper labour. Child labour can easily be hidden by providing fake wages and work schedule data. Also, it is difficult to prevent child labour when underage workers want to work to provide for their families. The Supplier Responsibility Report of 2012 states that suppliers are obliged to return underage workers to school and finance their education through Apple's Child Labour Remediation Program.[136] Regarding abolishing underage labour, Tim Cook, the CEO of Apple, stated: 'We would like to totally eliminate every case of underage employment. We have done that in all of our final assembly. As we go deeper into the supply

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130 See the Documentary by Dreamworks China, supra note 127.

131 M. Moore, 'Apple child labour issues worsen', *The Telegraph*, 15 February 2011, <http://www.telegraph.co.uk/technology/apple/8324867/Apples-child-labour-issues-worsen.html> (last visited 27 March 2012).

132 See Branigan, supra note 120.

133 'Chinese workers urge Apple to react on n-hexane poisoning', *The Guardian*, 22 February 2011, <http://www.guardian.co.uk/world/2011/feb/22/chinese-workers-apple-nhexane-poisoning> (last visited 27 March 2012).

134 See Apple Supplier Responsibility, supra note 117, p. 5. Information on Apple's audits.

135 See Moore, supra note 131.

136 Apple Inc., 'Apple's Supplier Responsibility 2012 progress report', p. 10, <http://www.apple.com/supplierresponsibility/> (last visited 26 March 2012).

chain, we found that age verification system isn't sophisticated enough. This is something we feel very strongly about and we want to eliminate totally'.[137]

In the Supplier Responsibility Progress Report of 2011 Apple addressed the issue of the use of n-hexane. Apple obliged Wintek to stop using n-hexane and required Wintek to repair its ventilation system and to work with a consultant to improve its environmental health and safety systems.[138]

In order to take action it is important for companies to be transparent about their supply chain. In February 2012 Apple announced it would be the first technology company to join the Fair Labour Association (FLA) as a participating company.[139]

## 5. Canon

### *5.1. Canon's profile*

Canon Inc. (hereafter Canon) was founded in 1937. Its headquarters are in Japan and the company is listed on the NYSE. Although the digital camera is the most well-known product to consumers, Canon also produces devices for office and industry use.[140] Canon is planning to invest more in medical image recording equipment and ophthalmic devices.[141] Canon's regional headquarters are established on every continent and, together with other companies, they form the Canon Group. Canon has a global network of more than 200 companies and employs more than 160,000 people worldwide. Canon Inc. alone employs more than 26,000 people.[142] It is dedicated to advancements in technology and commits approximately 10% of its total revenue each year to Research & Development. Canon is consistently one of the top few companies to be granted the most number of patents over the last 18 years.[143] In the year 2010 Canon Group's net sales were estimated at $45,764 million.[144]

### *5.2. Canon's CSR policies and reporting*

It seems that Canon invests a great deal of effort into its CSR reporting. It publishes a separate sustainability report. Apart from that, a lot of information regarding its compliance with different standards and its positive role in society (fund raising and other activities) can be found on its webpage. The company introduced a CSR strategy based on the *Kyosei* philosophy in 1988.[145] At that time this philosophy was not yet widely used, but in recent years the philosophy has come to be commonly used in Japan, in business, politics and in daily life.[146] It is used to imply a range of concepts and meanings. Canon refers to *kyosei* defined as 'living and working together for the common good.'[147]

Currently, Canon has a CSR policy and a CSR mission statement.[148] It has Canon's Global Code of Conduct.[149] Canon follows the GRI Sustainability Reporting Guidelines 2006[150] and its CSR report

137 P. Gupta, 'Apple reveals supply chain, details conditions', *Reuters*, 13 January 2012, <http://www.reuters.com/article/2012/01/13/us-apple-suppliers-idUSTRE80C1KQ20120113> (last visited 27 March 2012).

138 The Supplier Responsibility Progress Report 2011 stated that Apple will re-audit Wintek in 2011; however, the Supplier Responsibility Progress Report 2012 does not publish any results of the Wintek audit.

139 Fair Labour Association, 'Apple Joins FLA', 13 January 2012, <http://www.fairlabor.org/blog/entry/apple-joins-fla> (last visited 3 April 2012).

140 Canon, 'Corporate Info', Corporate Profile, <http://www.canon.com/corp/outline/index.html> (last visited 21 March 2012).

141 Canon, 'About Canon', New business domain, <http://www.canon.com/about/topics/03.html> (last visited 27 March 2012).

142 See Canon, supra note 140.

143 Canon, 'Singapore Printer Brands Launch First-Ever Joint Recycling Initiative – Project Homecoming', <http://www.canon.com.sg/personal/news/detail/project-homecoming?languageCode=EN> (last visited 27 March 2012).

144 Canon, 'Canon Now', <http://www.canon.com/about/business/index.html> (last visited 27 March 2012).

145 Canon, 'Social and cultural Support Activities, The Philosophy', <http://www.canon.com/scsa/philosophy/index.html> (last visited 27 March 2012).

146 The Dialogue Institute, 'KYOSEI – A Concept that will lead the 21st century', p. 1, <http://institute.jesdialogue.org/fileadmin/bizcourse/KYOSEI.pdf> (last visited 30 June 2012).

147 Ibid.

148 Canon, 'About Canon, Kyosei: Canon's Corporate Philosophy', <http://www.canon.com/about/philosophy/index.html> (last visited 27 March 2012).

149 Canon, 'Environmental Activities, Policy and Structure', <http://www.canon.com/csr/compliance/policy.html> (last visited 27 March 2012).

150 Canon, 'Environmental Activities, GRI Guidelines implementation', <http://www.canon.com/csr/report/gri/index.html> (last visited 27 March 2012).

is examined by an external auditor.[151] These external commentators are asked to use a part of the G3 Sustainability Reporting Guidelines as the basis for developing their opinions, namely four reporting principles relating to defining the content of the report.[152]

Canon is listed in different sustainability indexes, such as the Morningstar Socially Responsible Investment Index (Japan) and the Ethibel Sustainability Index Global (Belgium).[153] On Canon's website information is included about its attempt to reduce CO2 emissions, setting up a consultation process with stakeholders and conducting environmentally-friendly manufacturing. The Canon Group Environmental Charter addresses the theme of maximizing resource efficiency from the dual approaches of environmental assurance and economic activities. It considers overall product lifecycles and sets environmental assurance activities for the entire group.[154] Relief activities and fund-raising campaigns are carried out in regions affected by sudden disasters (earthquakes, heavy snowfall, floods, typhoons, fires).[155] The company is also active in recycling. For example, in Singapore it recently joined other companies in a cartridge recycling project.[156] A 'Cradle-to-Cradle' philosophy was used to design the newest generation Energy Star-compliant Canon devices which consume significantly less energy in their manufacture, transportation and use. The result of this is a smaller total carbon footprint.[157] These technologies have reduced CO2 emissions by approximately 11,000,000 tons and saved consumers 350 billion Japanese Yen in electricity costs from 2003 to 2010.[158]

### *5.3. Canon's conflicts*

#### *5.3.1. Stress-related illnesses*

When trying to analyze the company's behaviour it was difficult to find reliable independent articles. Nevertheless, one article from 2007 deserves attention.[159] In Canon Denmark a problem of stress-related illnesses occurred. These illnesses were the result of changes in the organization and increasing pressure to perform. As this caused many problems for business managers, human resources (HR) and increased the workload for other employees, Canon Denmark started to develop a policy to reduce stress in the workplace. While it was carrying out research for that policy, the government of Denmark also strengthened the anti-smoking legislation and the works council was demanding changes to a number of existing policies. The company realized that a specific stress-reduction policy was not enough and started to examine not only its own, but the European and global Canon policies as well.[160]

#### *5.3.2. Employees not allowed to sit down during working hours*

Internet research also presented a couple of articles related to Canon Electronics Inc., a company based in Japan, forcing its employees to stand during their work and demanding that they walk at a specific pace. As it was not possible to find an NGO report on this topic or any other completely reliable source, this research is based on blogs and comments by alleged employees. In Hisashi Sakamaki's theory (Representative Director of Canon Electronics) forcing employees to stand not only saves money but increases productivity and enhances employee relationships.[161] It can be called into question whether

151 Canon, 'Environmental Activities, Third-Party Opinions', <http://www.canon.com/csr/report/opinion/index.html> (last visited 27 March 2012).

152 Ibid.

153 Canon, 'Environmental Activities, External Corporate Assessments', <http://www.canon.com/csr/report/or/04.html> (last visited 27 March 2012).

154 Canon, 'Environmental Activities', <http://www.canon.com/environment/vision/charter.html> (last visited 27 March 2012).

155 Canon, 'Social and Cultural Support Activities, Humanitarian Aid and Disaster Relief', <http://www.canon.com/scsa/aid_relief/index.html> (last visited 27 March 2012).

156 See Canon, supra note 143.

157 Canon, 'Canon Business Solutions', <http://solutions.canon.com/Workflow_Solutions/Vertical_Industry_Solutions/Education/Education_Solutions_Page.shtml> (last visited 27 March 2012). See also W. McDonough & M. Braungart, *Cradle to Cradle*, 2002.

158 Canon, 'Environmental activities, Reducing CO2 During Use', <http://www.canon.com/environment/products/e-saving.html> (last visited 1 April 2012).

159 Canon, 'Canon Denmark Health & Safety Policy and Initiative', <http://www.csreurope.org/solutions.php?action=show_solution&solution_i=649> (last visited 21 March 2012).

160 Ibid.

161 Canon, 'Canon Employees Are Forbidden to Sit Down', <http://gizmodo.com/5273192/canon-employees-are-forbidden-to-sit-down-walk-at-normal-pace> (last visited 21 March 2012).

removing chairs enhances productivity in the long run. It is fair to assume that people feel under pressure when they are not allowed to sit down or when they are forced to walk at a prescribed speed. The previously mentioned Canon Denmark case clearly showed that work-related stress has a negative effect on the whole working process and that good management focused on preventing stressful situations is crucial. Good practices from one company should apply to the whole group. The annual report should provide information on the way the company follows best practices in its worldwide operations and this should well exceed legal requirements.[162] Clear conclusions on how this case was addressed, if addressed at all, cannot be made due to the non-ability of the author of this article to understand the Japanese language. But at the same time it points to a lack of transparency in reporting on this issue. An official report from the company would be appreciated as it is difficult to assess the situation from an European point of view.

### *5.4. Canon's CSR policies post-conflicts*

This chapter of the article focuses on comparing Canon's sustainability reporting on employee matters between the years 2007 and 2010. Since its founding, Canon has promoted 'Health First' as one of its Guiding Principles. Even in the Canon Inc. sustainability report of 2007 it can be read that Canon took action in preventing lifestyle-related diseases. With the government enactment of health-promoting policies and laws, such as Health Japan 21 and the Health Promotion Law, lifestyle checks and tests are performed during periodic medical examinations. Based on these examination results, all Canon Group companies in Japan have set common numerical targets with the aim of preventing lifestyle-related diseases. Their focus was (and still is) on cholesterol and smoking rates.[163]

Canon's experience in managing stress, from the previously mentioned Canon Denmark case, had convinced the company to focus on prevention, rather than the treatment of problems. A clear shift from reactive to proactive management was made. When looking through its webpage, this is now clearly seen. Canon also took the opportunity to develop action-based policies. In August 2007 Canon launched a new policy that covered topics such as: Work-life balance, aging workforce, health and safety, stress management, respect and tolerance, smoking, alcohol and substance abuse, nutrition and exercise. Some of these policies can also be measured. To ensure an appropriate work-life balance excessive working hours were constrained through the strict implementation of a 'no-overtime day'. During 2009, an average in-house ratio of 80% adherence to prescribed working hours on 'no-overtime days' was achieved and the number of total overtime hours worked per employee for that year was down by approximately 100 hours from 2008.[164] On 'no-overtime days' in 2010 the same 80% average of employees left work at the designated time as the year before.[165] Data can be found for cholesterol and smoking targets and performance. From 2004 to 2006, smoking rates dropped from 33 to 30%, exceeding the goal of 31%. The target of a 10% decrease regarding high cholesterol was not achieved; the report stated that it had dropped from 11.7 to 11%.[166] In 2010 the smoking rates dropped to 27.5% and high cholesterol to 9.2%.[167] For the aging workforce, Canon implemented a system for re-employing retired employees until the age of 65. In 2006, 73 of the 211 who had reached retirement age chose for re-employment, and by the end of that year 177 were working under this system.[168] In 2010, 139 of the 234 employees who had reached retirement age chose for re-employment, with 451 working under this system by the end of that year.[169] The initial focus of the policy in 2007 was stress management for all employees. It developed a series of seminars for employees on the topic. Concerning this issue it increased its focus on soft (i.e. non-cash) benefits and managers' competence coaching and leadership, it decreased the long-term absence rates,

162 See Lambooy, supra note 1, p. 151.
163 Canon, 'Canon Sustainability Report 2007', <http://www.canon-europe.com/images/Sustainability%20Report%202007_tcm13-462919.pdf> (last visited 21 March 2012).
164 Canon, 'Canon Sustainability Report 2010', <http://www.canon-europe.com/images/Sustainability%20report%202010_tcm13-892172.pdf> (last visited 2 April 2012).
165 Canon, 'Respecting Human Rights and Creating Opportunities for Success', <http://www.canon.com/csr/report/la/03.html> (last visited 2 April 2012).
166 See Canon, supra note 163.
167 Canon, 'Health Management', <http://www.canon.com/csr/report/la/06.html> (last visited 2 April 2012).
168 Ibid.
169 See Canon, supra note 165.

it allowed HR to focus on strategic workforce planning and development issues, it developed HR and management competences, and it structured the approach to deal with stress.[170]

The sustainability report of 2011 mentions that Canon organised seminars for managers in China and Vietnam and intercultural training seminars at operational sites in Europe.[171] In addition, research shows that there has been a shift from reporting on basic needs to reporting on intellectual improvement. The Canon Europe Sustainability Report 2010-2011 shows its active encouragement for employees to have a healthy work and life balance.[172] But greater emphasis is given to education, development and performance. As almost three-quarters of the employees expressed their overall satisfaction with working for Canon,[173] apparently Canon met their needs and it is time for Canon to set higher goals.

To sum up, in the case of Canon and CSR it is about meeting the legal requirements and also exceeding the minimum CSR standards. This brief overview has focused on employee matters as problems in other areas of CSR were not addressed in the available resources. The case study presents a change in Canon's CSR reporting from a reactive to an active approach. The Canon reports mainly emphasize environmental reporting; however, that exceeds the scope of this article (as it does not mention *issues)*. As Canon meets CSR standards it should be encouraged to go even further as this is the area of the law that brings prosperity to society. Canon's development should therefore never be finished.

## 6. Comparing the different case studies

This section will provide a comparison of the companies' response to the conflicts studied and whether such conflicts had an effect on their CSR policy.

In order to compare the companies' CSR policies it is important to recognise the distinction between the four companies. The parent companies of Apple, Coca-Cola and Walmart are based in the US, while Canon is situated in Japan. Because the parent companies are based in different countries, different legal systems and jurisdictions apply. However, the multinationals are US-listed companies on the NASDAQ (Apple) and NYSE (Canon, Coca- Cola and Walmart).

### *6.1. Reporting according to sustainability guidelines*

Coca-Cola, Canon and Walmart have an extensive CSR report. Unlike Coca-Cola, Canon and Walmart, Apple does not publish a separate sustainability report but publishes information on the environment and supplier responsibility on its website. Coca-Cola has committed itself to a series of quantifiable targets on which it reports on an annual basis. The company reports using GRI G3.1 guidelines. The report is verified by a third party. Although Walmart has a large sustainability report, it is the only company that does not follow the GRI Guidelines. Despite the fact that Walmart does not have its sustainability report externally verified as a whole, the greenhouse gas emissions inventory and targets are verified by the Environmental Resources Trust.[174] For the publication on governance, the environment and suppliers' responsibility, Apple has also considered the GRI G3.1 Guidelines. For its Supplier Code Apple has adopted the EICC guidelines, which provide guidelines on Labour and Human Rights, Health and Safety, Environmental Impact, Ethics and the Management System. Canon, on the other hand, is not a member of EICC. For Canon's sustainability report and the extensive information on its website, Canon has also adopted the GRI Guidelines. For a review of and comments on Canon's sustainability report, Canon has asked the external experts to follow the GRI Guidelines.

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170 See Canon, supra note 159.

171 Canon, 'Canon Sustainability Report 2011', <http://www.canon-europe.com/images/Sustainability%20report%202011_tcm13-892175.pdf> (last visited 21 March 2012).

172 Canon, 'Canon Europe Sustainability Report', <http://www.canon.co.uk/Images/Canon%20Europe%20Sustainability%20Report_tcm14-840246.pdf> (last visited 21 March 2012).

173 Ibid.

174 Corporate Governance and Climate Change: Consumer and Technology. Retrieved from <http://usercontent.s3.amazonaws.com/companydocs/docs/company_docs_1256720743.pdf> (last visited 22 June 2012).

### *6.2. The companies' response to the conflicts*

As was illustrated in the case study on Coca-Cola, the company reacted slowly to the conflict in India. The initial reactions of the company were limited to attempting to prove that some of the allegations against it were wrong. Thus, Coca-Cola's strategy was focused on establishing a corporate image of integrity and on regaining consumer trust by, for example, addressing the conflict and justifying its position in the company's Corporate Responsibility Review of 2006. However, the damage that Coca-Cola's operations had caused was too severe to be solved through statements or attempts to be transparent about the conflict. Even though some of Coca-Cola's actions did not result in a violation of Indian laws – such as the claim that Coca-Cola's beverages contained illegal levels of pesticides – the reputational damage was disconcerting. Losing access to such an important market and allowing a stained reputation to affect the company's business in other locations (for example, at various University campuses in the US) override the costs of implementing a comprehensive CSR policy such as the one it now has.

According to legal analysts, Walmart is the most often sued company in the US with an estimated number of 8,000 lawsuits being filed against it so far.[175] Such conflicts have had adverse effects on Walmart's reputation. In 2004 McKinsey & Company prepared a confidential report for Walmart stating that 2 to 8% of Walmart's consumers have stopped shopping at Walmart because of the negative publicity.[176] Also, when NBC News announced its report on Walmart's suppliers using child labour, Walmart's shares decreased by $2.375 in just two days.[177] The class action lawsuit of 2001 against Walmart, alleging gender discrimination in the workplace, received a lot of media attention. Despite the fact that the lawsuit, if successful, would have been the largest of its kind in US history, Walmart responded to the conflict by fighting back and contesting the charges. But the *Dukes v. Walmart Stores* case did not proceed when the US Supreme Court reversed the case for being inconsistent with the legislation on class actions. Nonetheless, Walmart took some steps to implement CSR measures and policies to prevent discrimination. However, Walmart's female employees have taken separate lawsuits against Walmart and have filed them in various states in the US that are still in progress.

In 1992 the media exposed the fact that Walmart's suppliers in Bangladesh were using child labour. Undertaking audits on foreign factories was a corporate practice of the multinational. In its 2005 Report on Ethical Sourcing, Walmart reported having increased audits from 8 to 20% of the total audits. This report also finds an increase in workers' age violations by suppliers' factories. The company claimed in the same report that the increase in violations was due to Walmart's adoption of more rigorous standards, including an increase in unannounced audits, and a reclassification of violations strengthening their severity – although the rating criteria to determine what a minor and moderate offence are is not reported by Walmart. The company pledged to be using the audits on its suppliers to improve working conditions in factories by, for instance, giving suppliers the opportunity to remedy the underage-related violations instead of breaking the business relationship. However, many still criticise the fact that Walmart's corporate ideology consisting of 'offering low prices everyday' is part of the source of the child labour problem not only in Bangladesh, but along its entire supply chain. It is argued that Walmart, in its efforts to maintain operations costs as low as possible, is 'paying its suppliers too little to meet even minimal standards'.[178]

The media's reports on the suicides at Foxconn, the underage labour and the poisoning of workers by n-hexane also had adverse impacts on Apple's image. On 30 March 2012, the day after the FLA published the results of its investigation into Foxconn, Apple's shares dropped by 1.69%. Apple's response was to address these issues in a separate paragraph in its annual Supplier Responsibility Progress Report 2011. Regarding the underage labour, Apple stated that it demands that suppliers take instant remedies to send the children back to school, to pay for their education, and to prevent the future hiring of children.

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175 T.A. Hemphill, 'Rejuvenating Wal-Mart's reputation', 2005 *Business Horizons* 48, pp. 11-21.

176 M. Barbaro, 'A new weapon for Walmart: a war room', *New York Times*, 1 November 2005, <http://www.nytimes.com/2005/11/01/business/01walmart.html?pagewanted=al> (last visited 29 June 2012).

177 T.C. Hayes, 'Walmart Disputes Report on Labor', *The New York Times*, 24 December 1992, <http://www.nytimes.com/1992/12/24/business/wal-mart-disputes-report-on-labor.html?pagewanted=all&src=pm> (last visited 27 June 2012).

178 Nu Wexler, spokesman for Wal-Mart Watch, cited in 'Wal-Mart finds more violations at foreign plants – International Herald Tribune', *New York Times*, 28 September 2006, <http://www.nytimes.com/2006/09/28/business/worldbusiness/28iht-walmart.2964492.html?_r=1> (last visited 26 June 2012).

Concerning the poisoning by n-hexane, Apple required Wintek to discontinue the use of n-hexane and to repair its ventilation system.

The case studies of Apple and Walmart show that both companies' suppliers were caught using underage labour. However, the companies had, at the time of the conflicts, different policies on child labour. According to Walmart's Code of Conduct Standard for Suppliers 2005, the minimum age for employment or work shall be fourteen years of age. On the other hand, Apple's Supplier Code sets a more strict minimum age for employment. The workers have to be fifteen years of age, or the minimum age for employment that is set in that country or the age for completing education in that country, whichever is higher.

Canon appears to be a company with the least amount of problems. Although due to the lack of sufficient information no strong conclusions can be drawn, there are three observations that can be made based on what was found. Firstly, in this research it became evident that, from the four multinationals studied, Canon is the company with the longest history of implementing what we now refer to as CSR. Canon appears to be a company that is true to its Japanese origins with the corporate philosophy of *kyosei* as part of its global corporate plan.[179] Canon's case could then be seen as following a reverse path towards corporate responsibility in comparison with the other three companies here studied. Instead of arguing that conflicts have a relevant effect on a company's CSR policies, it could be said that Canon's long-established ideology of *kyosei* as part of Japanese culture is an important factor which drives responsible conduct and prevents conflicts. This hypothesis, however, would require further research to find an answer and is beyond the scope of this article.

Secondly, it was found in Canon's case study that, even though the few problems found were not severe, Canon seemed to be serious about the case of stress-related illnesses in Denmark. Canon's approach to that issue appears to be more proactive in comparison to the other companies studied. Whereas other companies would have viewed stress-related illnesses as an insignificant issue, Canon viewed increasing employees' well-being as an opportunity to improve its policies both in Denmark and in its global operations; perhaps because reducing stress improves productivity. This could be a good example of how having higher standards when assessing problems can prevent them from becoming greater, or can simply improve the company as a whole – including its employees. However, we shall not try to claim too much based on this single case. It is important to keep in mind that such a proactive approach was taken by a subsidiary of Canon located in one of the richest and most politically-advanced countries in the world. Perhaps such socially-responsible behaviour is not being observed by other subsidiaries of Canon in developing countries, where regulations and law enforcement are less stringent. But even when taking such a precaution, it is still not clear why Canon has not experienced lawsuits or scandalous media attention like the other multinationals studied here have done. These puzzling observations could be an interesting topic for further research that can potentially find how a multinational has successfully implemented a CSR policy.

And thirdly, in comparison with other mentioned companies that reported or acknowledged, to some extent, the existence of past conflicts, Canon's sustainability report does not refer to concrete issues. This could be due to the fact that, unlike in the cases of the other companies, no major scandals have occurred. Even though Canon's sustainability reporting is extensive, it does not address, for example, the stress-related illness issues in Denmark. This could raise doubts about to what extent Canon is being transparent about the challenges it faces.

### *6.3. The effect of a conflict on a company's CSR policy*

The case studies evidenced changes in the company's CSR policies after experiencing a conflict. Nowadays, Coca-Cola implements various initiatives tailored to address the water problems in India, which includes research, partnerships with the Indian local government and international organizations and community projects. Moreover, the company did not stop there. Water management is one of the core elements of Coca-Cola's global CSR policy and the company is committed to meet targets concerning water management efficiency. Coca-Cola does not admit that the conflict in India was the main motivation

179 C.M. Boardman & H.K. Kato, 'The Confucian Roots of Business Kyosei', 2003 *Journal of Business Ethics* 48, p. 318.

behind the adoption of its ambitious water management policies. However, given the severe image damage – and the consequent revenue losses experienced – it is very likely that the conflict in India influenced the corporate decision to implement a CSR policy on water management efficiency in its global operations. Also, Coca-Cola has improved its reporting activities by being up to date with the advances in GRI guidelines.

Walmart also updated its policies against discrimination. Its Global Responsibility Report emphasizes gender equality, a diverse workforce and appointing women to top management positions. Walmart has incorporated an Advisory Board on Gender Equality and Diversity that aims to provide equal opportunities in leadership positions. The report even dedicates a separate paragraph on 'Empowering women at Walmart'. Regarding Walmart's underage labour issue in Bangladesh, in 2005 Walmart changed its zero tolerance child labour policy due to NGO *Maquila Solidarity Network*'s advice. Now, instead of immediately cutting business relationships with suppliers hiring up to two underage workers, they receive a warning and are obliged to take corrective measures for the next audit. Only when the supplier has hired more than two underage workers and has not corrected the situation does Walmart permanently terminate business relationships. This new policy was adopted in order assure that suppliers report the reality of working conditions.

Apple's suppliers have often been involved in public scandals. In order to ensure that Apple's suppliers comply with the Supplier Code, the suppliers are subjected to onsite audits by Apple auditors, supported by local third-party auditors. In 2011 Apple carried out 229 audits, 80% more than in 2010. To abolish child labour Apple has set up a Child Labour Remediation Program. Apple has received criticism about not being transparent. But after the scandals, Apple has not only addressed the conflicts in its Supplier Responsibility Progress Reports but in January 2012 for the first time Apple released a list of 97% of its suppliers. Apple has also invited ABC News to Foxconn to look at the working and living conditions at the plant. On top of that, Apple has set a new standard in transparency; in February 2012 Apple announced it will be the first participating technology company to join the FLA. The Foxconn audit showed at least 50 violations, most of them violating China's labour law and Apple's Supplier Code of Conduct on excessive overtime.

Finally, Canon's lesser problem of stress-related illnesses was taken very seriously by the company. As previously mentioned, the company implemented changes in the CSR policies of the Danish subsidiary itself, as well as in Canon's global policy.

To conclude, reputation damage can be an important factor for adopting and adjusting a CSR policy so as to contribute to a better society. The media, campaigns and other civil society actions can affect companies' prestige or consumer trust in their products and can decrease customers' levels of consumption,[180] as well as the share prices of public companies.[181] These risks can motivate companies to take active measures to prevent conflicts with their stakeholders. Thus, the adoption of CSR policies can serve as another effective way for companies to manage risks and avoid tremendous losses or penalties due to a lack of appropriate provisions.

## 7. Conclusions

This article presented four case studies on the CSR policy of Apple, Canon, Coca-Cola and Walmart. These multinationals have been involved in social and environmental conflicts. The article researched the conflicts, the measures the companies have taken to resolve these conflicts and their CSR policy in relation to those conflicts. The article aims to answer the foolwing question: 'Do conflicts affect a company's CSR policy?'

In general, the authors found that the four analysed multinationals had already implemented a basic CSR policy before experiencing the conflicts studied. Canon is the company with the longest history of implementing what we now refer to as CSR. Canon introduced the corporate philosophy of *kyosei* as part of its global corporate plan in 1988. Another early implementer of CSR policies is Walmart. Since the

180 See Lambooy, supra note 1, p. 28.
181 Ibid.

early 1990s Walmart had codes of conduct in place for their suppliers. Coca-Cola had taken early steps to report on the company's activities and adopted the GRI guidelines in 2001. Apple has made its annual supplier responsibility progress report available on its website since 2007.

Although most of the companies' conflicts were of a different nature and with different degrees of severity, in the cases of Apple, Coca-Cola and Walmart the issues resulted in a poor corporate reputation. Coca-Cola's conflict in India involved claims of water pollution and over-extraction of groundwater as well as allegations that Coca-Cola beverages produced in that country contained high levels of pesticide residues. The media attention that the conflict received was so widespread that the negative effects on the corporate image was not limited to India, but they also spread to the US. In addition, this conflict affected the company economically, with dropping sales and revenue losses.

The conflicts experienced by Walmart that were studied in this research were of a labour nature. One of them consisted of a class action lawsuit by (former) female employees, the *Dukes v. Walmart Stores* case, where the plaintiffs alleged gender-based discrimination. This lawsuit was not the first one to be experienced by Walmart, which is one of the most often sued companies in the US. But its relevance rests in the fact that the plaintiffs were suing on behalf of themselves and all women employed by Walmart nationwide since December 1998, amounting to approximately 1.5 million women. After a long litigation process, the US Supreme Court concluded that the case could not be ruled in the plaintiffs' favour because they did not have enough in common. The second analysed conflict experienced by Walmart consisted of media attention alleging that two of Walmart's sub-contractors in Bangladesh were using child labour.

Apple's suppliers were also caught using underage labour. In addition, Apple is often linked to the suicides at Foxconn. The employees work up to 70 hours a week, ten hours above the maximum set by Apple's Supplier Code. Also, in February 2011 The Guardian reported on another labour issue that Apple faced: the poisoning of Wintek workers by n-hexane.

Finally, Canon had non-severe problems that related to stress-related illnesses among employees in the company's subsidiary in Denmark, as well as to findings that Japanese employees were forbidden to sit down during working hours. Neither these conflicts nor any other conflict that Canon has had ever resulted in much media attention.

The responses of the multinationals to the conflicts varied, ranging from attempting to repair reputation damage and denying the claims, to providing a remedy. Coca-Cola's initial approach consisted of denying that the accusations were true. The company was very open about this and used the media, its website and its reports to make statements about its position in the conflict. For instance, Coca-Cola replied to news articles and made public statements, and it also included in both its sustainability report for India and on its website an update about the conflict in India. These efforts, however, mainly had the purpose of re-establishing the integrity of the company by providing evidence to prove that the accusations were untrue. But as was illustrated in the case study, making public statements and reporting on the conflict were not sufficient for the company to repair the reputation damage and to regain the trust of Indian customers. In response, the company took a more proactive approach that aimed at repairing and preventing damage to Indian water resources. Walmart faced a lawsuit, which it strongly contested and it denied the claims. The case against Walmart did not succeed, but currently the claimants have taken out another lawsuit based on individual cases per state which shows an eminent threat. When Walmart was caught using child labour it responded by reporting in its 2005 Report on Ethical Sourcing the existence of child labour in the factories of its sub-contractors. While confirming the accusations in the media, this report also turns this unfavourable situation into a positive one by claiming that the increase in underage violations were due to the implementation of more stringent anti-child labour measures. The labour issues with the suppliers had an impact on Apple's reputation. About 18 months after the media reported on the suicides, Apple joined the FLA, striving to set a new standard in the electronics industry and having a supply chain that can be seen as a model for the industry. Although Canon did not have to deal with any damage to its reputation, after the stress-related illness in Denmark had occurred, the company also took a proactive approach in preventing the emergence of future conflicts. In its European and global Canon policies, Canon therefore included measures to reduce stress in the workplace.

The case studies provide evidence that after the multinationals experienced a conflict, the companies made changes to their CSR policies. A common feature of Canon, Coca-Cola and Walmart's policy changes is the establishment of specific goals that they aim to achieve at company level. Although Apple did not set concrete targets, it has pledged to change its supplier responsibility practice. Furthermore, the sustainability reports in which the four multinationals present their CSR policies are created as long-term commitments and not just to resolve the current conflict.

Perhaps Coca-Cola can be said to be the company that adopted one of the most ambitious CSR policies after experiencing the conflict in India. Coca-Cola appears to be strongly determined to address its operational impacts on the environment, particularly on water. Given the nature of the impacts, the company has the possibility of carrying out research and taking steps towards preventing and remedying damage, with results that can be measurable. Coca-Cola initiated such efforts by adopting initiatives that are tailored to remedy the water problems it caused in India and to improve its image towards its customers. Such initiatives include research and partnerships with the Indian local government. Subsequently, Coca-Cola adopted water management as one of the core elements of its global CSR policy and the company has committed itself to meet quantifiable targets concerning water management efficiency. Coca-Cola does not admit that the conflict in India is the main motivation behind the adoption of the water policies. However, given the severe damage to its reputation – and the consequent revenue losses experienced – it is very likely that the conflict in India influenced the corporate decision to implement a CSR policy on water management efficiency in its global operations.

Walmart as an early implementer of CSR regulations strengthened its existing policies after the conflicts. It now has policies to appoint women to management positions and set up a board in charge of fighting gender discrimination. Walmart has also increased the number of audits to control child labour employment.

Negative publicity eventually resulted in Apple setting a new standard for the electronics industry. After the FLA report on Foxconn, Apple stated that it fully supported the recommendations of the FLA and publicly committed itself to try to change it practices. The FLA, external stakeholders and consumers will look to see if Apple adheres to its pledge.

To conclude, the case studies of Apple, Coca-Cola and Walmart illustrate that the multinationals have adopted changes in their CSR and reporting policies after the conflicts occurred. These companies are transparent about those conflicts by publicly addressing them either through the media or in their annual or sustainability reports. Although Canon has not mentioned any labour issues, internet research showed that Canon was involved in labour issues as well. In order to uphold sustainability standards it is important for companies to be transparent.

As was presented in the research by Zwart & Tulder, companies that have been 'on thin ice' usually turn into frontrunners as far as CSR is concerned. Apple, Coca-Cola and Walmart have been under public scrutiny, but nowadays they can be seen as companies which have become models for their industry. Coca-Cola has taken a proactive approach and implemented initiatives to solve the water problems. Walmart strives to be the greenest corporation in the world. Apple is aiming to set a new standard in the industry. Time will only tell whether it will stick to its promise to change its supplier responsibility practice. Canon is different in this respect, as its CSR policy was not impacted by media pressure. At first instance it might appear as if it is not comparable to the other mentioned companies. However, this article shows that companies like Canon need to be closely monitored as well.